



# EU-CITZEN: ACADEMIC NETWORK ON EUROPEAN CITIZENSHIP RIGHTS

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## Type A Report – Comprehensive overview of Union citizenship developments

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## Contents

List of abbreviations and definitions .....	3
1. Introduction.....	4
2. Non-discrimination on grounds of nationality (Article 18 TFEU) .....	5
2.1. Non-discrimination on grounds of nationality and extradition of mobile Union citizens .....	5
2.2. Non-discrimination on the basis of nationality in sport .....	7
3. Citizenship of the Union, including acquisition and loss thereof (Article 20 TFEU) .....	8
3.1. CJEU case law developments on acquisition and loss of Union citizenship.....	8
3.2. Commission’s actions in acquisition and loss of Union citizenship.....	9
4. Right to move and reside freely in the territory of the Member States (Articles 20 and 21 TFEU) ...	10
4.1. CJEU case law developments on free movement rights and (derived) residence rights .....	11
4.2. CJEU case law development on entry and residence rights of ‘other family members’ of Union citizens .....	15
4.3. CJEU case law development on procedural aspects of free movement and residence rights ..	16
4.4. CJEU case law developments on rights ancillary to free movement and residence rights .....	17
4.5. Commission’s actions in the area of free movement and residence of Union citizens .....	18
5. Right to vote and stand as a candidate in municipal and European Parliament elections (Articles 20(2)(b) and 22 TFEU) .....	18
6. Right to protection by diplomatic or consular authorities (Articles 20(2)(c) and 23 TFEU) .....	19
7. Right to petition the European Parliament and to address the European Ombudsman (Articles 20(2)(d) and 24 TFEU) .....	20
7.1. Right to petition the European Parliament .....	20
7.2. Right to apply to the European Ombudsman .....	21
Annex I. List of judgment of the Court of Justice in the area of Union citizenship (1 July 2016 – 30 September 2019).....	23



## List of abbreviations and definitions

Abbreviation	Definition
CJEU	Court of Justice of the European Union
EESC	European Economic and Social Committee
ETD	Emergency Travel Document
EU	European Union
TCN	third-country national
TFEU	Treaty on the Functioning of the European Union



## 1. Introduction

Under Article 25 of the TFEU, the European Commission is required to report to the European Parliament, the Council and the EESC every three years on the application of the citizenship provision in the TFEU (i.e. Articles 18-24 TFEU) on non-discrimination and Union citizenship.

This overview produced by the EU-CITZEN Network aims to provide a comprehensive overview of developments in the area of Union citizenship in the European Union to support the European Commission in its reporting to the European institutions through its Citizenship Report(s). Following the period covered by the Commission's eighth Citizenship report,<sup>1</sup> this overview will cover the period from **1 July 2016 to 30 September 2019**.

This overview will be structured, in line with the Commission's eight Citizenship report, along the following topics:

- Non-discrimination on grounds of nationality (Article 18 TFEU) – *section 2*;
- Citizenship of the Union, including acquisition and loss thereof (Article 20 TFEU) – *section 3*;
- Right to move and reside freely in the territory of the Member States (Articles 20(2)(a) and 21 TFEU) – *section 4*;
- Right to vote and stand as a candidate in municipal and European Parliament elections (Articles 20(2)(b) and 22 TFEU) – *section 5*;
- Right to protection by diplomatic or consular authorities (Articles 20(2)(c) and 23 TFEU) – *section 6*;
- Right to petition the European Parliament and to address the European Ombudsman (Articles 20(4) and 24 TFEU) – *section 7*;

In each section, the overview will consider any *legislative* developments taken by the European Union, *case-law* development by the Court of Justice of the European Union and *actions taken by the European Commission*. Where relevant, actions by the European Parliament (e.g. *resolutions*) and other European Institutions will be referenced.

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<sup>1</sup> European Commission (2017), Report from the Commission to the European Parliament, the Council, the European Economic Social Committee and the Committee of the Regions under Article 25 TFEU on progress towards effective EU citizenship 2013-2016, COM(2017) 32 final, Brussels, 24.1.2017.



## 2. Non-discrimination on grounds of nationality (Article 18 TFEU)

Article 18 TFEU states unequivocally that discrimination of Union citizens on the basis of nationality is prohibited. Similar provisions can be found throughout the Treaties, such as Article 45(2) TFEU, precluding discrimination of Union workers on the basis of nationality as regards employment, remuneration and other conditions of work and employment. During the reference period, the Court of Justice of the European Union has issued three key judgments relating to the non-discrimination of EU citizens on grounds of nationality, more specifically on extradition and sport respectively.

### 2.1. Non-discrimination on grounds of nationality and extradition of mobile Union citizens

The two CJEU rulings on non-discrimination on the basis of nationality and extradition to a third country of Union citizens residing in a Member State other than the Member State of nationality, were *Pisciotti*,<sup>2</sup> and *Raugevicius*,<sup>3</sup> both of which follow up on the Court's judgment in *Petruhhin*.<sup>4</sup> In each of the three cases, the issue at hand was the interaction between national rules precluding the extradition of the host Member State's own nationals and the EU principle of non-discrimination of Union citizens on grounds of nationality (Article 18 TFEU).

The proceedings in *Petruhhin* revolved around the question of whether Latvia, in light of EU law, was required to apply its prohibition of extraditing Latvian nationals also to Union citizens having made use of the free movement rights to reside in Latvia (as is the case for Mr Petruhhin, an Estonian national). An important aspect in *Petruhhin* was that no international agreements concerning extradition were in place between Russia (i.e. the requesting State) and the European Union.

*Pisciotti* was factually similar to *Petruhhin* as it concerns the extradition of a mobile Union citizen (i.e. an Italian national) by an EU Member State (Germany) to a third-country (i.e. the United States). There were some important differences, however, which required the CJEU to pronounce itself on the preliminary reference. Unlike in *Petruhhin*, in *Pisciotti* an extradition agreement exists between the US and the EU. While the EU-US extradition agreement does not contain any exclusionary grounds, the agreement permitted grounds for excluding extradition on the basis of bilateral treaties and national legislation. In this case, both the bilateral US-German treaty as well as German constitutional law precludes the extradition of German nationals. Furthermore, the Member State of nationality (i.e. Italy) was kept informed throughout the extradition process.

Both *Petruhhin* and *Pisciotti* concerned the extradition of mobile Union citizens for the purpose of criminal prosecution. On the other hand, *Raugevicius* centred on the extradition of mobile Union citizens for the purpose of the enforcement of a criminal sentence of a third country's court, i.e. the extradition of Mr Raugevicius, a Lithuanian national, by Finland to Russia. Both Finnish legislation and the declaration made by Finland under the European Convention on Extradition foresees the non-extradition of Finnish nationals and 'aliens domiciled' in Finland.

The main findings of the CJEU in the aforementioned cases can be summarised as follows. First, the CJEU ruled that, while rules on extradition fall within the competence of Member States where no international agreement is in place between the EU and a third country, Member States must exercise

<sup>2</sup> CJEU 10 April 2018, Case C-191/16 *Romano Pisciotti v Bundesrepublik Deutschland*, ECLI:EU:C:2018:222.

<sup>3</sup> CJEU 13 November 2018, Case C-247/17 *Denis Raugevicius*, ECLI:EU:C:2018:898.

<sup>4</sup> CJEU 6 September 2016, Case C-182/15 *Aleksei Petruhhin v Latvijas Republikas Ģenerālprokuratūra*, ECLI:EU:C:2016:630.



their national rules on extradition with due regard to EU law in situations covered by EU law.<sup>5</sup> This is the case, according to the Court, where a Union citizen has made use of their free movement rights (pursuant to Article 21 TFEU) and the national rules on extradition could lead to discrimination of Union citizens on the basis of nationality (per Article 18 TFEU).<sup>6</sup>

Second, the Court considered whether (inter)national rules of Member States precluding *only* the non-extradition of its own nationals would be incompatible with the non-discrimination principle enshrined in Article 18 TFEU. The CJEU notes that such extradition rules give rise to a difference in treatment depending on a Union citizen's nationality, and thus to a restriction of freedom of movement.<sup>7</sup> In line with the Court's case law, such a restriction could only be justified "where it is based on objective considerations and is proportionate to the legitimate objective of the national provisions".<sup>8</sup> While the Court recognises that the objective(s) of 'international criminal cooperation' and preventing the risk of impunity are legitimate,<sup>9</sup> these national provisions must also meet the requirement of proportionality.

In this respect, the Court considered in *Petruhhin* that alternative measures less prejudicial to the exercise of fundamental freedoms must be considered by the Member State considering acquiescing to an extradition request.<sup>10</sup> On the basis of the EU principle of sincere cooperation (Article 4(3) TEU) and secondary EU law in the area of criminal cooperation (more specifically, the European Arrest Warrant), the CJEU concluded as follows. Before extraditing a mobile Union citizen, Member States must exchange information with the Member State of nationality, so as to afford the latter Member State the opportunity "in so far as they have [extraterritorial] jurisdiction pursuant to national law" to prosecute the mobile Union citizen for criminal offences committed abroad.<sup>11</sup> *Pisciotti* demonstrated, however, that if the Member State of nationality had been adequately informed, yet decides not to prosecute its own national for extraterritorially committed criminal offences, EU law would not preclude his or her extradition by the 'host' Member State to a third country.<sup>12</sup>

Third, the tension between the objective of preventing the risk of impunity for criminal offences committed and restrictions of a fundamental freedom, and the corresponding need to examine alternative measures, applies equally, according to the CJEU in *Raugevicius*, in respect of extradition (requests) in order to enforce a (foreign) criminal sentence.<sup>13</sup> While the *ne bis in idem* principle would preclude a Member State from launching prosecutions against the mobile Union citizen concerned, the Court highlights that, in order to prevent the risk of such persons remaining unpunished, international instruments and (some) Member States' legislation provide alternative measures (i.e. serving criminal sentences imposed by foreign courts in the Member State of nationality).<sup>14</sup> According to the Court of Justice, mobile Union citizens who *reside permanently* in the host Member State are in a comparable situation to nationals of the host Member State.<sup>15</sup> According to the CJEU, Articles 18 and 21 TFEU would

<sup>5</sup> See Case C-182/15 *Petruhhin*, para. 26-27.

