Abstracts

Bahija Aarrass, VU University Amsterdam

Family life on hold. Waiting periods as a means of governing family reunification of refugees

In recent years several EU Member States have tried to limit the influx of family members of refugees and other categories of people in need of international protection (e.g. those eligible for subsidiary protection). In particular, beneficiaries of subsidiary protection were treated less favourably than refugees, in respect of requirements to have sufficient accommodation, health, insurance and financial resources.[1] Another measure that has been applied especially in the last decade to realise deferred family reunification is the so called 'waiting period'. Since EU law prohibits the introduction of waiting periods for refugees, states have tried bypassing this through the allocation or creation of other categories for protection, such as subsidiary protection and temporary protection. Especially after the Syrian civil war, several European states introduced waiting periods for different categories of asylum seekers. In other instances, such as in the Netherlands, no formal waiting period was introduced, but through suspending the family reunification of asylum status holders, a *de facto* waiting period was realised. At the same time, the influx of Ukrainian refugees was met with an entirely different legal and political reaction, leading to the enactment of the Temporary Protection Directive. Thus, there seems to be a development that waiting periods in combination with differentiating measures are being

[1] Council of Europe, *Realising the right to family reunification of refugees in Europe*, Issue Paper 2017, available at: http://bit.ly/3WvteY.

used as a means to circumcise rights of certain categories of asylum seekers. Although concerns have initially been expressed on both the national and EU level with regard to the conformity of these measures with several human rights norms, these states nonetheless maintained the restriction of family reunification of asylum seekers, while justifying this with the lack of reception capacity.[2] This necessitates exploring the question whether the current policy and legislation of various European (member) states, whereby different (and sometimes extremely long) waiting periods apply to different categories of beneficiaries of international protection is in conflict with human rights human rights guarantees. The purpose of this paper is to answer the legal question of whether differences in treatment of refugees and people with a different protection status, in particular with regard to the waiting period for family reunification, are compatible with the right to respect for family life and non discrimination in the European Convention on Human Rights. An overarching question is what implications these kind of 'temporal legal techniques' of categorising refugees and implementing temporary legislation have for assessing the principle of equal treatment.

Greta Albertari, VU University Amsterdam

The introduction of temporal borders through the temporal containment of asylum seekers. From national practices to the European Pact on Migration and Asylum

This contribution discusses the proliferation of special speedy asylum procedures in the European Union. If one looks at the cases of Italy and Greece as two Member States at the external borders of the EU, it appears how their asylum systems have been characterized, over the last few years, by the introduction of more and more types of fast asylum procedures (e.g. accelerated procedures, fast-track procedures, border procedures, admissibility procedures). In short, "special speedy asylum procedures". The recently adopted Pact on Migration and Asylum formalizes this tendency, first and foremost by expanding the scope of application of border asylum and return procedures, characterized by tight deadlines and widespread use of detention, but also by introducing more options for safe third country admissibility procedures, another form of special speedy procedures. This contribution describes how the proliferation of special speedy asylum procedures – first at the national and then at the EU level - is rendering the "regular" asylum procedure increasingly exceptional in the EU, applicable to a residual share of asylum applicants. The implications of this pattern are questioned, arguing that normalization of speed in asylum procedures represents, for asylum seekers who successfully crossed EU physical borders, an additional layer borders, temporal ones (Tazzioli, 2018). This new type of border is often unsurmountable, resulting in restricted access to channels of international protection and in an hinderance to the enjoyment of the right to asylum. The

[2] See for an overview, CoE Report 2017; ECRE, *Not there yet: family reunification for beneficiaries of international protection*, Report 2022

potential for control that temporal borders entail is further investigated, reasoning on different articulations of containment of asylum seekers, namely spatial and temporal, and on how they amplify each other's reach. The combination of physical and temporal borders, and of spatial and temporal containment is finally proposed as the core of the future Common European Asylum System, in view of its imminent reforms.

