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Faculty of Law

EU citizenship and values endangered by expulsions of EU citizens on the move



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CONTENT

I. Expulsions of EU citizens as an exception to Freedom of movement

- Just an exception
- Prevention mechanism against a wide use of expulsions
- Practise: increased use by host Member States
- Made possible by States' sovereign power

II. Consequences of expulsions on EU citizenship and values

- Contradictions between expulsions and EU citizenship
- Contradictions between expulsions and EU values



INTRODUCTION

- **General principle of freedom of movement of EU citizens**
 - ❑ Started in the 50ties with freedom of movement of workers
 - ❑ Progressive enlargement to other categories of EU citizens
 - to family members of workers (1968)
 - to former workers (1968)
 - To all EU citizens (1992)
 - ❑ Facilitated by the Schengen removal of internal borders
- **EU Legal framework 2019**
 - ❑ Total freedom for migrant workers
 - ❑ Conditional freedom for economically inactive migrants
 - Self-sufficiency
 - Comprehensive medical insurance
- **Legal grounds leading to expulsions (D. 2004/38/EC)**
 - ❑ Threat to public policy, to public security, to public health (Article 27)
 - ❑ Abuse of rights or fraud (Article 35)
 - ❑ Unreasonable burden on the social security system (Article 14)
 - ❑ Non-fulfillment of entry and residence's conditions (Article 7)



EXPULSION AS AN EXCEPTION

■ **Just an exception**

- General principle: Freedom of movement of EU citizens, wide interpretation and use
- Exception: expulsion from host Member State, strict interpretation and use

■ **Prevention against a wider use of expulsions**

- Respect of EU principles (prohibition of automatic and collective expulsion, proportionality test, best interest of the child and prohibition of expulsion for economic reasons)
- Procedural safeguards (written notification, appeal)
- Material safeguards (integration, personal circumstances)
- Judicial control-CJEU
- Institutional guidance (EU Commission)



EXPULSION AS AN EXCEPTION

- **Increased use by host Member States**
 - Rising numbers of expulsion
 - Fear of abuse of social assistance
 - Fear of Public policy and public security threats

- **Legal reasons**
 - Lack of EU definition of legal grounds for expulsion

 - National autonomy
 - Expressly conferred by the European Commission
 - Member States retain the freedom to determine the requirements of public policy and public security in accordance with their needs, which can vary from one Member State to another and from one period to another



CONSEQUENCES OF EXPULSION ON EU VALUES AND CITIZENSHIP

- **Contradictions between expulsions and EU citizenship**
- **Lack of legal security**
 - Different requirements, sanctions in 28 Member States
 - Difficulty to be aware of national rights and obligations
- **No equality of treatment**
 - Equality of treatment is an EU right
 - No possible because of different national definitions
- **Potential abuse of expulsion powers**
 - Lack of European definition, excessive margin of manoeuvre of Member States
 - Growing number of expulsions of EU citizens
- **Loss of significance of EU citizenship: self-sufficiency citizenship**
 - Unable to prevent expulsions (X national citizenships)
 - Not anymore used by CJEU as a justification for allowing social rights



CONSEQUENCES OF EXPULSION ON EU VALUES AND CITIZENSHIP

- **Contradictions between expulsions and EU values and objectives**
 - **Non respect of the principle of solidarity**
 - Exclusion of poor migrants
 - Preventive and punitive measures
 - **Non respect of the fight against social cohesion and discrimination**
 - Exclusion of homeless migrants, EU citizens from Roma origin
 - **Non respect of the objective of an ever closer union amongst the people of Europe**
 - Steps backwards in EU-intra mobility X integration process



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Thank for your attention



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