<sup>6</sup> Case C-182/15 *Petruhhin*, para. 29-31; Case C-191/16 *Pisciotti*, para. 31-35, 37-42; Case C-247/17 *Raugevicius*, para. 27-28.

<sup>7</sup> Case C-182/15 *Petruhhin*, para. 32-33; Case C-191/16 *Pisciotti*, para. 43-45; Case C-247/17 *Raugevicius*, para. 30.

<sup>8</sup> Case C-182/15 *Petruhhin*, para. 34, 38; Case C-191/16 *Pisciotti*, para. 46; Case C-247/17 *Raugevicius*, para. 31.

<sup>9</sup> Cf. Case C-182/15 *Petruhhin*, para. 35-37.

<sup>10</sup> See Case C-182/15 *Petruhhin*, para. 38-41.

<sup>11</sup> Case C-182/15 *Petruhhin*, para. 42-48.

<sup>12</sup> See Case C-191/16 *Pisciotti*, para. 50-56.

<sup>13</sup> See Case C-247/17 *Raugevicius*, para. 32-40.

<sup>14</sup> Case C-247/17 *Raugevicius*, para. 36-38.

<sup>15</sup> Case C-247/17 *Raugevicius*, para. 46..



entail that mobile Union citizens permanently residing in the host Member State, whose extradition is being requested by a third country for the purpose of enforcing a custodial sentence, should benefit from the national provisions preventing extradition from being applied to the nationals of the host Member State and may, under the same conditions as the nationals of the host Member State, serve their sentences on the territory of the host Member State.<sup>16</sup>

Finally, the CJEU considered in *Petruhhin* and *Raugevicius* that Member States, in examining extradition requests from third countries, must ensure that extradition would not infringe upon the fundamental rights of Union citizens, including the rights enshrined in the EU Charter of Fundamental Rights (such as the prohibition of torture and inhuman or degrading treatment or punishment in Article 4 thereof).<sup>17</sup> If the Member State is in possession of evidence of a real risk of inhuman or degrading treatment of individuals in the requesting (third) State, it is not sufficient to rely on the third State concerned being a party to international (human rights) treaties. Rather, the Member State must examine the existence of the risk of inhuman or degrading treatment in the requesting third State in light of objective, reliable, specific, and properly updated information.<sup>18</sup>

#### Readings:

- Stephen Coutts (2019), “From Union citizens to national subjects: Pisciotti”, *Common Market Law Review*, Vol. 56, No. 2, pp. 521–540 (behind paywall);
- Jan Przerwa (2018), “The Pisciotti case: How can free movement rights impact EU citizen extradition to a third country?”, European Law Blog, 22 August, <https://europeanlawblog.eu/2018/08/22/the-pisciotti-case-how-can-free-movement-rights-impact-eu-citizen-extradition-to-a-third-country/>;

#### *2.2. Non-discrimination on the basis of nationality in sport*

The other important ruling of the CJEU within the reference period, *TopFit*,<sup>19</sup> considered the issue of non-discrimination of (mobile) Union citizens on grounds of nationality in the area of sport. Mr Biffi is an Italian national living in Germany, and he competes in amateur running races in the senior category. He is a member of TopFit, a sports association which is affiliated to the German Athletics Association (Deutscher Leichtathletikverband, DLV). A change in the rules by DLV in 2015 led to mobile Union citizens in Germany, such as Mr Biffi, being excluded from the possibility to be selected to participate in national championships or being allowed to participate in those championships only ‘outside classifications’ or ‘without classifications’, despite meeting all other conditions for participating in athletics championships.

The CJEU relied on four observations in responding to the preliminary reference. First, the Court, referring to its recent judgment in *Raugevicius*, noted that “the situation of an EU citizen who has made use of this right to move freely comes within the scope of Article 18 TFEU”, including in the area of sport.<sup>20</sup> Second, the fundamental freedom of movement of persons, as expressed in Article 21 TFEU, intended *inter alia* to promote “the gradual integration of the EU citizen concerned in the society of the host Member State”, and participation in (amateur) sport is an important part of this inclusion

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<sup>16</sup> Case C-247/17 *Raugevicius*, para. 41-47.

<sup>17</sup> Case C-182/15 *Petruhhin*, para. 52-56.

<sup>18</sup> See Case C-182/15 *Petruhhin*, para. 57-59.

<sup>19</sup> CJEU 13 June 2019, Case C-22/18 *TopFit e.V. and Daniele Biffi v Deutscher Leichtathletikverband e.V.*, ECLI:EU:C:2019:497.

<sup>20</sup> Case C-22/18 *TopFit*, para. 29-30.



process.<sup>21</sup> Third, in reference to prior EU case law, the Luxembourg Court noted that rules of national (sports) associations are equally required to observe EU law, including the Treaties.<sup>22</sup> Fourth, the applicability of Articles 18 and 21 TFEU to rules of national sports association entail, *inter alia*, that rules of national sports associations, which may constitute a restriction of a fundamental freedom, are incompatible with EU law, unless they are “justified by objective considerations which are proportionate to the legitimate objective pursued”.<sup>23</sup>

#### Readings:

- Thomas Terraz (2019), “A New Chapter for EU Sports Law and European Citizenship Rights? The TopFit Decision”, Asser International Sports Law Blog, 29 June, <https://www.asser.nl/SportsLaw/Blog/post/a-new-chapter-for-eu-sports-law-and-european-citizenship-rights-the-topfit-decision-by-thomas-terraz>;
- Jan Exner (2019), “Sporting Nationality in the Context of European Union Law: Seeking a Balance between Sporting Bodies’ Interests and Athletes’ Rights”, *Springer Briefs in Law*, Cham: Springer.

### 3. Citizenship of the Union, including acquisition and loss thereof (Article 20 TFEU)

Article 20 TFEU holds that Union citizenship is additional to Member States’ nationality, and that every person holding the nationality of a Member State shall be a Union citizen. It is settled case law that Union citizenship “is intended to be the fundamental status of nationals of the Member States”.<sup>24</sup> The CJEU has previously held that Member States, in the exercise of their competence to determine the rules on acquisition and loss of their nationality, must have due regard to Union law.<sup>25</sup> Moreover, Article 20 TFEU precludes national measures which have the “effect of depriving citizens of the Union of the genuine enjoyment of the substance of the rights conferred by virtue of their status as citizens of the Union”.<sup>26</sup>

With respect to the rules on acquisition and loss of Member States’ nationality in light of EU law, a number of developments – including rulings of the CJEU – have occurred within the reference period. Developments in the EU concerning (derived) residence rights on the basis of Article 20 TFEU will be examined in section 4 of this report (below).

#### 3.1. CJEU case law developments on acquisition and loss of Union citizenship

During the reference period, the Court of Justice of the European Union issued one judgment with relevance for the acquisition and loss of (Member States’ nationality, and thereby) Union citizenship, *Tjebbes and Others*.<sup>27</sup> The CJEU’s judgment further clarifies the Court’s prior ruling in *Rottmann* and its broader application to loss of Union citizenship other than in cases of withdrawal on grounds of fraudulent acquisition of a Member State’s nationality. In summary, the Court made two important

<sup>21</sup> Case C-22/18 *TopFit*, para. 31-34.

<sup>22</sup> Case C-22/18 *TopFit*, para. 36-40.

<sup>23</sup> Case C-22/18 *TopFit*, para. 42-48.

<sup>24</sup> Cf. C-315/08 *Rottmann*, para. 43; C-34/09 *Ruiz Zambrano*, para. 41.

<sup>25</sup> C-315/08 *Rottmann*, para. 45.

<sup>26</sup> C-34/09 *Ruiz Zambrano*, para. 42.

<sup>27</sup> CJEU 12 March 2019, Case C-221/17 *MG Tjebbes and Others v Minister van Buitenlandse Zaken*, ECLI:EU:C:2019:189. The EU-CITIZEN Network, more specifically one of its partners, Maastricht University, has produced a more substantive analysis of the *Tjebbes* ruling.





observations. The CJEU confirms the legitimacy, in general, of Member States' aims of ensuring the existence of a genuine link between the State and its nationals, as well as the principle of the unity of nationality within the same family, by providing for the (automatic) loss of its nationality in specifically enumerated circumstances.<sup>28</sup> This acceptance of Member States' legitimate aim in providing for the loss of its nationality in case of absence of a genuine link, however, does not absolve Member States from ensuring that (in individual cases) the *ex lege* loss of Member States' nationality has due regard to the principle of proportionality, as espoused in *Rottmann*, where the loss of nationality would entail the loss of Union citizenship and the rights attached thereto.<sup>29</sup>

Accordingly, the CJEU considered that this principle of proportionality requires Member States' legislation to provide for the possibility of "an individual examination of the consequences of that loss for [the person concerned and for that of the members of his or her family] from the point of view of EU law".<sup>30</sup> Furthermore, where the loss of Union citizenship (as a consequence of the automatic loss of a Member States' nationality) is found to be incompatible with EU law, it should be possible for the person concerned to recover his or her nationality *ex tunc*.<sup>31</sup> Finally, the CJEU recognises the applicability of the EU Charter of Fundamental Rights, more specifically Articles 7 (on family life) and 24 (on the best interests of the child) thereof, in the proportionality examination in the context of the loss of Union citizenship.<sup>32</sup>

### 3.2. Commission's actions in acquisition and loss of Union citizenship

Within the reference period, the European Commission undertook a number of actions in respect of the acquisition and loss of Union citizenship, more specifically on the issue of 'investor citizenship' schemes in the EU. These activities follow the call by the European Parliament in 2014 *inter alia* for the Commission "to assess the various citizenship schemes in the light of European values and the letter and spirit of EU legislation and practice, and to issue recommendations in order to prevent such schemes from undermining the values that the EU has been built upon, as well as guidelines for access to EU citizenship via national schemes".<sup>33</sup>

The European Commission issued, on 23 January 2019, a report on "Investor Citizenship and Residence Schemes in the European Union".<sup>34</sup> The Report analysed existing schemes for obtaining the nationality of and residence in EU Member States on grounds of investment, and highlighted a number of concerns and risks of such schemes for the EU. These risks include, in particular, concerns about security (checks), money laundering, circumvention of EU rules, tax evasion, and concerns of transparency. The Commission also noted the effects of investor citizenship schemes operated by third countries with privileged access to the EU (including, in particular, candidate countries for accession to the EU).<sup>35</sup>

<sup>28</sup> C-221/17 *Tjebbes and Others*, para. 33-39.