Haqqi Bahram & Kristoffer Jutvik
Institute for Research on Migration, Ethnicity and Society, Linköping University
Running out of time?
A study on the link between temporal governance and refugee settlement in Sweden

After decades of reliance on secure residence for persons in need of protection, Sweden now represents the epitome of the temporal turn in migration law. After the summer of migration in 2015, Sweden abolished the granting of permanent residency and introduced a tighter migration regime in which temporary residence is now the main rule. Under the new migration regime, residence permits are re-evaluated after a set period of thirteen months or three years depending on the protection status. While this policy shift can be explained as an instance of temporal border governance (Mezzadra and Neilson, 2013; Tazzioli, 2018), reactive to a 'timely' constructed crisis (Bojadžijev and Mezzadra, 2015), it is nonetheless a manifestation of politics of deservingness entrenched in a hierarchy of protection (McAdam, 2005). Crucially, the element of time in this policy construction is key to unpacking its impact on life trajectories for refugees at present and implications for the future. In this article, we use the implementation of the new regulations as a 'natural experiment' to identify two groups of refugees granted permanent or temporary residence. Our main research question focuses on how permanent or time-limited statuses affect the willingness and perceived ability to long-term settlement. We conclude that time-limited permits reduce individual perceptions about possibilities to stay. Moreover, we show a correlational relationship between time-limited permits and a higher willingness to stay in Sweden. This paradoxical trend indicates that individuals with temporary permits struggle to regain control of their time and choices.

Daan De Bruijn, VU Amsterdam
Temporal governance and the marriage probationary period

Marriage probationary periods link the legal status of the migrant partner to that of their citizen spouse for several years. This policy is an example of how the state uses time to control the presence of migrants in their territory and specifically, in this case, structures marriage migrants' legal and social experiences. The years marriage migrants must wait to obtain an autonomous residence permit can be characterised by Hage's notion of 'stuckedness', and an intersectional

perspective reveals how particularly migrant women from a certain class and ethnicity are affected by this policy. Ultimately, the 'waiting out' of time renders marriage migrants more susceptible to enduring multiple forms of dependency and sometimes even violence. By adhering to set timeframes and largely ignoring the ways in which the marriage probationary period influences the lives of marriage migrants, the policy creates what has been termed 'temporal injustices'. To support these arguments, the paper explains the Dutch legal and political context of the marriage probationary period and links it to the concept of 'temporal governance'. After, it highlights the consequences and reality of the policy for marriage migrants. Finally, to move forwards, this paper concludes that a stronger engagement with time as experienced in everyday life is necessary. For this, looking at Canada's elimination of the probationary period in 2017 could serve as an example.

Matteo Bottero, University of Copenhagen

Integration rights for temporary labour migrants in the EU

Temporary labour migrants working in the European Union as au pairs, seasonal workers, cross-border commuters, circular migrant workers, international trainees, posted workers and self-employees, intra-corporate transferees, working holidaymakers, and workers in the live performance sector all have in common that their residence in the host Member State lasts only for a short time period. Since their legal status prevents permanent establishment in the territory of the host Member State, the relevant legal and policy framework is based on the assumption that there is no – or at most only a limited – need for integration. As a result, these persons often remain segregated and excluded from full participation in the host society, as well as from access to equal opportunities, resources, and social interactions as local workers or permanent migrant workers. In examining the peculiar legal position of temporary labour migrants in the European Union, this contribution delves into the interplay between time and integration. Building on this reflection, it introduces a new concept of "integration rights" aimed at addressing the challenges posed by the artificially-constructed precarious legal status of these migrants. The new concept encloses a whole category of rights supporting integration in its social, economic, cultural, and political dimensions. This paper adopts a "law in context" approach, incorporating insights from legal and political philosophy, and it is structured as follows. First, it unravels how and why the EU and its Member States use time to circumscribe the scope of integration in relation to temporary labour migration. Second, it challenges the narrative that perceives integration as an onus – if not even a duty – that lies first and foremost on the immigrants and that does not concern those who have supposedly "no intention to integrate" because they do not reside on a long-term basis within the host Member State. Third, it considers the inevitable social justice implications of a legal framework that grants workers a different status – and consequently different integration rights – depending on the time they reside in the territory of the host

Member State. Based on this analysis, this paper calls for the recognition of a whole range of integration rights for temporary labour migrants in the EU, including not only fundamental rights but also equal access to social benefits, as well as political and public participation rights.

