

EJTN - CASESTUDY FOR THE WORKING GROUP ON THE GREY AREAS OF JUDICIAL INDEPENDENCE

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Please read carefully in advance of the working group on 4 March 2021.

Judge Bumblebee holds office in the District Court of a particular city in the southern part of a Member State of the European Union. He hears a variety of cases, mostly civil law cases and now and then he is the judge in competition law cases. He is very familiar with EU law, the principle of effective judicial protection and always up-to-date in a judicial sense: he has a keen knowledge of the case law of the Court of Justice of the European Union. Furthermore, he is an active member of the National European Law Association (hereafter: NELA) of his Member State, he likes to play football at a local football club and is involved as a vice-president of the Participation Council of the primary school of his two children. Being a respectable and independent judge is his goal in life. He truly serves justice above all. However, life is not always easy for judge Bumblebee, and he faces many challenges in his everyday legal practice and private life. From spring 2019 onwards, he will be confronted with a chain of events he has to deal with and respond to.

Look at the following events and discuss with your working group members how the judge in question should act from the perspective of the grey areas of judicial independence. Which elements and arguments are relevant in your opinion?

You may use the various codes and case law on the independence of the judiciary distributed beforehand to elaborate on the dilemmas and challenges.

- a) The topic of the spring meeting of NELA covers recent developments in national competition law cases. The public will consist of Members of NELA (e.g. jurists, public servants, lawyers, judges etc.) The Board of NELA invites Judge Bumblebee to:
 - i) give a lecture on recent judgements, including cases in which he was involved as a judge,
 - ii) participate in the panel discussion of the meeting with lawyers and public servants of the competition authority,
 - iii) join the Board of NELA and the other contributors to the spring meeting for a Michelin 3-star dinner.
- b) Judge Bumblebee participates in the spring meeting of NELA. During the cocktail drinks after the substantive part of the meeting, one of the lawyers wants to speak with the judge on a particular case, judge Bumblebee will hear next week. The lawyer has even brought his client with him to the NELA meeting.
- c) Back at the District Court the judge is assigned to a number of civil cases for the following weeks. Judge Bumblebee raises his eyebrows, and asks himself the question: is it really possible for him to be the judge in the following cases?
 - i) one of the parties involves a person, he knows as the current chair of his local football club;
 - ii) in another case, parents claim damages from an accident that happened at the primary school of his children;
 - iii) the seemingly intense dispute between neighbours concerns a conflict that is situated in the street, just around the corner where judge Bumblebee lives with his family.
- d) A particular case concerns a legal action against his Member State. Judge Bumblebee has held a hearing in the case and he is now in the process of drafting the judgement. Because of the

sensitive nature of the case, the President of the District Court has asked judge Bumblebee to read the draft judgement and allow for revisions if the President thinks changes are necessary.

- e) In his judgement in the sensitive case mentioned under d) judge Bumblebee refused to implement the suggestions of the President of the District Court. After the President discovers this, he decides that the salary of judge Bumblebee will be reduced with 10% for underperformance.
- f) Judge Bumblebee receives a letter from the State Secretary for Justice Affairs. The State Department has read particular judgements of the judge and wants to persuade him to change his view on a particular matter and the secretary general invites him to an informal lunch.
- g) Due to a sudden increase of criminal cases, the President of the District Court assigns judge Bumblebee to sit mainly in criminal cases, effective immediately. However, this field of law is completely new for judge Bumblebee.
- h) Judge Bumblebee protests heavily against the switch to sit in criminal cases. He never became judge to become a criminal law judge. The President of the District Court disagrees: each judge needs to do his or her part of the new case load. A judicial dispute is born and escalates. As a result, the National Council for the Judiciary decides to relocate judge Bumblebee from the southern part of the country to the northern part of the country.
- i) The relationship between judge Bumblebee and his wife suffers from the long commuting between judge Bumblebees family home and his new work at the northern District Court. Within months, the relationship ends in a costly divorce. Judge Bumblebee needs to find a new home. After some weeks he finds an interesting mansion up north. Due to his high level of expenses, standard of living, alimony costs and his low creditworthiness several financial institutions do not trust judge Bumblebee to get the mortgage he needs. However, the CEO of a large and somewhat controversial company in the northern part of the country arranges a loan on remarkably good terms, so judge Bumblebee can buy his new house.
- j) Just as his kids, judge Bumblebee enjoys social media a lot. In his opinion it's very important that the judiciary moves with the times as well. He was already very active on LinkedIn, but now starts a public Twitter account. He has an (open) Instagram account and regularly posts Snapchat-pictures in his gown, and produces short Tik Tok movies. He gains an online reputation and large group of followers.
- k) Some months later judge Bumblebee applies for a position of Senior Judge. The National Selection Committee asks him to:
 - i) stop all social media usage,
 - ii) terminate his current membership of a political party and replace it by a new membership of the current governing party,
 - iii) agree to withdraw his preliminary references to the Court of Justice of the European Union and agree to be more restrained in the field of referring cases to Luxembourg.
- l) When the covid pandemic arrives in his Member State in 2020, the government takes several restrictive measures on public health grounds, also with regard to the judiciary. Access to court buildings is temporarily prohibited. Until further notice hearings must be held online.