Identification of the participant

Name: Vezmar Barlek
First name: Inga
Nationality: Croatian
Country of exchange: Luxembourg

Publication
For dissemination purposes and as information for future participants in the Programme please take note that ACA-Europe may publish your report and its website.

Identification of the participant

Nationality: Croatian
Functions: judge at the High Administrative Court of the Republic of Croatia
Length of service: 8 years and 6 months

Identification of the exchange

Hosting jurisdiction/institution: Court of Justice of the European Union (CJEU)
City: Luxembourg
Country: Luxembourg
Dates of the exchange: 7 - 18 November 2016

SUMMARY

The time that I spent at the CJEU has extended my knowledge of the application of EU law and this experience will help me to improve my daily work as a judge. In addition to looking at the different aspects of the application of EU law, I had the opportunity to get acquainted with the Court as a whole and with all the services involved in its work.
In particular, I would like to highlight the openness and readiness for dialogue of all the Court employees with whom I met, which has enabled me to make the most of the time spent at the CJEU for my professional development.

ANNEX
GUIDELINES FOR DRAFTING THE REPORT

I- Programme of the exchange

The exchange programme was extremely well designed. I had the opportunity to be present at the hearings in particular cases, to talk with Judges and Advocate Generals, to attend the forum - "Meeting of Judges" from the Higher Courts of the Member States of the EU and also to get acquainted with various services that operate within the CJEU.

In the initial part of the programme, together with the group "Le réseau européen de formation judiciaire - REFI", I attended general presentations on the CJEU, the role of the Advocate General and General Court. These presentations were useful for the start of the exchange programme, as they included an overview of the most important initial information.

In the further course of the programme, I attended certain hearings in the CJEU (in the cases: C-682/15, C-685/15, C-612/15 and C-9/16) and General Court (in the case T-681/14). That is indeed interesting to every judge because that way they get to understand the role of the Court from the practical cases. Especially useful was the fact that all the cases were substantially exposed before the hearings and the decisive legal problems were outlined, therefore it was possible to follow the hearings completely and properly.

Discussions with the President of the CJEU was also interesting and useful, as well as were those with individual Judges and Advocate Generals, since they helped to clarify certain matters in a direct dialogue, to share experiences and problematise certain situations.

Participation in the forum - "Meeting of Judges" from the Higher Courts of the Member States of the EU has further extended the knowledge of preliminary ruling procedure and the recent case law of the General Court, which seemed particularly interesting to me with regard to the field of administrative justice.

In procedural terms, extremely useful was the Question and Answer session with a representative of the Registry of the Court, where specific questions concerning procedure that interested me were clarified.

Furthermore, the work of the Research and Documentation Directorate was presented, and in connection with this, the usage of the CJEU website, which will enable me a more complete usage of all the data available on the website. The work of the Library was also presented and I was allowed to use it, which was very valuable regarding the fact that it is extremely well-equipped.

During the whole exchange period there was enough room for individual research, which proved to be useful, especially considering the possibility of using the Library.

The work of the Communication Directorate was presented, along with all its external and internal operations related not only to the case-law publications, but also to all other activities of the CJEU through which the work of the Court is being presented to the public.

Finally, the entire programme was conducted by the Protocol and Visits Directorate, which, during the entire exchange period, proved flexible and efficient and by adjusting the planned activities to specific needs, it enabled the goals of the exchange to be achieved completely and properly.
II-  The hosting institution

The jurisdiction and the composition of the CJEU are stipulated by Article 19 of the Treaty on European Union and Articles 251 - 281 of the Treaty on the Functioning of the European Union. In relation to the national legal systems, it is probably its role in the preliminary ruling procedure that is the most important, because it is precisely through this procedure that the dialogue between national courts and the CJEU is taking place, the uniform application of EU law in all member states is being ensured and the interpenetration of national legal systems and EU law is achieved. However, a complete exercise of the CJEU's jurisdictions is accomplished also through other procedures: in the event of direct actions, infringement procedures and in the event of appeals against decisions of the General Court.