Marielys Padua Soto, The American University in Cairo (AUC)

Time as an exercise of governmental control on U.S. Immigration detention

Time is one of the most important elements employed by the government of the United States to exercise legal control of its borders. In immigration detention, time is used for controlling and deterring irregular migration. The strategic use of time creates an intricate dichotomy between the legal and human timeframes since the temporality of detention is unpredictable. The Immigration and Nationality Act (INA) is the controlling legal framework for immigration to the United States. Under the INA, the Department of Homeland Security (DHS) has the authority to detain individuals who are in the country without legal authorization. This includes undocumented immigrants who are apprehended by immigration authorities at the border or within the interior of the country. Detention may occur while their immigration cases are being processed or during removal proceedings. The INA also has provisions that limit the length of time individuals can remain detained. Although the length of time of detention is determined by several factors, including the type of immigration proceeding, the individual's criminal history, and whether they pose a flight risk or a danger to the community, there have been concerns about the arbitrary and indefinite detention of individuals inside the U.S. immigration system. Detained immigrants do not have clarity on whether they will be released or deported and when, facing uncertainty about their future while their human time is in predicament. Immigration detention oftentimes results in considerable human rights violations, where procedural aspects are arbitrary. This paper will argue for the inclusion and importance of human time in discussions for policy shifts on immigration detention, as case resolutions should occur in a timely manner without having to jeopardize a detainee's limited life span. Since human time is finite and restricted due to our natural mortality, the use of time as an exercise of legal control on U.S. immigration detention must be redefined.

Gianna Eckert, University of Bristol

Judicial interpretations of 'removability' in the context of deportation proceedings: The need to foreground the passage of time in migration laws

This paper examines existing time-law entanglements emerging in caselaw on the proportionality of deportation orders in the UK and Germany. Crucially, I argue that insufficient legal weight it attributed to the role of time in this context. Greater reference to time-bound criteria could enhance the fairness and degree of certainty in deportation matters, which are currently decided

upon the basis of criteria of a more speculative nature, as the paper will show. I will develop this argument in four steps. Firstly, the paper sets out the respective national legal frameworks governing the forced removal of irregular immigrants and briefly outlines the role of courts in this context. Based on a doctrinal analysis of existing caselaw, the paper traces judicial reasoning on migrants' 'rootedness' based on the duration of their residence and other 'integration markers', such as good conduct and economic performance. Equally, time-bound criteria are taken into consideration by courts when assessing the prospects of re-integration into the country of removal, yet are attributed comparatively reduced weight. On the other hand, the passage of time is taken into account by German administrative courts when assessing the public interest in deportation, where an individual's conviction occurred some time ago, which may entail the de-prioritisation of their removal. In the UK, a number of comparable indirect references to ideas of 'rehabilitation' have been identified, although here greater attention is paid to the individual's remorse as opposed to periods of non-offending behaviour. Finally, the paper closes by critiquing the temporal indeterminacy of deportation powers, zooming in on caselaw which upholds the fictionally 'temporary' nature of barriers to removal, side-lining extended periods of non-enforcement in their assessment of future prospects of removal.

Pauline Endres de Oliveira & Marian Max Rütsche, Humboldt University

Temporal challenges of family reunification from Eritrea to Germany

Our paper aims to offer a comprehensive legal analysis of the temporal challenges inherent in family reunification processes, with a particular focus on the rights of children from East African countries, notably Eritrea, seeking reunification with their families in Germany. We delve into the legal intricacies of these processes, situating them within broader socio-political contexts, while also considering them from the perspective of family members as legal subjects. Framed by the subjective experience of separation and the societal burden of family separation, we ask: How do relevant legal norms, case law, jurisprudence and administrative provisions respond to the temporal dimension of family reunification, possibly setting time limits for respective processes? Family reunification from Eritrea to Germany exemplifies how temporal challenges impact on the rights of Eritrean children and their family members in Germany. The family reunification procedure follows multiple phases of separation: firstly, the migration of the primary family member, often enduring for over a year; secondly, the asylum procedure in Germany, which may extend up to four years, especially in cases of judicial review; and thirdly, the application process for family reunification, with its own temporal challenges. The (digital) application at the German embassy, typically located in Ethiopia, where family members have sought preliminary refuge, results in an automated email advising applicants to wait for 12 to 18 months until an appointment for a formal application is given. The evidence required in the procedures often proves to be challenging, particularly given the circumstances of fleeing from a rural dictatorship.