<sup>29</sup> C-221/17 *Tjebbes and Others*, para. 40.

<sup>30</sup> C-221/17 *Tjebbes and Others*, para. 41.

<sup>31</sup> C-221/17 *Tjebbes and Others*, para. 42.

<sup>32</sup> C-221/17 *Tjebbes and Others*, para. 45-47.

<sup>33</sup> European Parliament resolution of 16 January 2014 on EU citizenship for sale (2013/2295(RSP)).

<sup>34</sup> European Commission (2019), Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Investor Citizenship and Residence Schemes in the European Union, COM(2019) 12 final, Brussels, 23.1.2019.

<sup>35</sup> *Ibid*, pp. 10-23.



Following this report, the Commission set up a “Group of Member State Experts on Investor Citizenship and Residence Schemes”, with the aim to:

- look at the specific risks arising from investor citizenship schemes;
- develop a common set of security checks, including risk management processes that take into account security, money-laundering, tax evasion and corruption risks, by the end of 2019; and
- address the aspects of transparency and good governance with regard to the implementation of both investor citizenship and residence schemes.<sup>36</sup>

The Group has met on 5 April 2019, 8 July 2019, 2 October 2019 and 11 December 2019.<sup>37</sup>

#### 4. Right to move and reside freely in the territory of the Member States (Articles 20 and 21 TFEU)

As one of the cornerstones of Union citizenship, the right of Union citizens to move and reside freely in the EU has seen substantial developments within the reference period in a broad number of topics and areas. These include not only free movement rights of Union citizens *sensu stricto* and (derived) residence rights of TCN family members of Union citizens, but also related matters such as travel documents and the cross-border recognition of public documents.

In 2019, the Union adopted a new Regulation on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement.<sup>38</sup> Regulation 2019/1157 sets out a common minimum standard for Member States’ ID cards, including machine-readability and biometric information,<sup>39</sup> and lays down minimum information for residence documents for mobile Union citizens and a uniform format for residence cards for their TCN family members.<sup>40</sup>

Changes by the Union with consequences for third-country national family members of mobile Union citizens have also been introduced with the amendment of the EU Visa Code,<sup>41</sup> *inter alia* providing for the possibility to submit a visa application up to six months before the start of the intended visit.<sup>42</sup> The amendments to the EU Visa Code by Regulation 2019/1155 will be applicable from 2 February 2020.<sup>43</sup> Furthermore, the Public Documents Regulation (Regulation (EU) No. 1024/2012), which aims to simplify

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<sup>36</sup> See [https://ec.europa.eu/info/investor-citizenship-schemes\\_en](https://ec.europa.eu/info/investor-citizenship-schemes_en).

<sup>37</sup> The agendas and minutes of the Group’s meeting are published on the European Commission’s website ([https://ec.europa.eu/info/policies/justice-and-fundamental-rights/eu-citizenship/eu-citizenship/activities-group-member-state-experts-investor-citizenship-and-residence-schemes\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/eu-citizenship/eu-citizenship/activities-group-member-state-experts-investor-citizenship-and-residence-schemes_en)) as soon as they are available.

<sup>38</sup> Regulation (EU) 2019/1157 of the European Parliament and of the Council of 20 June 2019 on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement, *OJ L* 188, 12.7.2019, pp. 67-78.

<sup>39</sup> See Article 3 of Regulation (EU) 2019/1157.

<sup>40</sup> See Articles 6 and 7 of Regulation (EU) 2019/1157.

<sup>41</sup> Regulation (EU) 2019/1155 of the European Parliament and of the Council of 20 June 2019 amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), *OJ L* 188, 12.7.2019, pp. 25-54.

<sup>42</sup> See Article 1(7)(a) of Regulation (EU) 2019/1155.

<sup>43</sup> Article 3(2) of Regulation (EU) 2019/1155.



the circulation of certain public documents within the EU through, *inter alia*, mutual recognition and the introduction of multilingual standard forms, became wholly applicable as of 16 February 2019.<sup>44</sup>

#### 4.1. CJEU case law developments on free movement rights and (derived) residence rights

The CJEU has issued multiple rulings in relation to Article 21 TFEU (including its implementation through the Free Movement Directive), as well as residence rights derived from Union citizenship on the basis of Article 20 TFEU.<sup>45</sup>

The first set of cases concerns the question which Union citizens and family members can rely on Directive 2004/38 for residence rights in the host Member State. In *Lounes*,<sup>46</sup> the Court held that a Union citizen who has made use of his or her free movement rights to reside in another EU Member State and who has since obtained the nationality of the host Member State (while retaining the nationality of the Member State of origin) may, while no longer being a beneficiary under Directive 2004/38, continue to rely on the rights derived from Article 21 TFEU.<sup>47</sup> Residence rights for family members of said (dual national) Union citizen may also be derived from Article 21 TFEU, under conditions which must not be stricter than those provided for by Directive 2004/38.<sup>48</sup>

In *Gusa*,<sup>49</sup> the CJEU held that the right to retain the status of ‘worker or self-employed person’ after ceasing economic activities in the cases stipulated in Article 7(3) of Directive 2004/38 (more specifically, point (b) thereof, for ‘duly recorded involuntary unemployment after having been employed for more than one year and [having] registered as a job-seeker’) applies equally to mobile Union citizens who were self-employed prior to their involuntary cessation of economic activities.<sup>50</sup>

In *Coman*,<sup>51</sup> the CJEU adopted an autonomous (EU law) definition of the concept of ‘spouse’ in Article 2(2)(a) of Directive 2004/38.<sup>52</sup> Where a returning Union citizen has (previously) made use of his or her free movement rights to take up genuine residence in another EU Member State and has, in the host Member State, created or strengthened a family life with the same-sex (third-country) national through marriage lawfully concluded in the host Member State, the Court ruled that EU law precludes national legislation refusing to grant derived entry and residence rights to the same-sex spouse of the returning Union citizen based on the non-recognition of same-sex marriage in the (home) Member State concerned.<sup>53</sup>

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<sup>44</sup> See Article 27(2) of Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012, OJ L 220, 26.7.2016, pp. 1-136.

<sup>45</sup> This section will not address the judgments of the CJEU based primarily on the status of ‘Union worker’ pursuant to Article 45 et seq. TFEU. A list of these judgments can be found in Annex I to this report.

<sup>46</sup> CJEU 14 November 2017, Case C-165/16 *Toufik Lounes v Secretary of State for the Home Department*, ECLI:EU:C:2017:862.

<sup>47</sup> C-165/16 *Lounes*, para. 45-58. It should be noted that the Court has specifically emphasised that Directive 2004/38, however, ceases to apply to mobile Union citizens who have since obtained the nationality of the host Member State; see C-165/16 *Lounes*, para. 31-44.

<sup>48</sup> C-165/16 *Lounes*, para. 59-61.

<sup>49</sup> CJEU 20 December 2017, Case C-442/16 *Florian Gusa v Minister for Social Protection and Others*, ECLI:EU:C:2017:1004.

<sup>50</sup> C-442/16 *Gusa*, para. 35-45.

<sup>51</sup> CJEU 5 June 2018, Case C-673/16 *Relu Adrian Coman and Others v Inspectoratul General pentru Imigrări and Others*, ECLI:EU:C:2018:385.

<sup>52</sup> C-673/16 *Coman*, para. 33-36.

<sup>53</sup> C-673/16 *Coman*, para. 38-40, 52-55.



