



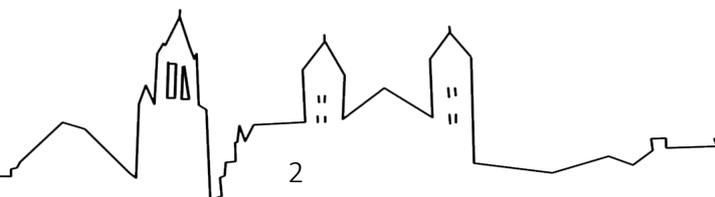
2<sup>nd</sup> – 5<sup>th</sup> of May 2019

## Committee Information

Court of Justice of the European Union

# Table of Contents

<b><u>WELCOME LETTER FROM THE SECRETARIAT .....</u></b>	<b><u>3</u></b>
<b><u>WELCOME LETTER FROM THE CHAIRS .....</u></b>	<b><u>4</u></b>
<b><u>INTRODUCTION TO THE CJEU .....</u></b>	<b><u>6</u></b>
<b>GENERAL HISTORY OF THE CJEU.....</b>	<b>6</b>
<b>COMPOSITION OF THE CJEU .....</b>	<b>7</b>
<b>THE COURT OF JUSTICE (ECJ).....</b>	<b>7</b>
<b><u>PIONTEK VS. ROMANIA.....</u></b>	<b><u>10</u></b>
<b><u>FRANKFURTER VS. POLAND.....</u></b>	<b><u>14</u></b>



# Welcome Letter from the Secretariat

Dear delegates,

The EuroMUN 2019 Secretariat would like to warmly welcome you to the 11<sup>th</sup> edition of this conference. We are excited to provide an academically challenging experience which will motivate you to engage in insightful discussion while exploring our lovely city through the planned social program. Hopefully, you will enjoy the various events that will accompany the sessions, such as our talent night, our delegate's ball and our scavenger hunt through the city.

Our conference attracts individuals from over fifty nations to the city of Maastricht. This means that you will encounter points of view that will be very dissimilar to your own. See this conference as an opportunity to push yourself outside of your comfort zone, alongside people who might seem different, but at their core, just like you, are looking to expand their horizons beyond what they are confronted with at home. Be respectful but don't be afraid to challenge your beliefs and have them challenged in return. EuroMUN is a forum for discussion: take advantage of it, challenge yourself.

The slogan for this year's edition of EuroMUN is: Exploring the European Idea.

The European Idea is not geographically limited, but it refers to the goals of European integration. It demonstrates a move away from wide-scale disputes and towards collaboration. Every institution, organization, body, and committee represented at EuroMUN reflects the same idea: the will to work together instead of against each other. That is what is at the core of this notion.

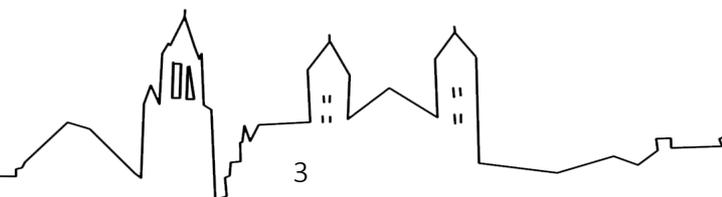
On that premise, the secretariat would like to pose the following question to you: What does the European Idea mean to you? Is it being connected through a common history? Or is it about staying united through adversity, change and the distinct characteristics of our culturally rich community?

Maastricht, the city where the Treaty on European Union was signed, provides the perfect backdrop to explore this concept. As the university hosts a diverse community of students from all over the world it truly demonstrates the possibilities the move towards collaboration can bring to the individual and the community. While we might not always fully appreciate the former, the benefits are not to be taken for granted. The environment in Maastricht and the assembly of delegates permit EuroMUN, now for the 11<sup>th</sup> time to provide this unique experience. Without each of these components, it would be impossible to replicate.

We hope that you enjoy your time at the European Model United Nations Conference 2019.