III-  The law of the host country

The EU law, whose interpretation as well as the assessment of validity of certain acts falls within the jurisdiction of the CJEU, is interesting for the national judges in every respect, since it penetrates national legal systems and facilitates the meeting of the objectives of the European integration, a purpose also served by the jurisprudence of the national courts of the member states. To me personally, certain procedural solutions set out in the Rules of Procedure have been particularly interesting, because a part of these norms could be incorporated into the national procedural law with a view to more efficient conducting of a dispute. The hearing in the case C-682/15 Berlioz Investment Fund I also find interesting since it raises the question of the applicability of the Charter of Fundamental Rights of the European Union (the effective legal remedy) in the context of administrative cooperation between national systems, that is, it poses the question whether such a cooperation falls within the scope of application of the EU law.

IV-  The comparative law aspect in your exchange

In terms of the organisation of the Court, I can say that the High Administrative Court of the Republic of Croatia also decides in chambers: consisting of three judges when assessing the legality of individual decisions, or five judges when assessing the legality of a general act. The composition of the Court is prescribed by the Act on Administrative Disputes and, these provisions being strict, the number of judges in the chambers cannot be changed in any case as is possible at the CJEU (chamber of three or five judges or the Grand Chamber of fifteen judges). Cases at the High Administrative Court of the Republic of Croatia are randomly assigned, taking into account the specialisation by chambers and bearing in mind connections between the cases so that related cases are generally being assigned to the same judge-rapporteur or chamber. The assignment of cases is carried out at the Court record office. Contrary to the CJEU, the President of the Court does not participate in the assignment of cases nor is the summary of the case being prepared before the assignment. The possibility of the postponed lawsuit effect (in certain cases in which the High Administrative Court of the Republic of Croatia decides in the first (and only) instance) is not decided by the President of the Court but by the chamber that has been assigned the case. The High Administrative Court of the Republic of Croatia has a service for monitoring and studying of the case law, which keeps records of the case law, sends decisions to a common data base of the
case law held at the Supreme Court of the Republic of Croatia and, every calendar year, prepares a printed Bulletin containing a selection of the most important decisions.

V- The European aspect of your exchange

With regard to the jurisdiction of the CJEU, the entire exchange programme was dedicated to the application of EU law. Of all the aspects of the application of EU law, it seems to me particularly important to highlight the case C-268/15 in which the CJEU gave the instructions for making a distinction between the completely internal national situations in which requests for preliminary ruling are not permitted and the situations which, although limited to one member state, fall under the application of EU law and in which it is allowed to submit a request for preliminary ruling. This decision can serve as a guideline for national courts for making a distinction between these cases and for the assessment of the possibility of submitting a request for preliminary ruling.

VI- Good Practice within the host jurisdiction

A part of the provisions contained in the Rules of Procedure of the CJEU (but in those of the General Court also) could be applied to the Croatian administrative dispute law, and by applying some of the procedural mechanisms, the existing national provisions could be improved. Furthermore, the fact that the Rules of Procedure are issued by the CJEU itself provides the flexibility in choosing the normative solutions and their alignment with the needs of the practice, and therefore their maximum effectiveness.

In the Croatian administrative dispute law, it would be useful to consider the possibility of the dismissal of clearly unfounded appeals or complaints, and, given the large number of cases at the first instance administrative courts, the possibility to use the accelerated procedure. Also, in the regulation of the costs in the Croatian administrative dispute law, and the procedure of normative arrangement is in progress, the arrangements of that issue before the CJEU and General Court could be applied.

VII- The benefits of the exchange

I find that the time spent at the CJEU was extremely useful for my future work as a judge. Apart from improving my knowledge of the possibility of submitting a preliminary question and other jurisdictions of the CJEU and the General Court, I have also extended my knowledge of the great number of standpoints of the CJEU developed in the case law, for example, on the application of general principles of law, which I will be able to use in my everyday work.

I will share my progress with colleagues and they will also have the opportunity to get acquainted with the adopted standpoints through the work in the chamber on specific cases.

VIII- Suggestions

I have no suggestions on further improvement of the exchange programme for the judges. The programme is very well designed because it allows participants to attend various activities at the Court, meetings with judges, advocate generals and other court staff, but also leaves enough room for individual work and research.