Historically, the embassy's reluctance to consider alternative evidence led to the administrative rejection of nearly all applications, prompting families to pursue costly legal action involving exhaustive document scrutiny, witness testimonies, and even DNA testing. Ultimately, the German Foreign Office offers families visas as part of a court settlement in exchange for payment of the entire court costs, typically amounting to thousands of Euros. Against this background, the separation of families often amounts to six or seven years. This extreme case prompts critical reflections on the rationale and feasibility of such prolonged legal processes. While eventual visa issuance may transpire for many families, the enduring separation inflicts lasting emotional scars, particularly on children, with research indicating heightened risks of mental health issues and educational deprivation. This micro-level suffering is juxtaposed with macro-level considerations, questioning the economic and social costs borne by individuals destined for long-term residency in Germany and the EU. Our research endeavors to synthesize micro-level subjective experiences with macro-level legalpolicy intentions. We will investigate the existence and adherence to legal limits on the duration of family reunification processes, with a specific focus on the rights of children who lose valuable time of their childhood with their parents, time they can never reclaim. We will scrutinize the efficacy of national and international norms, jurisprudence, and administrative guidelines in imposing temporal constraints and extending protective measures to families. Through an interdisciplinary lens, we advocate for rights-based administrative practices, aiming to inform policy dialogues and foster more efficient and humane migration governance.

Nuno Ferreira, University of Sussex

Asylum, identity, and time: The experiences of queer Iranians in exile

In this paper, I discuss the perceptions, experiences and impact of time in the lives and journeys of people who have left Iran to escape persecution or discrimination on grounds of their sexual orientation or gender identity (SOGI). Building on the analysis of semi-structured interviews and poetry workshops carried out with refugees and other stakeholders in the context of the ESRC-funded project 'Negotiating Queer Identities Following Forced Migration' (NQIfFM, https://iranqueerefugee.net/), I will explore the role of time in the processes of identity transition of Iranian diasporic queers seeking international protection in three country case studies generally seen as being of transition (Turkey), destination (UK) or resettlement (Canada). Drawing comparative insights from this empirical data, the analysis will be carried out against the background of literature on postcolonial sexual identities, life histories of exile, and trauma-based cultural politics. The initial hypothesis of the overall project is that rigid Western categories of LGBTQ+ are imposed by immigration structures (immigration offices, UNHCR, UK Home Office, NGOs) on those seeking asylum, leading to migrant subjects being misrecognised, retraumatised, or silenced by the constraints of such classification. In this context, time plays a crucial role and

is both ever so present and elusive. From the time individuals take to prepare their departure to the time they take to reach a first destination (Turkey), from the time they often remain in limbo in such location to the time they take to reach another destination through undocumented journeys or resettlement (UK or Canada), from the time they undergo new legal procedures to the time they take to integrate in every new host community, time is a constant concern in the lives of queer Iranians in exile. Crucially, time is used to contain them (through procedural and decisional delays), and to refuse them international protection (through denial of 'late claims' or older claimants' claims). However, time is also used in more positive ways, to allow the gathering of enough evidence to satisfy the standard of proof imposed by asylum authorities, as well as to search for other terminologies, theoretical framings, lifestyles, communities and resources that prompt and facilitate the reshaping of the identities of queer Iranians in exile. All these processes intersect to call into question the justice of the asylum system that governs the journeys of these individuals, while also informing the identity journeys undertaken by them.