When in doubt: #fruitful

The EuroMUN Secretariat



## Welcome letter from the chairs

Dear Delegates,

Warmest welcome to the committee of the Court of Justice of the European Union at EuroMUN 2019! We cannot wait to have you embark with us on this challenging journey and already look forward to the fruitful contributions you will be able to bring during the committee work. As the conference is focused on “Exploring the European Idea” we decided to delve deep into two areas of EU law which are of extreme relevance nowadays:

**Case A:** Storing of biometric data in accordance with the GDPR under the Schengen Information System Regulation and Free Movement of Persons

**Case B:** The Recognition of Professional Qualifications and Freedom of Establishment.

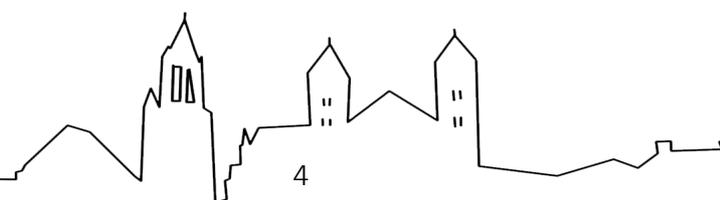
We would like to remind you that this is not an ordinary committee, but a moot court simulation. This entails different rules of procedure and requires thorough preparation to succeed in the committee work. Hence, we will not be asking you to submit position papers in the normal sense but rather a **legal memorandum** (max. 3 pages).

This guide provides you with a general overview of the CJEU and how it functions, in addition to the cases we will be dealing with during our short time in May. Further information regarding the structure of the legal memorandum and what is expected of you can be found in the CJEU page of the EuroMUN website.

Since we are on a tight schedule please submit your legal memorandums in due time (Deadline: 30<sup>th</sup> April 2019) and bear in mind that we need time to assess all of them. Late submissions will not be taken into account for the purpose of selecting the best piece of output, thus your motto should not be ‘diamonds are made under pressure’ if you cannot finish it on time.

As mentioned above, since we will be doing a moot court, we will have our own rules. Please get yourself acquainted to the Specialised Rules of Procedure (RoP) of the CJEU, which can also be found in Annex III of the RoP. There will also be a workshop on the RoPs, and although it is not mandatory to attend, we highly encourage you to do so.

We have worked hard to provide you with controversial legal issues that will spark intriguing discussions, but at the same time create a fun atmosphere during the conference. Before and during the conference we will be available for you any time, so should you have any questions, doubts or clarifications to ask do not hesitate to shoot us a message:



Ms. Zeynep Begüm Ulufi – [z.ulufi@student.maastrichtuniversity.nl](mailto:z.ulufi@student.maastrichtuniversity.nl)

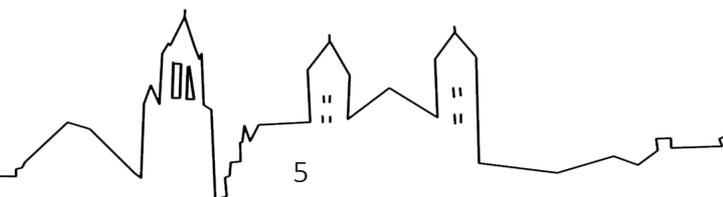
Mr. Piotrek Sanejko – [piotr.sanejko@gmail.com](mailto:piotr.sanejko@gmail.com)

Mr. Enea Bordon – [e.bordon@student.maastrichtuniveristy.nl](mailto:e.bordon@student.maastrichtuniveristy.nl)

We are eagerly looking forward to hearing your enticing pleadings!

Kind regards,

Zeynep, Piotrek and Enea



# Introduction to the CJEU

## General History of the CJEU

In 1952 The European Coal and Steel Community (ECSC) was founded, which later evolved into the European Union (EU) we know today. The ECSC had established four main institutions, one of them being the Court of Justice which consisted of 9 judges. It was built to balance the powers of the High Authority as an executive body and ensured that there would be no abuse of rights.<sup>1</sup>

The Treaty of Rome in 1957 did not change the role of the Court of Justice much. The Court still served its function as a balancing institute that acted as a safeguard against one institute becoming too powerful. By this time the Court was established as a common court for all three communities (EURATOM, ECSC, EEC).

In 1989 the Court had a significant change in its judicial structure. The Court of First Instance (CFI) became a part of the Court of Justice. Today the CFI is known as the "General Court" as mentioned in the 2009 Lisbon Treaty. By 1992, the Court was granted more powers such as right to review the legality of acts including those adopted by the European Parliament and brought the European Central Bank under the Court's jurisdiction. The Amsterdam Treaty provided for new responsibilities such as the Court' jurisdiction over fundamental right<sup>2</sup>, asylum, immigration, free movement of persons and judicial cooperation in civil matters as well as police and judicial cooperation in criminal matters subject to some limitations.<sup>3</sup>

Today when we talk about the Court of Justice of the European Union (CJEU) we talk about two separate courts which have different functions. The CJEU is consisted of the General Court, the European Court of Justice<sup>4</sup>. Until September 2016 there used to be a European Union Civil Service Tribunal which is now transferred into the General Court.