In *Altiner and Ravn*,<sup>54</sup> the CJEU held that EU law does not preclude national legislation that does not grant a derived right of residence to a family member of a returning Union citizen when the family member concerned has not entered the territory of the Member State of origin of the Union citizen as a ‘natural consequence’ of the return to that Member State of the Union citizen in question.<sup>55</sup> However, the Court also held that such national legislation must provide for other relevant factors to also be taken into account in the context of an overall assessment, in particular, factors capable of showing that, in spite of the time which elapsed between the return of the Union citizen to that Member State and the entry of the family member who is a third-country national, the family life created and strengthened in the host Member State has not ended.<sup>56</sup>

*Tarola*,<sup>57</sup> concerned the case of an EU citizen who, having exercised his right to free movement, acquired, in another Member State, was employed in the host Member State for a period of two weeks, otherwise than under a fixed-term employment contract, before becoming involuntarily unemployed. The Court interpreted Articles 7(1)(a) and (3)(c) of Directive 2004/38/EC and considered that a citizen in such situation retains the status of worker for a further period of no less than six months (and hence the right of residence in the host Member State), if the individual concerned did actually have the status of worker prior to his or her involuntary unemployment and if he or she has registered as a jobseeker with the relevant employment office.<sup>58</sup> In fact, the Court seems to reject including an additional requirement of a specified duration of the (self-)employment prior to unemployment.<sup>59</sup> The Court notes, finally, that any entitlement under national law to social security benefits or social assistance may be conditional upon a specified period of employment, to the extent that, in accordance with the principle of equal treatment, the same condition is applicable to nationals of the Member State concerned.<sup>60</sup>

A second set of CJEU rulings concerns restriction of residence rights and expulsions under Directive 2004/38. In *E v Subdelegación del Gobierno en Álava*,<sup>61</sup> the CJEU reiterated that expulsion decisions pursuant to Directive 2004/38 must be based exclusively on the personal conduct of the individual (Union citizen) concerned. In this respect, the Court ruled that the fact the individual concerned is imprisoned at the time of the adoption of the expulsion decision, without the prospect of being released in the near future, does not “exclude that his conduct represents [...] a present and genuine threat for a fundamental interests of the society of the host Member State”.<sup>62</sup>

In *Petrea*,<sup>63</sup> the CJEU determined *inter alia* that a Member States may withdraw a registration certificate wrongly issued to a Union citizen who is still the subject of an expulsion and exclusion order (as provided

<sup>54</sup> CJEU 27 June 2018, Case C-230/17 *Erdem Deha Altiner and Isabel Hanna Ravn v Udlændingestyrelsen*, ECLI:EU:C:2018:497.

<sup>55</sup> C-230/17 *Altiner and Ravn*, para. 30-34.

<sup>56</sup> C-230/17 *Altiner and Ravn*, para. 35.

<sup>57</sup> CJEU 11 April 2019, Case C-483/17 *Neculai Tarola v Minister for Social Protection*, ECLI:EU:C:2019:309.

<sup>58</sup> C-483/17 *Tarola*, para. 45-52.

<sup>59</sup> Cf. C-483/17 *Tarola*, para. 54.

<sup>60</sup> C-483/17 *Tarola*, para. 55-57.

<sup>61</sup> CJEU 13 July 2017, Case C-193/16 *E v Subdelegación del Gobierno en Álava*, ECLI:EU:C:2017:542.

<sup>62</sup> C-193/16 *E v Subdelegación del Gobierno en Álava*, para. 19-26.

<sup>63</sup> CJEU 14 September 2017, Case C-184/16 *Ovidiu-Mihăiță Petrea v Ypourgos Esoterikon kai Dioikitikis Anasygrotisis*, ECLI:EU:C:2017:684. Parts of the judgment of the CJEU in *Petrea* will be considered in section 4.3 of this overview.



for by Directive 2004/38).<sup>64</sup> The Union citizen concerned is entitled, pursuant to Article 32 of Directive 2004/38 to submit an application for lifting of said exclusion order; however, he or she does not have a right to reside (under Directive 2004/38) while their application is being considered.<sup>65</sup>

In ***B and Vomero***,<sup>66</sup> the Court clarified a number of issues in respect of the provisions of Directive 2004/38 concerning enhanced protection against expulsion of Article 28(3)(a) of Directive 2004/38/EC and the prerequisites of enhanced protection against expulsion especially in the context of imprisonment. The Court ruled that the person concerned must have a right of permanent residence to be eligible for enhanced protection against expulsion.<sup>67</sup> In addition, the Court clarified that the accumulated period of (uninterrupted) prior residence required for enhanced protection against expulsion must be calculated by counting back from the date on which the initial expulsion decision was taken.<sup>68</sup> The question of whether the period of residence required for the said enhanced protection was discontinued by a period of detention prior to the expulsion decision must be determined by an overall assessment of whether, notwithstanding that detention, the integrative links between the Union citizen and the host Member State have not been severed.<sup>69</sup> Relevant factors in this overall assessment include *inter alia* “the strength of the integrative links forged with the host Member State before the detention of the person concerned, the nature of the offence that resulted in the period of detention imposed, the circumstances in which that offence was committed and the conduct of the person concerned throughout the period of detention”.<sup>70</sup>

In ***K and HF***,<sup>71</sup> the CJEU held firstly that the fact that (a family member of) a Union citizen had previously been refused asylum on the basis of Article 1F of the Geneva Convention cannot *automatically* lead to the conclusion that his or her mere presence represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society as required by (Article 27 of) Directive 2004/38.<sup>72</sup> Indeed, the need for a restriction on the freedom of movement and residence of an EU citizen, or a family member of an EU citizen, must be assessed on a case-by-case basis.<sup>73</sup> The competent national authorities must further consider whether adopting such public policy or public security measures complies with the principle of proportionality, taking into account the rights of Union citizens and their family members, as well as whether other measures less prejudicial to the freedom of movement was possible.<sup>74</sup>

A third set of rulings of the CJEU within the reference period concerns free movement and residence rights derived under Article 20 and 21 TFEU. In ***Rendón Marin***,<sup>75</sup> the CJEU ruled that EU law precludes automatically refusing a derived residence right to a third-country national who has the sole care of a

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<sup>64</sup> C-184/16 *Petrea*, para. 30-42.

<sup>65</sup> C-184/16 *Petrea*, para. 43-48.

<sup>66</sup> CJEU 17 April 2018, Joined Cases C-316/16 and C-424/16 *B v Land Baden-Württemberg and Secretary of State for the Home Department v Franco Vomero*, ECLI:EU:C:2018:256.

<sup>67</sup> Joined Cases C-316/16 and C-424/16 *B and Vomero*, para. 44-55.

<sup>68</sup> Joined Cases C-316/16 and C-424/16 *B and Vomero*, para. 64-65, 85-94.

<sup>69</sup> Joined Cases C-316/16 and C-424/16 *B and Vomero*, para. 66-82.

<sup>70</sup> Joined Cases C-316/16 and C-424/16 *B and Vomero*, para. 83.

<sup>71</sup> CJEU 2 May 2018, Joined Cases C-331/16 and C-366/16 *K v Staatssecretaris van Veiligheid en Justitie and HF v Belgische Staat*, ECLI:EU:C:2018:296.

<sup>72</sup> Joined Cases C-331/16 and C-366/16 *K and HF*, para. 51.

<sup>73</sup> Joined Cases C-331/16 and C-366/16 *K and HF*, para. 39-49, 52-60.

<sup>74</sup> Joined Cases C-331/16 and C-366/16 *K and HF*, para. 61-64.

<sup>75</sup> CJEU 13 September 2016, Case C-165/14 *Alfredo Rendón Marin v Administración del Estado*, ECLI:EU:C:2016:675.



‘mobile’ and ‘static’ Union citizen solely on the basis of a prior criminal record.<sup>76</sup> This preclusion of automatic refusal of a derived residence right for a third-country national parent who, in essence, a minor Union citizen is dependent on, solely on the basis of a criminal record of the parent concerned, is similarly confirmed by the Court in *CS*.<sup>77</sup> In both *Rendón Marin* and *CS*, the CJEU recognises, however, the possibility for Member States to restrict residence rights derived from Article 20 TFEU and 21 TFEU, to the extent that any such restriction is based on a case-by-case assessment and that any expulsion or restriction of the residence right is founded on the “existence of a genuine, present and sufficiently serious threat to the requirements of public policy or public security”.<sup>78</sup>

In *Chavez-Vilchez and Others*,<sup>79</sup> the CJEU was called to clarify the extent to which a residence right derived from Article 20 TFEU (following the Court’s line of rulings starting from *Ruiz Zambrano*) is dependent on the possibility of the Union citizen parent, who is not the primary caretaker of the ‘static’ Union citizen minor, to care for the minor Union citizen (thus precluding the risk of the minor being deprived of the genuine enjoyment of the rights conferred by Union citizenship). The Court held that the competent authorities must determine, in light of *inter alia* Article 7 and 24 of the EU Charter of Fundamental Rights, which parent is the primary carer of the child and whether there is a dependency relationship between the third-country national parent that would compel the child to leave, in practice, the Union territory upon refusal of a residence right for the third-country national parent.<sup>80</sup> The Court held that for the purposes of such an assessment, the fact that the other parent, a Union citizen, is actually able and willing to assume sole responsibility for the primary day-to-day care of the child is a relevant factor, but it is not in itself a sufficient ground for concluding that there is not, between the third-country national parent and the child, such a relationship of dependency that the child would be compelled to leave the territory of the European Union if a right of residence were refused to that third-country national.<sup>81</sup> The Court reiterated that relevant factors in the assessment by the competent authorities include “*the question of who has custody of the child and whether that child is legally, financially or emotionally dependent on the third-country national parent*”.<sup>82</sup> The Court then added that, in assessing these factors, “*account must be taken, in the best interests of the child concerned, of all the specific circumstances, including the age of the child, the child’s physical and emotional development, the extent of his emotional ties both to the Union citizen parent and to the third-country national parent, and the risks which separation from the latter might entail for that child’s equilibrium*”.<sup>83</sup>

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<sup>76</sup> C-165/14 *Rendón Marin*, para. 63-67, 81-87.

<sup>77</sup> CJEU 13 September 2016, Case C-304/14 *Secretary of State for the Home Department v CS*, ECLI:EU:C:2016:674, para. 41.

<sup>78</sup> For residence rights derived from Article 20 TFEU, see C-165/14 *Rendón Marin*, para. 83-86; C-304/14 *CS*, para. 36-42; for residence rights derived from Article 21 TFEU, see C-165/14 *Rendón Marin*, para. 55-62.