Nina Fokkink & Betty de Hart, VU Amsterdam

'*How long have you been together?' The Role of time in proceedings on marriages of convenience in the Netherlands*

Spousal migration is the most common form of migration to the Netherlands.[3] Couples need to meet multiple criteria for their request for family reunification to be granted. One of these criteria is that their relationship needs to be "genuine": it cannot be a relationship or marriage of convenience. To judge the believability of a relationship is a hard task. Interpreting the love one has for another is a delicate matter that remains immeasurable. By focusing on something measurable like time, immigration officers can hold a pretense of neutrality. "The denumerable is the definite, the graspable, therefore it is also the potentially tellable; what cannot be numbered remains vague and unbound, evading human grasp" (Nussbaum 2001:107). A court in 2019, for instance, ruled that: "[*i]ndeed, at the time of the hearing, plaintiff and the sponsor had only been together for (approximately) one year and four months*" (District Court of The Hague, 3rd of October 2019, ECLI:NL:RBDHA:2019:10495) The wording of this phrase shows that time within cases on marriages of convenience is measured and valued. Time plays a pivotal role in managing migration generally, but is specifically relevant to these proceedings (Griffiths 2017; Cohen 2018). During the application phase, immigration officers interpret the passage of time within the relationship. A relationship could be considered too brief, as mentioned above, or started too long before the couple applied for the permit. If further investigation into the genuineness of the relationship is required, partners are either interviewed simultaneously in separate rooms or the IND visits them at their home. Time plays an important role in these

[3] CBS 2023: https://www.cbs.nl/nl-nl/cijfers/detail/82027NED

simultaneous interviews. For example, couples expected to list the same important dates of their relationship separate from each other. During house visits the IND expects couples to have photo's on their wall dating from different periods of their relationship. Vice versa, time can also play a role in the couple's favor. If the Dutch Immigration Services rejects the application on the ground that they do not believe the relationship to be genuine, the relationship can – at a later stage – nevertheless become genuine if the couple stay together for a certain (sufficiently long) period of time (Council of State, 7th of November 2014, ECLI:NL:RVS:2014:3755). What exactly constitutes a sufficiently long period, however, is not clearly stated in the case law and policy (Fokkink 2022). This article seeks to establish the role time plays in the identification of marriages of convenience. The methodology consists of an analysis of Dutch legislation, policy and case law in the period 2006 - 2023. This period has been chosen because the analysis should reflect the developments in case law, policy and legislation whilst also being relevant to current practice. Moreover, the current legislative framework is based on two relevant EU directives (Citizenships directive and the Family Reunification Directive) which were implemented into Dutch law at the end of 2006 (Stb 2006, 215).

Lila García, National Council for Scientific and Technical Research, Argentina

Waiting with rights: The best of limbos?
The experience of the "precarious residence" in Argentina

The Argentinean legal framework and its practices seems to show how the experience of waiting (to be recognized as refugee, to be granted with a residence as migrant) can be better implemented by being conceived with rights. The "precarious residence" is a temporary status granted to any foreign person applying to any category of residence (migrant, asylum seeker/refugee, family reunification, etc.). There is no difference among ground or nationality and it is granted even to people already living in Argentina with irregular statuses. There is no detention or confinement attached. Although the name itself provides some account of its limitations ("it entails no right whatsoever to a favorable resolution" -Article 20, law 25,871), it entitles the person to remain, leave and re-enter the country, and more importantly, to work and to study, while accessing health and education is guaranteed regardless the status. More importantly, in case of refusal, the temporary status lasts during the whole administrative and judicial proceedings, and they can take years. Such entitlements are part of a 180-degree turn made by Argentina in 2004. After more than twenty years of a draconian migratory regulation inherited by the last dictatorship, in December 2003 the Argentinean Parliament passed a law (25,871) that recognizes a human right to migrate. It also provides some guarantees for foreign regular residents facing expulsion and includes the Judiciary in the whole cycle of migration policy, among other major changes. A refugee law based in human rights was enacted in 2006 and in 2010, a Public Defender Office for migrants and refugees started functioning. However, in