## Purpose of CJEU

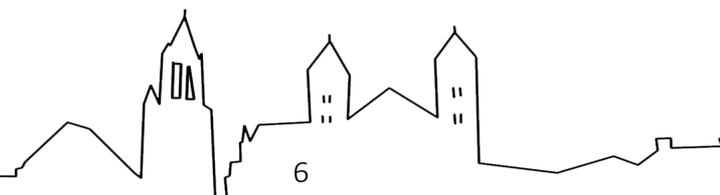
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<sup>1</sup> Ditlev Tamm, The Court of Justice and the Construction of Europe: Analyses and Perspectives on Sixty Years of Case-law -La Cour de Justice et la Construction de l'Europe: Analyses et Perspectives de Soixante Ans de Jurisprudence, (ASSER PRESS 2013) 9-25

<sup>2</sup> This was still in a limbo state until the Lisbon Treaty which acknowledged the Charter of Fundamental Rights of the European Union as a primary source of law.

<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:a24000>

<sup>4</sup> Art. 19(1) TEU



The CJEU is one of the main organs of the European Union that is mentioned in Art. 13(1) TEU. According to Art. 19(1) TEU the main goal of the CJEU is to ensure the application and the interpretation of the Treaties and the law observed. However, it should be noted that national courts of the Member States also apply Union law. The CJEU remains as an organ to check whether the application done by the national courts are in line with what the Treaties provide for.

## Composition of the CJEU

Court of Justice of the European Union is composed of two courts. The Court of Justice and the General Court. The former court deals with the requests for preliminary rulings of the national courts as well as certain actions of annulment and appeals while the latter deals with rules on actions for annulment brought by individuals, companies and, in some cases, EU governments which includes subjects such as competition law and four freedoms etc.

## The Court of Justice (ECJ)

Art. 19(2) TEU

- The Court of Justice is consisted of one judge per Member State and is assisted by the Advocates-General.
  - Meaning that there are 28 judges in total. (and 11 Advocates Generals)

Art. 253 TFEU

- The Judges and the Advocates-General' independence should be beyond doubt
- The candidates should possess the qualifications required for appointment to the highest judicial offices in their respective Member State or they should be jurisconsults of recognised competence.
- Mandate is for 6 years.

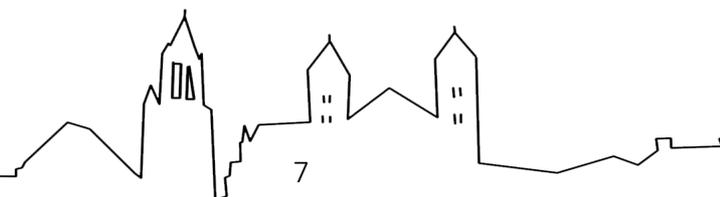
## The General Court

Art. 19(2) TEU

- The General Court shall include at least one judge per Member State.
  - As of 2019 there 56 judges

Art. 254 TFEU

- The number of the judges is determined by the Statute of the Court of Justice of the European Union
- General Court may be assisted by Advocates-General



- The Judges independence should be beyond doubt
- The candidates should possess the qualifications required for appointment to high judicial office.
- Their mandate is for 6 years, and is renewable.<sup>5</sup>

## European Union Civil Service Tribunal (former)

Civil Service Tribunal was responsible for ruling on disputes between EU institutions & its staff that fell outside the scope of national courts. However, it was dissolved in 1 September 2016, and became a part of the General Court, due to the increased number of judges.<sup>6</sup> Hence all the cases pending were transferred to the competence of the General Court on 31<sup>st</sup> of August 2016, and the procedure remained the same.

## Jurisdiction of the CJEU

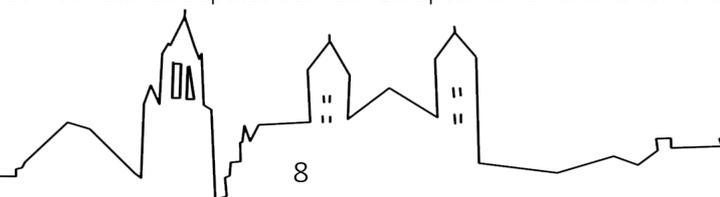
As mentioned earlier the CJEU is responsible for the enforcement of the Union laws. In order to do so the Court has established various procedures either direct or indirect, that is accessible to the citizens and the Member States. Direct procedures are the ones which the Court adjudicates on the dispute between the parties. It includes infringement (enforcement) proceedings (Arts. 258 - 260 TFEU), action for annulment (Arts. 263-264 TFEU), action for failure to act (Art.265-266 TFEU) and action for damages (Arts. 265 & 340(2)-(3) TFEU). The indirect proceedings are the preliminary ruling/reference proceedings on the validity or the interpretation of the EU law (Art. 267 TFEU). Only the infringement procedure, action for annulment and the preliminary ruling procedures will be explained in detail to give a preview of how the court works.