<sup>79</sup> CJEU 10 May 2017, Case C-133/15 *HC Chavez-Vilchez and Others v Raad van bestuur van de Sociale verzekeringsbank and Others*, ECLI:EU:C:2017:354.

<sup>80</sup> C-133/15 *Chavez-Vilchez and Others*, para. 70.

<sup>81</sup> C-133/15 *Chavez-Vilchez and Others*, para. 71.

<sup>82</sup> C-133/15 *Chavez-Vilchez and Others*, para. 68.

<sup>83</sup> C-133/15 *Chavez-Vilchez and Others*, para. 71.



#### 4.2. CJEU case law development on entry and residence rights of ‘other family members’ of Union citizens

Within the reference period, the CJEU has issued two rulings that further clarify (the analogous application of) Article 3(2) of Directive 2004/38 and its previous ruling in *Rahman*.<sup>84</sup> In *Banger*,<sup>85</sup> the CJEU ruled that Article 21 TFEU requires Member States to facilitate the entry and residence of extended family members of its own returning nationals (where the family member concerned would fall under the scope of Article 3(2) of Directive 2004/38 in a host Member State).<sup>86</sup> The assessment of a residence authorisation by a Member State in such cases is equally subject to the requirement, pursuant to Article 3(2) of Directive 2004/38 (applied by analogy), of an extensive examination of the applicant’s personal circumstances; any negative decisions on such applications must be justified by reasons.<sup>87</sup> Finally, the CJEU ruled that extended family members whose residence authorisation have been refused must have access to a redress procedure before a national court. The national court must be able

“to ascertain whether the refusal decision is based on a sufficiently solid factual basis and whether the procedural safeguard were complied with. Those safeguards include the obligation for the competent national authorities to undertake an extensive examination of the applicant’s personal circumstances and to justify any denial of entry or residence”.<sup>88</sup>

In *SM*,<sup>89</sup> the Court first clarified that, while the concept of direct descendant in Article 2(2)(c) of Directive 2004/38 should be interpreted broadly and includes both biological and adopted children, Article 2(2)(c) of Directive 2004/38 does not cover children placed under a legal guardianship which does not create a parent-child relationship between the child and its guardian (including children placed under the Algerian *kafala* system).<sup>90</sup> The CJEU notes expressly that such children would fall within the scope of Article 3(2) of Directive 2004/38.<sup>91</sup> While the Court recognises the wide discretion accorded to Member States in “the selection of the factors to be taken into account” in order to facilitate the entry and residence of the ‘other family members’ under Article 3(2) of Directive 2004/38, the CJEU reiterates its ruling in *Rahman* that these criteria in national legislation must be “consistent with the normal meaning of the term ‘facilitate’ used in Article 3(2) of Directive 2004/38 and [...] not deprive that provision of its effectiveness”.<sup>92</sup> The Court takes one step further than *Rahman* by emphasising that the discretion of Member States to implement Article 3(2) of Directive 2004/38 must be “exercised in the light of and in line with” the provisions of the EU Charter of Fundamental Rights, including the right to (respect for) family life and the best interests of the child.<sup>93</sup> Finally, the CJEU provides guidance into the assessment to be made by Member States (in exercising their discretion as regards the

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<sup>84</sup> CJEU 5 September 2012, Case C-83/11 *Secretary of State for the Home Department v Muhammad Sazzadur Rahman and Others*, ECLI:EU:C:2012:519.

<sup>85</sup> CJEU 12 July 2018, Case C-89/17 *Secretary of State for the Home Department v Rozanne Banger*, ECLI:EU:C:2018:570.

<sup>86</sup> C-89/17 *Banger*, para. 27-34.

<sup>87</sup> C-89/17 *Banger*, para. 36-41.

<sup>88</sup> C-89/17 *Banger*, para. 42-52.

<sup>89</sup> CJEU 26 March 2019, Case C-129/18 *SM v Entry Clearance Officer, UK Visa Section*, ECLI:EU:C:2019:248.

<sup>90</sup> C-129/18 *SM*, para. 48-56.

<sup>91</sup> C-129/18 *SM*, para. 57-59.

<sup>92</sup> C-129/18 *SM*, para. 60-63.

<sup>93</sup> C-129/18 *SM*, para. 64-67.



obligation to facilitate entry and residence under Article 3(2) of Directive 2004/38), noting that Member States are obliged to

“make a balanced and reasonable assessment of all the current and relevant circumstances of the case, taking account of all the interests in play and, in particular, of the best interests of the child concerned”.<sup>94</sup>

This assessment – which includes, inter alia, consideration of whether the child has lived with its guardian since the establishment of legal guardianship, the closeness of the personal relationship, and the degree of dependency of the child on its guardian, as well as consideration of possible tangible and personal risks that the child concerned will be the victim of abuse, exploitation or trafficking, may lead to the conclusion that, in light of the fundamental rights to respect for family life and the best interests of the child, a host Member State would be required to grant the child concerned a right of entry and residence as an ‘other family member’ of a mobile Union citizen.<sup>95</sup>

#### 4.3. CJEU case law development on procedural aspects of free movement and residence rights

The CJEU also issued three judgments within the reference period of relevance for the procedural rights and standards applicable under the Free Movement Directive. Thus, in **Bensada Benallal**,<sup>96</sup> the Court noted that Directive 2004/38 does not contain provisions concerning the detailed rules governing administrative and judicial procedures relating to a decision which results in the withdrawal of a Union citizen’s residence authorisation. The Court then held that for procedural rights and standards not directly provided for by Directive 2004/38, Member States are competent to set out the relevant detailed rules governing administrative and judicial procedures. Nonetheless, such national rules must respect both the principle of equivalence (i.e. the rules must not be less favourable than those governing similar domestic situations) and the principle of effectiveness (i.e. the rules must not make it excessively difficult or impossible in practice to exercise rights conferred by EU law).<sup>97</sup> The Court further clarified that the right to be heard in EU law, as an aspect of the rights of the defence, is “a fundamental principle of EU law which must be guaranteed even in the absence of any rules governing the proceedings in question”.<sup>98</sup>

In **Petrea**, the CJEU was (also) called to consider a number of questions relating to procedural aspects of Directive 2004/38. The case concerned a Union citizen who had re-entered the territory of a Member State territory despite being subject to an exclusion order issued by that Member State. The Court held in **Petrea** that Member States are entitled to provide for the expulsion of such a mobile Union citizen by way of a national procedure transposing Directive 2008/115 (for the return of third-country nationals), provided that transposition measures of Directive 2004/38 which are more favourable to Union citizens are applied.<sup>99</sup> Furthermore, the Court held that Member States may provide that individuals may not rely on the unlawfulness of an exclusion order made against him or her in order to contest a subsequent return order, in so far as the person concerned has had “effectively the possibility to contest the [exclusion order] in good time in light of the provisions of Directive 2004/38”.<sup>100</sup> Third,

<sup>94</sup> C-129/18 *SM*, para. 68.

<sup>95</sup> C-129/18 *SM*, para. 69-72.

<sup>96</sup> CJEU 17 March 2016, Case C-161/15 *Abdelhafid Bensada Benallal v État belge*, ECLI:EU:C:2016:175.

<sup>97</sup> C-161/15 *Bensada Benallal*, para. 23-24.

<sup>98</sup> C-161/15 *Bensada Benallal*, para. 33.

<sup>99</sup> C-184/16 *Petrea*, para. 50-56.

<sup>100</sup> C-184/16 *Petrea*, para. 57-65.





the CJEU held that, while Article 30 of Directive 2004/38 requires Member States to notify a decision adopted under Article 27 (i.e. an expulsion decision) to the person concerned “in such a way that they are able to comprehend its content and the implications”, this notification does not oblige the Member States to notify the decision concerned in a language that he (or she) understands or is reasonably presumed to understand, although he did not bring an application to that effect.<sup>101</sup>

In *Diallo*,<sup>102</sup> the Court clarified that Article 10(1) of Directive 2004/38 not only requires Member States to adopt and notify the decision on the application for a residence card of a family member of a mobile Union citizen within six months laid down in that provision, but also obliges Member States to adopt a decision refusing the issuance of the residence card under the Directive (and to notify the person concerned) within the same period of six months.<sup>103</sup> The Court further clarified that EU law, more specifically Directive 2004/38, would preclude Member States from providing, under national law, that the expiry of the aforementioned period of six months automatically entails the issuance of the residence card without finding, beforehand, that the person concerned actually meets the conditions for residing in the host Member State in accordance with EU law.<sup>104</sup> Finally, the CJEU held that, following a judicial annulment decision refusing to issue a residence card, the competent national authorities must adopt a decision concerning the application for the residence card within a reasonable period of time, which cannot, in any case, exceed the period referred to in Article 10(1) of Directive 2004/38. In the light of the principle of effectiveness and “the objective of rapid processing of applications inherent to Directive 2004/38”, the Court explicitly rejected the idea that, following a judicial annulment of a decision refusing to issue a residence card, the competent authorities are given a full new period of six months to adopt a new decision.<sup>105</sup>

#### 4.4. CJEU case law developments on rights ancillary to free movement and residence rights

The CJEU has further, within the reference period, issued a judgment relating to issues with the potential effect of hindering the free movement of Union citizens, as enshrined in Article 21 TFEU. In *Freitag*,<sup>106</sup> the Court was asked to consider whether Article 21 TFEU, in light of the Court’s prior judicial rulings – from *Grunkin and Paul* to *Bogendorff von Wolffersdorff*, precludes a refusal to recognise, based on a national legal provision (in this case, German law), a change of name of a (German/Romanian) dual national effectuated in the Union citizen’s other Member State of nationality (i.e. Romania), where the Union citizen concerned was not habitually resident in the other Member State at the time of the change of name. In essence, the CJEU ruled that Article 21 TFEU precludes the authorities of a Member State from refusing to recognise the name of one of its nationals legally acquired in another Member State, of which that person is also a national, given that a restriction to the recognition of a change of name would be ‘likely to hinder the exercise of the right [...] to move and reside freely in the territories of the Member States’, as there is a real risk that the dual Union citizen concerned would be obliged to dispel doubts as to his identity and the authenticity of the documents submitted, or the veracity of their content.<sup>107</sup>

<sup>101</sup> C-184/16 *Petrea*, para. 66-71.