2017 a major and regressive amendment (Decree 70/2017) affected the law and one of its targets were precisely the "precarious residence": rights attached during appealing procedures were cut, the administrative appeals were drastically reduced and the Judiciary (then flooded by appeals, given the lack of a proper and yes, long, administrative procedure) was given hours to act. Although courts declare the reform to be unconstitutional and the decree was eventually abrogated in 2021, it paved the way to think how the waiting with rights can actually benefit the people on the move. In fact, the decree 70/2017 itself includes the long waiting to get a executable deportation order (which implies administrative and judicial appeals) as one of the main reasons for the law 25,871's amendment. This contribution is aimed to systematize the available knowledge in Argentina, the tensions about this overlooked institute in the context of America Latina and enter into dialogue with other experiences of 'people on the move' waiting. Differently from other "limbo statuses" (Mountz, Wright, Mydares & Bailey, 2002), "liminal legal statuses" (Abrego and Lakhani, 2015), "semilegality" devices (Kubal, 2013) and even "liminal legalities" (Menjívar 2006) some evidences show that during COVID-19 pandemic, the main reason to reach Argentina was the possibility of achieving this residence and this manner to get "a paper" (García, 2024). Additionally, human rights defenders uphold that after years of renewals, foreign persons with precarious residence are entitled to the rights of regular residents. This debate reached the highest Argentinean Court last year and the tribunal's refusal leaded some questions: What are the limits of (the) waiting, even with rights? Both the administrative and the judicial systems in Argentina are slow. Does it somehow benefit a person to be refused and so it is the best of limbos or make the situation even worst? So: what is the people's experience? My contribution is based in literature research, interviews, a national survey on human mobility issues and digital ethnography in Facebook's groups.

Enrico Gargiulo, University of Bologna

The multiple temporalities of registration:
Residence between formalisation, measurement, and certification

In many countries, the registration of an individual's presence at the local level plays an important role in guaranteeing the individual the possibility of exercising important rights in practice. In Italy, registration in the municipal registers of the resident population (*registri anagrafici or registri della popolazione residente*) confers a legal status, that of residency (*residenza*), which in some cases de jure, in others de facto, is a prerequisite for voting and for access to health and social services and benefits. Municipal registration is important not only in itself, but also in terms of its duration. In some Italian regions, the possession of certain rights - for example, access to public housing or free public transport - depends on the number of years one has been registered. Moreover, for EU and third-country nationals, the acquisition of citizenship is subordinated to regular presence in Italy, which in turn is measured in terms of years or registration. The Italian

case shows that concepts such as 'presence' or 'residence', as well as the techniques and legal and administrative criteria by which they are measured, imply and rely on different temporalities. There is a material temporality, which consists of the concrete time spent in a given territory; a legal temporality, which is defined by the rules governing the possession and duration of a status and the conditions under which it can be obtained, maintained and renewed; and an administrative temporality, which is determined by some kind of registration. These different temporalities may or may not coincide. Two non-citizens who arrived in Italy at the same time have the same material temporality, but a different legal temporality if one of them was legally authorised to enter the country and the other was not. Furthermore, two non-citizens with the same residence permit have the same legal temporality but differ in administrative temporality if one is registered with the municipality where they live and the other is not. By highlighting the different temporalities of residence, this proposal aims to unravel the role of registration in formalising, measuring and certifying the material presence of individuals and in making this presence suitable (or unsuitable) for recognition as legal presence. The role of registration will be analysed with a particular focus on Italy and by drawing some comparisons with other countries where registration is not implemented (UK) or, on the contrary, is even extended to 'illegal' migrants. To this end, the paper draws on literature on law and social policy (Bruzelius 2019; Hyltén-Cavallius 2018; Rogerson 2000), philosophy of language (Searle 1995) and law (Mindus 2022), history of law (Thomas 1995), sociology and political science (Caplan and Torpey 2001; Torpey 2019; Zeruvabel 2018), anthropology (Horton and Heyman 2020; Scott 1999).

Katarina Hyltén-Cavallius, Linnaeus University

The Importance of family time: Protecting family reunification rights in EU free movement law

As the legal concept of Union citizenship was introduced in EU primary law, the right to free movement of persons and its adjoint right to family reunification in cross-border situations became anchored to the status of Union citizenship itself. This was a clear novelty to the EU free movement of persons regime at the primary law level, which had, thus far, anchored its enjoyment of family reunification rights to a connection to economic activity. This paper explores the extent to which time, as a factor, has replaced the factor of economic activity in EU free movement of persons law in the area of family reunification in cross-border situations. By an analysis of the case law of the Court of Justice if the European Union (CJEU), the paper brings forward three examples of how time functions as a factor for determining the family reunification rights of Union citizens and their family members when exercising freedom of movement within the EU. First, the analysis explores how measures of time have replaced the need for a link to economic activity, when assessing the establishment of genuine family life in a host Member State, such as in the *O and B* and *Lounes* cases. Second, how measures of time are used as a “cut-off” point for when a genuine family life has been dissolved, such as in the *Altiner and Ravn* case.