### Infringement Procedure - Article 258 TFEU

- Commission is responsible to guarantee that EU law is applied and executed in a right way. Commission has the competence of initiating an infringement procedure in order to stop the infringement.
- Infringement procedure looks as follows: the letter of formal notice is drafted using which Commission gives Member states chance to present their own claims and perspective on the breach at hand.
- If the members states do not react to the formal notice or if they do not issue satisfactory one, the next stage of procedure will commence.

<sup>5</sup> <http://www.europarl.europa.eu/factsheets/en/sheet/26/the-court-of-justice-of-the-european-union>

<sup>6</sup> Regulation 2016/1192 of the European Parliament and of the Council of 6 July 2016 on the transfer to the General Court of jurisdiction at first instance disputes between European Union and its servants.



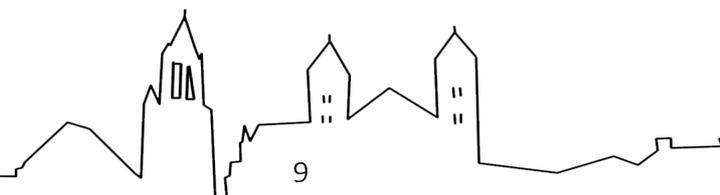
- The next step consists of the reasoned opinion and finally, the referral of the case to the Court of Justice.

#### Act for Annulment - Art. 263 TFEU

- Action for annulment is a direct control of legality of the acts of EU institutions that intended to produce legal effects.
- The most important thing to remember is that the action must be brought within the time limit and the party must have a standing.
- The Member States, the EP and the Council and the Commission are privileged applicants, the Court of Auditors, European Central Bank, and the Committee of the Regions are privileged applicants. Any natural or legal person is considered a non-privileged applicant and has to fulfil the individual concern test.

#### Preliminary Ruling Procedure - Article. 267 TFEU

- Preliminary reference is a method of cooperation between the CJEU and the national courts.
- The primary aim is to answer and guide the national courts in applying EU law.
- If the question concerns the validity of the national courts are always obliged to refer the question to the CJEU.
- If the question is about the interpretation of the EU law, then the national court where there is no judicial remedy for its action has to be brought to the Court. The other courts can bring the question to the CJEU if the question is necessary to conclude a judgement.



# Piontek vs. Romania

Case M-621/18

(Request for a preliminary ruling – Regulation 2016/679 – General Data Protection Regulation – Scope of Chapter II – Principles of data storage – Directive 2004/38 on the right of the citizens of the Union and their family members to move and reside freely within the territory of the Member States – Scope of Chapter VI-Restrictions on the right of entry and the right of residence on grounds of public policy, public security or public health)

REQUEST for a preliminary ruling under Article 267 TFEU from the Romanian Supreme Court (Romania), made by decision of 10 December 2018, received at the Court on 5 March 2019, in the proceedings Piontek vs. Romania)

Parties to the Proceedings:

APPLICANT: Mr. Piontek

DEFENDANT: Romania

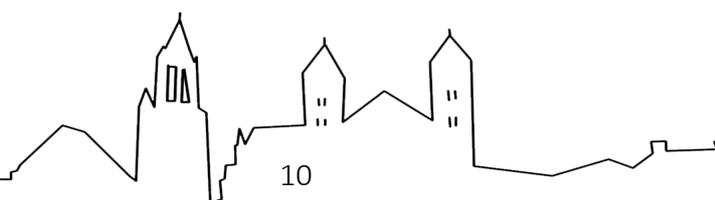
OTHER PARTIES TO THE PROCEEDINGS/INTERENERS: Netherlands, Germany

ADVOCATE GENERAL: E. Sharpston

FACTS:

Mr. Piontek is a Bulgarian national. Back in 2001 he moved to Vulgaria, which is a small country neighbouring EU, because he got promoted to project manager for Mediterranean region for the Whatever Wine Co. Whatever Wine Co. is a famous vineyard in Bulgaria which is notoriously known for its creative names for their wines and its cheap prices. Meh Wine has been medaled a gold award by the International Wine Community (IWC), and Wining is a student favourite all over the country.