<sup>102</sup> CJEU 27 June 2018, Case C-246/17 *Ibrahim Diallo v État belge*, ECLI:EU:C:2018:499.

<sup>103</sup> C-246/17 *Diallo*, para. 33-42.

<sup>104</sup> C-246/17 *Diallo*, para. 45-56.

<sup>105</sup> C-246/17 *Diallo*, para. 58-69.

<sup>106</sup> CJEU 8 June 2017, Case C-541/15 *Mircea Florian Freitag*, ECLI:EU:C:2017:432.

<sup>107</sup> C-541/15 *Freitag*, para. 35-39.



#### 4.5. Commission's actions in the area of free movement and residence of Union citizens

In the area of free movement of (mobile) Union citizens, the European Commission has taken a number of recent steps to ensure full compliance by Member States with Union law. In the most recent 'infringement package' of the European Commission within the reference period,<sup>108</sup> the Commission sent a formal letter of notice and a reasoned opinion to Greece concerning the non-conformity of Greek legislation with EU rules on the recognition of professional qualifications. Moreover, in respect of the recognition of professional qualifications, the Commission decided to launch infringement proceedings against Malta (through a formal letter of notice) for failure to notify the Commission of restrictions on certain professions. The Commission also urged France to comply with EU rules on the free movement of Union citizens (i.e. the Free Movement Directive) in respect of the period of validity of residence cards for family members of mobile Union citizens. Finally, the Commission sent a reasoned opinion to Austria concerning the incompatibility with EU law of Austrian legislation concerning the indexation of family benefits of Union citizens with children residing in another EU Member State.<sup>109</sup>

The European Commission also adopted measures in other areas of Union law with potential effects for the free movement of mobile Union citizens. Thus, in February 2019, the European Commission adopted a Recommendation in order to make (cross-border) access by Union citizens to their own health data easier.<sup>110</sup>

## 5. Right to vote and stand as a candidate in municipal and European Parliament elections (Articles 20(2)(b) and 22 TFEU)

Within the reference period, European Parliamentary elections were held between 23 and 26 May 2019. The European Parliament, in collaboration with Kantar, published the results and voter turnout data for the 2019 European Parliament elections on a dedicated website.<sup>111</sup> The average turnout rate for the European Union as a whole increased to 50.62%.<sup>112</sup>

No judgments of the CJEU have been found within the reference period concerning the issue of the right of Union citizens to vote in European Parliamentary and municipal elections.

The European Union has taken a number of steps in ensuring the right of Union citizens to participate freely and fairly in European Parliamentary and municipal elections. In 2018, the European Commission adopted its third report on voting and candidacy rights of mobile Union citizens in municipal elections.<sup>113</sup>

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<sup>108</sup> See *inter alia* European Commission (2019), "July infringement package: key decisions", INF/19/4251, Brussels, 25 July 2019.

<sup>109</sup> See European Commission (2019), "Indexation of family benefits: Commission takes next step in infringement procedure against Austria", IP/19/4253, Brussels, 25.07.2019.

<sup>110</sup> See Commission Recommendation of 6 February 2019 on a European Electronic Health Record exchange format, C(2019) 800 final, Brussels, 6.2.2019.

<sup>111</sup> See <https://election-results.eu>.

<sup>112</sup> <https://election-results.eu/turnout/>.

<sup>113</sup> European Commission (2018), Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the application of Directive 94/80/EC on the right to vote and to stand as a candidate in municipal elections, COM(2018) 44 final, Brussels, 25.1.2018.



Furthermore, following the set of measures proposed at the State of the Union address in 2017,<sup>114</sup> since 2018 the European Commission has undertaken a number of steps to ensure free, fair and secure elections, notably in the election package of 12 September 2018.<sup>115</sup> Further measures included the adoption of an Action Plan against disinformation,<sup>116</sup> the set-up of a High-Level Expert Group (representing academic, online platforms, news media and civil society organisations) in order to contribute to an EU-level strategy to tackle the spreading of fake news,<sup>117</sup> the adoption of an EU-wide Code of Practice on Disinformation aimed at online platforms,<sup>118</sup> as well as two reforms of Regulation 1141/2014 on the statute and funding of European political parties and European political foundations in 2018 and 2019,<sup>119</sup> among other measures. In June 2019, the Commission issued a Joint Communication reporting on the implementation of the Action Plan against Disinformation.<sup>120</sup>

## 6. Right to protection by diplomatic or consular authorities (Articles 20(2)(c) and 23 TFEU)

For the reference period (1 July 2016 – 30 September 2019), no CJEU case law has been issued concerning Article 23 TFEU. There have been at least two key developments in the area of protection of Union citizens abroad by diplomatic and consular authorities pursuant to Article 23 TFEU.

First, the deadline for Member States to transpose Council Directive (EU) 2015/637 of 20 April 2015 on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries and repealing Decision 95/553/EC<sup>121</sup> ended on 1 May 2018. With some delays by some EU Member States, nearly all Member States have adopted national legislation to

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<sup>114</sup> European Commission (2017), “State of the Union 2017 – Democracy Package: Reform of the Citizens’ Initiative and Political Party funding”, IP/17/3187, Brussels, 15.9.2017.

<sup>115</sup> European Commission (2018), “State of the Union 2018: European Commission proposes measures for securing free and fair European elections”, IP/18/5681, Strasbourg, 12.9.2018. See also European Commission (2018), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “Securing free and fair European Elections: A Contribution from the European Commission to the Leaders’ meeting in Salzburg on 19-20 September 2018”, COM(2018) 637 final, Brussels, 12.9.2018.

<sup>116</sup> HR/VP (2018), Joint Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, “Action Plan against Disinformation”, JOIN(2018) 36 final, Brussels, 5.12.2018.

<sup>117</sup> See European Commission (2017), “Next steps against fake news: Commission sets up High-Level Expert Group and launches online public consultation”, IP/17/4481, Brussels, 12.11.2017. The Expert Group published its report with a set of recommendations in March 2018; see European Commission (2018), “Tackling disinformation online: Expert Group advocates for more transparency among online platforms”, IP/18/1746, Strasbourg, 12.3.2018.

<sup>118</sup> European Commission (2018), “Tackling online disinformation: Commission proposes an EU-wide Code of Practice”, IP/18/3370, Brussels, 26.4.2018.

<sup>119</sup> See Regulation (EU, Euratom) 2018/673 of the European Parliament and of the Council of 3 May 2018 amending Regulation (EU, Euratom) No 1141/2014 on the statute and funding of European political parties and European political foundations and Regulation (EU, Euratom) 2019/493 of the European Parliament and of the Council of 25 March 2019 amending Regulation (EU, Euratom) No 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament. See also European Commission (2018), “Reform of Political Party Funding: Commission welcomes swift agreement by EU legislators”, IP/18/3376, Brussels, 17.4.2018.

<sup>120</sup> European Commission (2019), Joint Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, “Report on the implementation of the Action Plan Against Disinformation”, JOIN(2019) 12 final, Brussels, 14.6.2019.

<sup>121</sup> Council Directive (EU) 2015/637 of 20 April 2015 on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries and repealing Decision 95/553/EC, *OJ L 106*, 24.4.2015, pp. 1-13.



transpose Council Directive (EU) 2015/637.<sup>122</sup> The only exception is the United Kingdom, which, according to the available information, considered national transposition measures unnecessary.<sup>123</sup>

The second development concerns the adoption of Council Directive (EU) 2019/997 of 18 June 2019 establishing an EU Emergency Travel Document and repealing Decision 96/409/CFSP.<sup>124</sup> The Council Directive simplifies the formalities for unrepresented EU citizens in third countries whose passport or travel document has been lost, stolen, or destroyed, to ensure that they are provided with an emergency travel document by another EU Member State, to enable them to travel home.<sup>125</sup> The Directive also calls upon the Commission to adopt implementing acts containing additional specifications for EU Emergency Travel Documents (Article 9(1) Council Directive (EU) 2019/997).

#### Readings:

- M. Moraru (2019), “An analysis of the Consular Protection Directive: Are EU citizens now better protected in the world?” *Common Market Law Review*, Vol. 56, No. 2, pp. 417–462.
- M.B. Moraru (2015), “Protecting (unrepresented) EU citizens in third countries – The intertwining roles of the EU and its Member States”, Thesis submitted for assessment with a view to obtaining the degree of Doctor of Laws of the European University Institute, Florence, European University Institute, 22 June, [https://cadmus.eui.eu/bitstream/handle/1814/36996/2015\\_Moraru.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/36996/2015_Moraru.pdf?sequence=1&isAllowed=y).
- Ittig, UniWien and IISA (2010), “Consular and Diplomatic Protection: Legal framework in the EU Member States”, Report of the Citizens Consular Assistance Regulation in Europe (CARE) Project, Florence, Ittig, December, <http://www.ittig.cnr.it/Ricerca/ConsularAndDiplomaticProtection.pdf>.

