Chapter 9

Possible Interpretation of the Integration Conditions by the CJEU

1. Introduction

After having analysed the implementation of the integration conditions in the different Member States in Chapter 7, as well as the political motivations for their introduction in Chapter 8, I can now consider how the CJEU could interpret the integration conditions. The Court could follow a number of steps in order to acknowledge whether or not the integration conditions applied by some Member States are in line with the Directive. In the following pages, I will attempt to enumerate those steps in order to make sense of this complex issue of interpretation and see the way in which the validity of those integration conditions could be challenged before national courts and the possible response that the CJEU could give if required to decide on a preliminary ruling.

Thus the questions for this Chapter are:

1. How could the CJEU interpret the integration conditions?
2. What are the possible legal questions raised by the political motivations mentioned in the previous Chapter with regard to the principles of effectiveness, proportionality, respect for fundamental rights or non-discrimination? How has the Court interpreted other conditions in the Family Reunification Directive? What lessons can be learned from the ruling in Chakroun?

2. Possible Steps in the Interpretation of the Integration Conditions

Here I will look at the possible steps that the CJEU could take in order to interpret the integration conditions.¹

2.1. Integration is not a Blank Cheque

The CJEU decided in Parliament v Council that Member States could not use integration as a blank cheque. It stated that:

The fact that the concept of integration is not defined cannot be interpreted as authorising the Member States to employ that concept in a manner contrary to general principles of Community law, in particular to fundamental rights.2

The Court is saying two important things here. The first is that it does not matter whether or not integration is defined in the Directive. The second thing it mentions is that the fact that the concept of integration is not defined does not exonerate its application from one important limit: the general principles of Union law and, specially, fundamental rights. The Court, when mentioning fundamental rights, is certainly refereeing to the right to family life, as this case was about Directive 2003/86 on the right to family reunification. However, the right to private life is also important. There are nonetheless three other important principles: the principle of effectiveness, the principle of proportionality and the principle of non-discrimination.


Once the CJEU establishes that integration is not a blank cheque, it could certainly follow by looking at the context and objective of the Directive. In order to see the context and objectives of a Directive the Court looks at the operative part as well as the preamble. This has been made clear in previous cases such as Metock3 where the Court took preambles very seriously while interpreting the meaning of a Directive. The context comes within the framework of the Tampere Conclusions, as Recital 2 refers to them. Therefore, third-country nationals have to be treated as far as possible as European citizens. What is the objective of the Directive? Article 1 establishes that the Directive determines “the terms for conferring and withdrawing long-term resident status granted by a Member State in relation to third-country nationals legally residing in its territory, and the rights pertaining thereto”. Therefore, the objective is to grant third-country nationals who fulfil a number of conditions a long-term residence status. The main criterion for granting this long-term residence status, reads Recital 6 of the preamble, is the duration of residence in the territory of a Member State. Consecutively, Recital 7 mentions that third-country nationals

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3 Case C-127/08 Metock [2008] ECR I-06241, paragraphs 4,59 and 82.