The first day in his new workplace Mr. Piontek sees Miss Enea who is working as his assistant. Miss Enea is a beautiful woman who used to be a ballerina and an ex-beauty pageant queen. However, after a tragic car accident, she injured her ankle and as a result she had to quit her professional career at the Vulgaria State Ballet. Feeling devastated that she could not continue with her dream job she decided to do the next best thing and get a university degree. After rigorous and very through research on what she wanted to do with her life from that point onwards, she enrolled at Cornell University to the department of Viticulture and Oenology, being sure that this would be the best career that suits her character. After graduation she applied to many vineyards for work but sadly got rejected from all but one; The Whatever Wine Co. Now, she has been working at The Whatever Co. for the past 3 years. Mr. Piontek from



the moment he saw her is struck by her beauty, and immediately falls in love. Yet, having had many suitors in the past, she does not seem very interested in him.

While working on a project on a late-night evening with Miss Enea, Mr. Piontek is ready to make his move. They open a bottle of Meh Wine and start chatting. Mr. Piontek, charms Miss Enea with his dancing skills. While they're dancing to Shostakovich Waltz. No.2 they realize that they both have feelings for each other. After finishing a bottle of Meh Wine, they're both pretty drunk and decide to live the moment. Two weeks later, Miss Enea is worried because she had missed her period. According to the Vulgarian Constitution, Article 31. All pregnant women should be married with the person who impregnated them. A month later Mr. Piontek and Miss Enea select a date for their wedding ceremony. On 17 December 2001 they get married on the city council of Vulgaria. Months pass and Mrs. Enea gives birth to a beautiful baby girl on 24 July 2002. They name her Zeynep.

One day Mr. Piontek travels back to his homeland, Burgas, and brings back Peanut Baklava, which is a special Bulgarian delicacy. Zeynep is very excited that her dad had brought such delicious gifts from Bulgaria. She immediately sneaks out a plate and eats two of them. Mrs. Enea happy to see that her husband had brought her favourite desert, baklava, eats a bunch of them in one sit not realising it was with peanuts. Sadly, she immediately goes into cardiac arrest within seconds after eating them and dies instantly. Turns out bringing peanuts into Vulgaria is actually illegal because all Vulgarians are born with peanut allergy. (Art. 69 Vulgarian Penal Code). Since 1886 there has been no distribution of peanuts and the citizens of Vulgaria does not even know such a nut exists. Unaware of this fact, Mr. Piontek is terrified and calls an ambulance. When the medics arrive, they come with the police. The police arrests Mr. Piontek for the murder of his wife and breaching Art. 69 of the Vulgarian Penal Code.

Mr. Piontek's trial is a long process. He is faced with a life sentence, however him and his lawyer friend is eager to prove his innocence. He appeals to his sentence on the basis that he is innocent, as he was not aware of the Art.69 of the Vulgarian Penal Code. He would have never brought peanuts in if he had known that it was illegal and would have led to the death of his wife. Furthermore, he argues that the charges pressed against him on the murder of his wife lacks the legal basis to incriminate him as he had no intention or premeditation to kill Mrs. Enea, and her death was simply an accident. Additionally, his daughter Zeynep, who is a Vulgarian national<sup>7</sup>, also ate from the Peanut Baklava and she was completely fine. Therefore, Mr. Piontek also argued that the Art. 69 of the Vulgarian Penal Code, lacked the factual basis. His appeal is successful, and on 1 July 2018 he is acquitted.

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<sup>7</sup> Zeynep only has Vulgarian nationality because in Vulgaria double citizenship is not allowed, and the law says that you are automatically registered as a national if your mother is a citizen of Vulgaria.

No longer willing to stay in Vulgaria after everything that had happened Mr. Piontek and Zeynep gets on a flight to Romania on 15 July 2018. Romania, notoriously known for its witches and Count Dracula recently enacted a legislation that the age of consent has been lowered to 13 years of age. This is due to the increasing number of child brides within the gypsy community. As gypsies are amongst the largest minority groups and are often troublesome the Romanian government, fearing that the gypsies would curse them, decided to tackle the problem by allowing them to do whatever they want.