## 7. Right to petition the European Parliament and to address the European Ombudsman (Articles 20(2)(d) and 24 TFEU)

### 7.1. Right to petition the European Parliament

The right of Union citizens to petition the European Parliament is enshrined in Articles 20(2)(d) and 227 TFEU, and further set out in Rules 226-229 of the Rules of Procedure of the European Parliament.<sup>126</sup> A perusal of the Petitions Portal of the European Parliament shows the following statistics:

	2016 <sup>127</sup>	2017	2018	2019 <sup>128</sup>
<b>Admissible</b>	3	0	0	0
<b>Closed</b>	384	486	419	72
<b>Available to supporters</b>	587	258	359	130
<b>Not available to supporters</b>	1	10	17	8
<b>Not admissible</b>	406	480	405	82

<sup>122</sup> See <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32015L0637>.

<sup>123</sup> See <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32015L0637>.

<sup>124</sup> Council Directive (EU) 2019/997 of 18 June 2019 establishing an EU Emergency Travel Document and repealing Decision 96/409/CFSP, *OJ L* 163, 20.6.2019, pp. 1-12.

<sup>125</sup> [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/eu-citizenship/consular-protection\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/eu-citizenship/consular-protection_en).

<sup>126</sup> [https://www.europarl.europa.eu/doceo/document/RULES-9-2019-07-02-TOC\\_EN.html](https://www.europarl.europa.eu/doceo/document/RULES-9-2019-07-02-TOC_EN.html).

<sup>127</sup> The statistics on petitions to the European Parliament for the year 2016 includes petitions falling outside of the reference period (i.e. petitions from January-June 2016). The EP Petitions Portal does not permit more detailed statistical analysis of petitions submitted to the European Parliament by e.g. date of submission or date of resolution.

<sup>128</sup> The latest check for the year 2019 was conducted on 1 October 2019.



<b>Total petitions</b>	<b>1 381</b>	<b>1 234</b>	<b>1 200</b>	<b>292</b>
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In the years 2016, 2017 and 2018, the top three “Themes” of petitions submitted by the European Parliament related to “Environment”, “Fundamental Rights”, and “Justice”.<sup>129</sup> As of 27 September 2019, the top three petitions concern “Fundamental Rights” (45 petitions), “Justice” (36 petitions), and “Transport” (23 petitions).<sup>130</sup>

### 7.2. Right to apply to the European Ombudsman

In accordance with Article 24, fourth paragraph, and 228(1) TFEU, Union citizens (as well as natural and legal persons residing/seated in an EU Member State) may submit a complaint to the European Ombudsman concerning instances of maladministration in the activities of Union institutions, bodies, offices or agencies (except the CJEU acting in its judicial role).

The European Ombudsman is tasked with conducting inquiries – on the basis of complaints or on his or her own initiative – concerning said instances of maladministration. The European Ombudsman has, generally, wide-ranging powers in conducting its inquiries. For example, Union institutions, bodies, offices or agencies are required to supply the European Ombudsman with any information he or she requires within the context of an inquiry.<sup>131</sup>

According to the European Ombudsman’s website, the following statistics can be noted concerning the number of cases/inquiries conducted by the Ombudsman:

	2016 <sup>132</sup>	2017	2018	2019 <sup>133</sup>
<b>Cases opened</b>	30	244	327	202
<b>Decisions</b>	83	291	477	335
<i>Recommendations</i>	10	14	20	8
<i>Special reports</i>	0	0	1	0

According to the European Ombudsman’s annual reports:

- In 2016, 1 880 complaints were handled, 245 inquiries were opened (of which, 10 were own-initiative inquiries), and 291 inquiries were closed (of which, 13 were own-initiative inquiries);<sup>134</sup>
- In 2017, 2 181 complaints were handled, 447 inquiries were opened (of which, 14 were own-initiative inquiries), and 363 inquiries were closed (of which, 15 were own-initiative inquiries);<sup>135</sup>
- In 2018, 2 180 complaints were handled, 490 inquiries were opened (of which, 8 were own-initiative inquiries), and 545 inquiries were closed (of which, 11 were own-initiative inquiries);<sup>136</sup>

<sup>129</sup> Excluding petitions related to the “Personal” theme.

<sup>130</sup> Excluding petitions related to the “Personal” theme.

<sup>131</sup> See Article 2(2) Decision of the European Parliament of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties (94/262/ECSC, EC, Euratom), *OJ L* 113, 4.5.1994, pp. 15-18.

<sup>132</sup> The statistics on the European Ombudsman’s inquiries for 2016 cover the period from 1 July 2016 to 31 December 2016.

<sup>133</sup> The latest check for the year 2019 was conducted on 27 September 2019.

<sup>134</sup> European Ombudsman (2017), “Annual Report 2016”, Strasbourg, European Ombudsman, 16 May 2017, p. 31.

<sup>135</sup> European Ombudsman (2018), “Annual Report 2017”, Strasbourg, European Ombudsman, 17 May 2018, p. 34.

<sup>136</sup> European Ombudsman (2019), “Annual Report 2018”, Strasbourg, European Ombudsman, 14 May 2019, p. 34.



In respect of the work of the European Ombudsman, the CJEU issued a ruling in the reference period in *European Ombudsman v Claire Staelen*.<sup>137</sup> The case, on appeal from the General Court,<sup>138</sup> concerns the liability of (and compensation by) the Union for (alleged) failures on the part of the European Ombudsman in the context of inquiries concerning alleged maladministration of the European Parliament. The Court was required to consider, in particular, the scope of the European Ombudsman's duty and the extent to which a breach thereof could render the European Union non-contractually liable. Thus, the Court held first that the Ombudsman's obligation consists of "merely [...] to use her best endeavours" and that she enjoys wide discretion therein, without any obligation as to the result to be achieved.<sup>139</sup> For the Union to be held non-contractually liable, there must have been a sufficiently serious breach in the performance of her duties that is liable to cause damage to the citizen concerned.<sup>140</sup> According to the CJEU, the General Court erred in finding that a mere breach by the European Ombudsman of her duty to act diligently was sufficient to establish the required "sufficiently serious breach of EU law".<sup>141</sup> The Court ruled that, in order to establish a sufficiently serious breach, it must be established that

"by failing to act with all the requisite care and caution, the Ombudsman gravely and manifestly disregarded the limits of her discretion in the exercise of her powers of investigation", taking into account "all aspects characterising the situation concerned, including, in particular, the obviousness of the lack of care shown by the Ombudsman in the conduct of the investigation, [...] whether it was excusable or inexcusable, [...] or whether the conclusions drawn from the Ombudsman's examination were inappropriate and unreasonable".<sup>142</sup>

However, the Court still found that in the case at hand, the European Ombudsman had committed a sufficiently serious breach of EU law.

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<sup>137</sup> CJEU 4 April 2017, Case C-337/15 P *European Ombudsman v Claire Staelen*, ECLI:EU:C:2017:256.

<sup>138</sup> See General Court 29 April 2015, Case T-217/11 *Claire Staelen v European Ombudsman*, ECLI:EU:T:2015:238.

<sup>139</sup> C-337/15 *European Ombudsman v Claire Staelen*, para. 32-33.

<sup>140</sup> C-337/15 *European Ombudsman v Claire Staelen*, para. 31-33.

<sup>141</sup> C-337/15 *European Ombudsman v Claire Staelen*, para. 36-40.

<sup>142</sup> C-337/15 *European Ombudsman v Claire Staelen*, para. 41.



## Annex I. List of judgment of the Court of Justice in the area of Union citizenship (1 July 2016 – 30 September 2019)

Case no.	Case name	Date of judgment	Areas of Union citizenship concerned
C-161/15	<a href="#">Abdelhafid Bensada Benallal v État belge</a> <sup>143</sup>	17.03.2016	<ul style="list-style-type: none"> <li>• Right of free movement and residence (21 TFEU)</li> </ul>
C-187/15	Joachim Pöpperl v Land Nordrhein-Westfalen	13.07.2016	<ul style="list-style-type: none"> <li>• Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
C-182/15	<a href="#">Aleksi Petruhhin v Latvijas Republikas Ģenerālprokuratūra</a>	06.09.2016	<ul style="list-style-type: none"> <li>• Prohibition of discrimination on grounds of nationality (18 TFEU)</li> <li>• Right of free movement and residence (21 TFEU)</li> </ul>
C-165/14	<a href="#">Alfredo Rendón Marín v Administración del Estado</a>	13.09.2016	<ul style="list-style-type: none"> <li>• Citizenship of the Union (20 TFEU)</li> <li>• Right of free movement and residence (21 TFEU)</li> </ul>
C-304/14	<a href="#">Secretary of State for the Home Department v CS</a>	13.09.2016	<ul style="list-style-type: none"> <li>• Citizenship of the Union (20 TFEU)</li> </ul>
C-466/15	Jean-Michel Adrien and Others v Premier ministre and Others	06.10.2016	<ul style="list-style-type: none"> <li>• Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
C-465/14	Raad van bestuur van de Sociale verzekeringsbank v F. Wieland and H. Rothwangl	27.10.2016	<ul style="list-style-type: none"> <li>• Prohibition of discrimination on grounds of nationality (18 TFEU)</li> <li>• Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
C-395/15	Mohamed Daouidi v Bootes Plus SL and Others	01.12.2016	<ul style="list-style-type: none"> <li>• Non-discrimination on grounds other than nationality (19 TFEU)</li> </ul>
C-238/15	Maria do Céu Bragança Linares Verruga and Others v Ministre de l'Enseignement supérieur et de la recherche	14.12.2016	<ul style="list-style-type: none"> <li>• Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
Joined cases C-401/15 to C-403/15	Noémie Depesme and Others v Ministre de l'Enseignement supérieur et de la recherche	15.12.2016	<ul style="list-style-type: none"> <li>• Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
T-646/13	Bürgerausschuss für die Bürgerinitiative Minority SafePack — one million signatures for diversity in Europe v European Commission	03.02.2017	<ul style="list-style-type: none"> <li>• Right to launch European Citizens' Initiative (11(4) TEU and 24 TFEU)</li> </ul>
C-496/15	Alphonse Eschenbrenner v Bundesagentur für Arbeit	02.03.2017	<ul style="list-style-type: none"> <li>• Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
C-337/15 P	<a href="#">European Ombudsman v Claire Staelen</a>	04.04.2017	<ul style="list-style-type: none"> <li>• Right to petition the European Parliament and apply to the European Parliament (24 TFEU)</li> </ul>

<sup>143</sup> This judgment has been included in this comprehensive overview, as it was not covered in the technical report to the 2017 EU Citizenship Report.