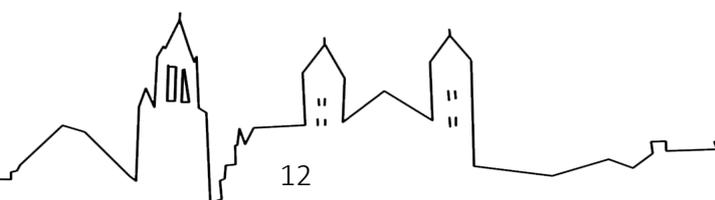
At the passport check Mr. Piontek and Zeynep wait in the all passports line as Zeynep is not an EU citizen. When it's their turn at the passport check, the police officer asks Mr. Piontek to place his hand on the fingerprint reader and tells him that it is ordinary procedure to do so as said so in Reg. No. 1987/2006 Art. 20(2)(f). Mr. Piontek, being an EU national, finds this very odd because in the past when he had travelled in an out of the EU, he was never asked to give his fingerprints. "It must be because the increasing number of refugees" he thoughts. When the police officer scans Mr. Piontek's fingerprints he sees that he has a criminal record in Vulgaria and the fact that he was acquitted. This possible due to a bilateral agreement between the EU and the Vulgaria. They share information on their criminal proceedings due to the fact that most refugees that try to enter the EU illegally come from Vulgarian borders. After collecting Zeynep's finger prints the officer lets them both pass.

The fact that they have collected his finger prints bothers Mr. Piontek a lot. Once he moves into his new place and settles in with his son, he starts searching whether they can actually do this. He finds out about General Data Protection Directive (GDPR) that has recently entered into force in 25th May 2018. He applies to Bucharest District Court for the erasure of his data. He wants the erasure of his data, as they have collected it without properly informing him, and that because fingerprints are classified as special category of personal data there should be more safeguards. Moreover, he wants Zeynep's data to be erased as well as she was only 15 years old at the time when they collected her fingerprints. However, his claims are rejected. Same conclusion is reached at the High Court of Appeal. The case now lies at the Supreme Court of Romania which brings the action for preliminary ruling on the question:

QUESTION 1: Was the processing of Mr. Piontek's data in line with Art. 9 of the GDPR?

*Alternative Scenario*

Romania does not allow for deletion of neither his or Zeynep's personal data due to the fact that Vulgaria is known for granting a pardon whenever you appeal a case. Netherlands, and Germany having dealt with such problems before seconds this argument, and states their



concern that Vulgarian Appeal Court does not perform sufficient safeguards, and proportional measures when it comes to matters such as Mr. Piontek's.

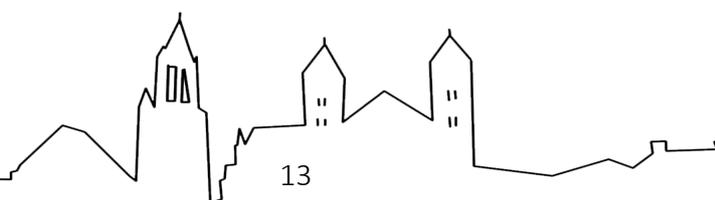
QUESTION 2: Can Mr. Piontek still ask for erasure of his data?

*Continuation of the facts*

On 16 October 2018 Mr. Piontek finds a letter at their door asking for Zeynep's eviction as he has stayed in Romania for over 3 months. Mr. Piontek is worried about her daughter and does not want to send her back to Vulgaria. He appeals to the eviction order. When he goes to the court, he is simply told that "Romania does not want any more immigrants." Zeynep is now classified as an illegal immigrant within the Romanian borders, and according to the authorities she is the daughter of a known criminal which makes her a public threat. Furthermore, there is no record of Zeynep applying for a residence permit.

QUESTION 3: Can the Romanian authorities issue an eviction order for Zeynep?

*Extra facts can be provided if the questions asked are submitted before 25<sup>th</sup> of April.*



# Frankfurter vs. Poland

Case M-745/19

(Reference for a preliminary ruling - Directive 2005/36/EC - Recognition of professional qualifications - Scope of Title III - Access to the profession of Veterinary Surgeon - Applicability of Chapter III Section 5 - substantial differences - Freedom of Establishment - Article 49 TFEU - Vlassopoulou comparison - retaining knowledge, skills, practical experience)

REQUEST for a preliminary ruling under Article 267 TFEU from the Polish Supreme Court (Poland), made by decision of 23 January 2019, received at the Court on 10 April 2019, in the proceedings Frankfurter vs. Poland.

Parties to the Proceedings:

APPLICANT: Mr. Frankfurter

DEFENDANT: Poland

OTHER PARTIES TO THE PROCEEDINGS/INTERVENERS: Italy, Estonia

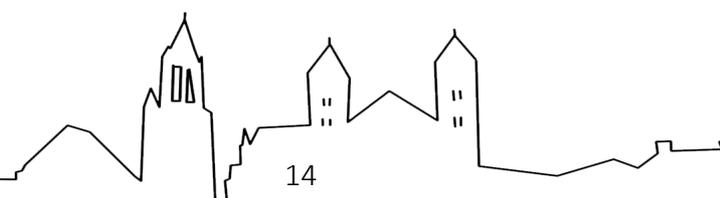
ADVOCATE GENERAL: E. Sharpston

FACTS:

Mr. Frankfurter, an Estonian national, had always been very fond of animals. As a child, he loved all of his pets — his three dogs and a chicken. Unfortunately, all of the dogs died due to the lack of proper medical care and his family ate the chicken. These events changed him drastically and he swore to himself that he would become a vegetarian, and a veterinary surgeon.

He studied hard in high school, and even won a youth veterinary competition in Estonia, which helped him get into the Estonian University of Life Sciences and study Veterinary Medicine. He was one of the top students of his class in his Bachelor programme. The University subsequently accepted him for the Master's programme, which he graduated with flying colours in 2005.

After completing his studies, he went on to search for places that could provide him with veterinary training, as in Estonia two years of such training are a prerequisite for obtaining the title of Veterinary Surgeon. On 2nd of May 2005, he finally got accepted by the "Estonian Animal Heaven", a clinic which provided services for farm animals, where he worked under Dr. Schnitzelmann. He was held in high regards and successfully completed his two years under Dr Schnitzelmann, who became Mr. Frankfurter's best friend and lover.



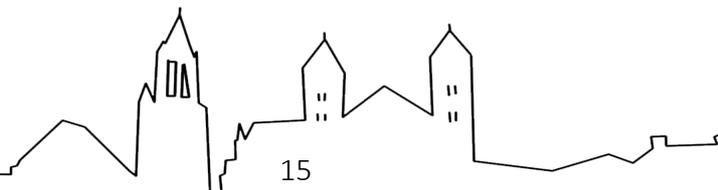
Having gained the title, he decided to move to Italy, as he adored the coast in Toscana and especially the Maremma region. He would take long walks from the beaches of Castiglione della Pescaia all the way to Principina di Mare. Unfortunately, Dr. Schnitzelmann did not share his sentiment as he preferred Spain and especially the beautiful town of Azpilicuetagaraycosaroyarenberecolarrea. This resulted in the pair breaking up and Mr. Frankfurter leaving Estonia alone.

Mr. Frankfurter sought full integration in Italy. Nevertheless, as in Italy the training for becoming veterinary surgeon takes up three years, the authorities required Mr. Frankfurter to have an adaptation period of three years or take the aptitude test to compensate for the 'substantial differences' his home-country professional title manifested. He chose the adaptation period. For three years he worked in Forte dei Marmi under the legendary Italian veterinary surgeon - Vittorio Allegro Fiorentini.

Finally finishing the adaptation period, he decided to open his own clinic in Grosseto. The beginnings were harsh, but soon enough the business started thriving. He was able to employ the best surgeons in the region. Moreover, students from all over the country wanted to have their veterinary training under Mr. Frankfurter. He accepted two of them and treated them like his children. After 5 years of running the clinic Mr. Frankfurter started feeling like he needed to change his life. He became tired of Tuscany and started looking for some exotic new place to move to. He saw the beautiful landscapes of New Zealand, he enjoyed Peru's amazing sight, but nothing could be compared to the land of the potato - Poland. His mind was set, he had to leave Italy and move to the one heaven on earth.

Armed with the professional knowledge and practical experience gathered during the successful work in his Italian clinic, Mr. Frankfurter came to the conclusion that there was nothing better than to set up his own successful business in Poland as well. After all he could still remember the basics of the Polish language, as back in the days Dr. Schnitzelmann and him used to travel a lot to the beautiful city of Gdańsk to eat- what in their eyes were - the best fried potatoes on earth. The decision to establish himself in Poland, and specifically in Gdańsk, was triggered also by his adamant desire to finally get the chance to treat the exotic species of Piotreneak. He had heard and read manifold stories of this mysterious type of bird and really hoped to be able to deal with one in his life as a professional.

In the same way as he had previously done with the Italian authorities, on a sunny but chilly morning of mid-August 2016, having the usual annoying smug grin on his face, Mr. Frankfurter tottered towards the Polish authorities' office to file the request for having his Estonian title of Veterinary Surgeon recognised. He wanted to start business immediately and hoped that the rumours of his widespread reputation as a famous professional had reached Gdańsk. Given



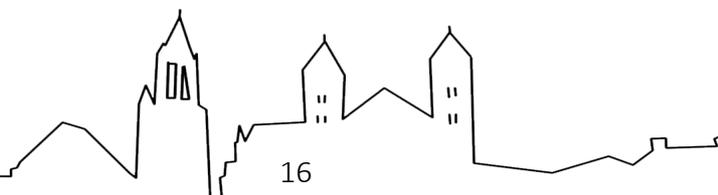
that the competences required in Poland and Estonia were pretty much the same, he was convinced that the Polish authorities would not require him take any additional steps to start his practice there.