Case no.	Case name	Date of judgment	Areas of Union citizenship concerned
C-668/15	Jyske Finans A/S v Ligebehandlingsnævnet, acting on behalf of Ismar Huskic,	06.04.2017	<ul style="list-style-type: none"> <li>• Non-discrimination on grounds other than nationality (19 TFEU)</li> </ul>
<b>C-133/15</b>	<b>H.C. Chavez-Vilchez and Others v Raad van bestuur van de Sociale verzekeringsbank and Others</b>	10.05.2017	<ul style="list-style-type: none"> <li>• Citizenship of the Union (20 TFEU)</li> </ul>
C-420/15	Criminal proceedings against U	31.05.2017	<ul style="list-style-type: none"> <li>• Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
<b>C-541/15</b>	<b>Mircea Florian Freitag</b>	08.06.2017	<ul style="list-style-type: none"> <li>• Right of free movement and residence (21 TFEU)</li> </ul>
C-20/16	Wolfram Bechtel and Marie-Laure Bechtel v Finanzamt Offenburg	22.06.2017	<ul style="list-style-type: none"> <li>• Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
<b>C-193/16</b>	<b>E v Subdelegación del Gobierno en Álava</b>	13.07.2017	<ul style="list-style-type: none"> <li>• Right of free movement and residence (21 TFEU)</li> </ul>
C-566/15	Konrad Erzberger v TUI AG	18.07.2017	<ul style="list-style-type: none"> <li>• Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
C-589/15 P	Alexios Anagnostakis v European Commission	12.09.2017	<ul style="list-style-type: none"> <li>• Right to launch European Citizens' Initiative (11(4) TEU and 24 TFEU)</li> </ul>
<b>C-184/16</b>	<b>Ovidiu-Mihaita Petrea v Ypourgou Esoterikon kai Dioikitikis Anasygrotisis</b>	14.09.2017	<ul style="list-style-type: none"> <li>• Right of free movement and residence (21 TFEU)</li> </ul>
<b>C-165/16</b>	<b>Toufik Lounes v Secretary of State for the Home Department</b>	14.11.2017	<ul style="list-style-type: none"> <li>• Right of free movement and residence (21 TFEU)</li> </ul>
C-419/16	Sabine Simma Federspiel v Provincia autonoma di Bolzano and Equitalia Nord SpA	20.12.2017	<ul style="list-style-type: none"> <li>• Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
<b>C-442/16</b>	<b>Florea Gusa v Minister for Social Protection and Others</b>	20.12.2017	<ul style="list-style-type: none"> <li>• Right of free movement and residence (21 TFEU)</li> </ul>
C-270/16	Carlos Enrique Ruiz Conejero v Ferroservicios Auxiliares SA and Ministerio Fiscal	18.01.2018	<ul style="list-style-type: none"> <li>• Non-discrimination on grounds other than nationality (19 TFEU)</li> </ul>
C-482/16	Georg Stollwitzer v ÖBB Personenverkehr AG	14.03.2018	<ul style="list-style-type: none"> <li>• Non-discrimination on grounds other than nationality (19 TFEU)</li> </ul>
<b>C-191/16</b>	<b>Romano Pisciotti v Bundesrepublik Deutschland</b>	10.04.2018	<ul style="list-style-type: none"> <li>• Prohibition of discrimination on grounds of nationality (18 TFEU)</li> <li>• Right of free movement and residence (21 TFEU)</li> </ul>





Case no.	Case name	Date of judgment	Areas of Union citizenship concerned
Joined cases C-316/16 and C-424/16	B v Land Baden-Württemberg and Secretary of State for the Home Department v Franco Vomero	17.04.2018	<ul style="list-style-type: none"> <li>Right of free movement and residence (21 TFEU)</li> </ul>
Joined cases C-331/16 and C-366/16	K. v Staatssecretaris van Veiligheid en Justitie and H.F. v Belgische Staat	02.05.2018	<ul style="list-style-type: none"> <li>Right of free movement and residence (21 TFEU)</li> </ul>
C-82/16	K.A. and Others v Belgische Staat	08.05.2018	<ul style="list-style-type: none"> <li>Citizenship of the Union (20 TFEU)</li> </ul>
C-673/16	Relu Adrian Coman and Others v Inspectoratul General pentru Imigrări and Ministerul Afacerilor Interne	05.06.2018	<ul style="list-style-type: none"> <li>Right of free movement and residence (21 TFEU)</li> </ul>
C-230/17	Erdem Deha Altiner and Isabel Hanna Ravn v Udlændingestyrelsen	27.06.2018	<ul style="list-style-type: none"> <li>Right of free movement and residence (21 TFEU)</li> </ul>
C-246/17	Ibrahima Diallo v État belge	27.06.2018	<ul style="list-style-type: none"> <li>Right of free movement and residence (21 TFEU)</li> </ul>
C-89/17	Secretary of State for the Home Department v Rozanne Banger	12.07.2018	<ul style="list-style-type: none"> <li>Right of free movement and residence (21 TFEU)</li> </ul>
C-618/16	Rafal Prefeta v Secretary of State for Work and Pensions	13.09.2018	<ul style="list-style-type: none"> <li>Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
C-602/17	Benoît Sauvage and Kristel Lejeune v État belge	24.10.2018	<ul style="list-style-type: none"> <li>Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
C-247/17	Denis Raugevicius	13.11.2018	<ul style="list-style-type: none"> <li>Prohibition of discrimination on grounds of nationality (18 TFEU)</li> <li>Right of free movement and residence (21 TFEU)</li> </ul>
C-675/17	Ministero della Salute v Hannes Preindl	06.12.2018	<ul style="list-style-type: none"> <li>Recognition of professional qualifications (Dir. 2005/36/EC)</li> <li>Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
C-272/17	K.M. Zyla v Staatssecretaris van Financiën	23.01.2019	<ul style="list-style-type: none"> <li>Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
C-420/16 P	Balázs-Árpád Izsák and Attila Dabis v European Commission	07.03.2019	<ul style="list-style-type: none"> <li>Right to launch European Citizens' Initiative (11(4) TEU and 24 TFEU)</li> </ul>
C-221/17	MG Tjebbes and Others v Minister van Buitenlandse Zaken	12.03.2019	<ul style="list-style-type: none"> <li>Citizenship of the Union (20 TFEU)</li> </ul>



Case no.	Case name	Date of judgment	Areas of Union citizenship concerned
C-437/17	Gemeinsamer Betriebsrat EurothermenResort Bad Schallerbach GmbH v EurothermenResort Bad Schallerbach GmbH	13.03.2019	<ul style="list-style-type: none"> <li>Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
C-134/18	Maria Vester v Rijksinstituut voor ziekte- en invaliditeitsverzekering	14.03.2019	<ul style="list-style-type: none"> <li>Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
C-174/18	Jean Jacob and Dominique Lennertz v État belge	14.03.2019	<ul style="list-style-type: none"> <li>Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
<b>C-129/18</b>	<b>SM v Entry Clearance Officer, UK Visa Section</b>	26.03.2019	<ul style="list-style-type: none"> <li>Right of free movement and residence (21 TFEU)</li> </ul>
<b>C-483/17</b>	<b>Neculai Tarola v Minister for Social Protection</b>	11.04.2019	<ul style="list-style-type: none"> <li>Right of free movement and residence (21 TFEU)</li> </ul>
C-431/17	Monachos Eirinaios, kata kosmon Antonios Giakoumakis tou Emmanouil v Dikigorikos Syllogos Athinon	07.05.2019	<ul style="list-style-type: none"> <li>Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
C-24/17	Österreichischer Gewerkschaftsbund, Gewerkschaft Öffentlicher Dienst v Republik Österreich	08.05.2019	<ul style="list-style-type: none"> <li>Non-discrimination on grounds other than nationality (19 TFEU)</li> </ul>
C-396/17	Martin Leitner v Landespolizeidirektion Tirol	08.05.2019	<ul style="list-style-type: none"> <li>Non-discrimination on grounds other than nationality (19 TFEU)</li> </ul>
C-161/18	Violeta Villar Láiz v Instituto Nacional de la Seguridad Social (INSS) and Tesorería General de la Seguridad Social (TGSS)	08.05.2019	<ul style="list-style-type: none"> <li>Non-discrimination on grounds other than nationality (19 TFEU)</li> </ul>
<b>C-22/18</b>	<b>TopFit e.V. and Daniele Biffi v Deutscher Leichtathletikverband e.V.</b>	13.06.2019	<ul style="list-style-type: none"> <li>Prohibition of discrimination on grounds of nationality (18 TFEU)</li> <li>Right of free movement and residence (21 TFEU)</li> </ul>
C-591/17	Republic of Austria v Federal Republic of Germany	18.06.2019	<ul style="list-style-type: none"> <li>Prohibition of discrimination on grounds of nationality (18 TFEU)</li> </ul>
C-410/18	Nicolas Aubriet v Ministre de l'Enseignement supérieur et de la Recherche	10.07.2019	<ul style="list-style-type: none"> <li>Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>
C-716/17	A (Request for a preliminary ruling from the Østre Landset)	11.07.2019	<ul style="list-style-type: none"> <li>Freedom of movement of Union workers (45 et seq. TFEU)</li> </ul>