Much to everyone’s dismay, however, a week after his request had been filed, a striking piece of news hit the headlines of the biggest newspaper outlets of the European Continent: ‘Dr. Frankfurter, the slaughter monster who circumvented the system in the shoes of a veterinary surgeon’. Despite all the efforts to hide the past, the truth eventually resurfaced: Dr. Frankfurter had never become a ‘Dr.’ in the first place. The jaw-dropping results of a thorough investigation into his personal background revealed that the notorious surgeon had never completed his period of training in Estonia. Upon a regretful confession of Dr. Schnitzelmann, the Estonian Police was able to unveil the true side of the story. The two years of training in Estonia had been done in the slaughterhouse neighbouring the butcher’s farm, instead of Dr. Schnitzelmann’s proper veterinary clinic. The activity was way less costly for Dr. Schnitzelmann and much more ludicrous for remaining parties involved in the arrangement. Mr. Frankfurter had therefore been able to meet the training conditions required by Estonian law, and consequently earn his title of Dr. in Veterinary Surgery, having had all the official documents signed by his former lover, although never actually having received training under his supervision.

Without any hesitation, the Polish authorities notified Mr. Frankfurter about the refusal to recognise his title. The refusal was grounded on the double-checked evidence that Mr. Frankfurter had never fully qualified as a veterinary surgeon in Estonia, so that access to the pursuit of the profession was justly denied to him.

Partly acknowledging the fact that he had never earned an Estonian title, Mr. Frankfurter nevertheless still had a trump card up his sleeve. He claimed to be the holder of an Italian title which he had earned after successfully completing the adaptation period in Forte dei Marmi and after having established himself in Grosseto. After all, the fact that he had become fully integrated in Italy as a veterinary surgeon, running one of the most famous Italian clinics, and had had trainees under his supervision, could not be simply be ignored by the Polish authorities. Furthermore, the evidence that the Italian branches of his former clinic continued to operate successfully under his former trainees - now fully qualified veterinary surgeons - meant that Italy had implicitly accepted and recognised Mr. Frankfurter as a fully qualified veterinary surgeon.

Harbouring strong feelings on the matter, the alleged ‘Dr.’ Frankfurter therefore presented a second request - this time based on his Italian title of veterinary surgeon - to the Polish authorities. He was aware that in this case he might have been required to take up some compensatory measures, as there were substantial differences between the requirements for



the Italian practice of profession and the and Polish one. Still, however, he was positive and hoped for the best.

To ‘Dr.’ Frankfurter’s disappointment and anger, the Polish authorities refused again, this time giving the following reason: ‘The fact that Mr. Frankfurter was able to pursue the practice of veterinary surgeon in Italy and that his former clinics continue to run up to this date does not mean he can claim to be any sort of ‘Veterinary Surgeon’ for the purposes of Polish law. Whether the Italian authorities continue to recognise him as a qualified professional is thus irrelevant. The truth was unveiled: not being the holder of an Estonian title he never could have become a Veterinary Surgeon in Italy in the first place. Consequently, he cannot be considered as veterinary surgeon for the purposes of polish law either. We have all the rights to to deny the request’.

The alleged ‘Dr.’ Frankfurter challenged both refusal decisions before the Gdańsk District Court. The latter decided in favour of the Defendant, so that ‘Dr. Frankfurter’ appealed that judgement on points of facts and law. The same happened in the High Court of Appeal.

The case now lies before the Supreme Court of Poland which stayed proceedings and submitted a Preliminary Reference to the CJEU posing the following questions:

Question 1:

- QUESTION 1: Does the first refusal of the Polish authorities to consider the applicant’s Estonian title for his purpose of seeking access and pursuit of the regulated profession of ‘veterinary surgeon’ in Poland run counter to the system of recognition and establishment enshrined in Directive 2005/36/EC?
- QUESTION 2: Does the second refusal of the Polish authorities to consider the applicant’s Italian title for his purpose of seeking access and pursuit of the regulated profession of ‘veterinary surgeon’ in Poland run counter to the system of recognition and establishment enshrined in Directive 2005/36/EC?
- QUESTION 3: As an alternative to question 2 and in case the second question is answered in the affirmative, can the practical experience, skills and knowledge gathered by the applicant in Italy be considered under the principles established by the Court in Vlassopoulou?