Lastly, the paper discusses the notable irrelevance of, even vast lengths of a family unit's residence time in a host Member State, for protecting the enjoyment of family life as a fundamental right under EU law, where the requirement of economic self-sufficiency has not been met, as in the *Alarape and Tijani* and *Ziolkowski and Szeja* cases. This paper challenges the formation of fixed time lengths in the CJEU:s jurisprudence as they risk to normatively determine any assessment of what constitutes genuine family life. In addition, such fixed time lengths are in contrast to the disregard in other CJEU judgments of the factual residence time of a family unit in a host Member State, in relation to protecting the respect for family life as a fundamental right under EU law. The paper concludes that while certain normative time lengths function as a qualitative factor that negates suspicions of abuse of free movement law, the creation of fixated time lengths in jurisprudence might obstruct other assessments of genuine family life. Time might have become an important factor for replacing the requirement of economic activity, but it has not replaced the requirement of economic self-sufficiency for ensuring the protection of the respect for family life of Union citizens and their family members, as a fundamental right in EU free movement law.

Sofi Jansson-Keshavarz, Linköping University

Temporal injustice and negotiations of time: School staff and social workers navigating the deportability of upper secondary students in Sweden

Time is bound deeply to the exercise of power. In migration law, the power asymmetry is often hidden in seemingly neutral policies where scientifically measured durational time such as calendrical time (fixed dates and countdown periods) and chronological age (marking a difference between childhood and adulthood) is used for the purposes of border control. Time is indeed one of the most important means for legal control of residence entitlements of migrants present within a territory. In Sweden, around 11,800 youths whose asylum claims were not recognized when the government introduced harsher asylum policies based on temporary residency in 2016, got a 'second chance' to qualify for permanent residency under the Upper Secondary School Act in 2018. To avoid deportation, they must complete upper secondary education within a specific time frame and find a job within six months of graduation. This article examines how temporal boundaries – made up by single-moment deadlines, countdown deadlines for renewal of temporary permits, age, and other forms of durations of time – in migration law, are negotiated and countered by school staff and social workers who have the power to determine whether these youths will be granted residency or be deported. By interviewing school staff, social workers and people holding strategic positions within the welfare sector, the article analyses how they negotiate time as counter practices to avoid deportation of youths subject to the Upper Secondary School Act. This shows how temporal injustices invoked by migration law are

countered and re-worked locally within welfare institutions that have become part of the state's expanding internalised border control.

Sandra Mantu, Radbound University Nijmegen

EU citizenship in time: what does the evolution of EU citizenship tell us about its temporality?

This contribution discusses the temporality produced by the legal notion of EU citizenship as part of its trajectory. It examines the issue of EU citizenship's temporality in relation to Anne McNevin's (McNevin 2020) critical discussion of the institution of citizenship as involving a singular form - universal and unidirectional - which makes citizenship the only form of belonging possible or desirable and involving a 'progressive temporality' that is mobilised by states to deny rights to migrants in the now. In this reading of citizenship, the relationship between time and citizenship is mediated by the figure of the migrant who is read as 'citizen to be' or 'citizen in waiting'. The paper will argue that EU citizenship enjoys a strained relationship with 'progressive temporality'. On the one hand, EU citizenship seems to depart from the idea of the EU migrant as 'citizen to be' since the final stage in the progressive temporality implied by citizenship seems, on purpose, left open: EU citizens are neither expected to naturalise, nor encouraged since they benefit from a panoply of rights that mimics state nationality. On the other hand, in EU free movement law, legal time regulates status progression by employing temporal techniques that accelerate, slow down or stop time, thereby affecting EU citizens' presence in host states. When coupled with the economic rationality that underpins the EU integration project, such techniques can have disciplinary and exclusionary effects. The latter points to the productive nature of legal time in EU citizenship and the re-inscription of progressive temporality in EU citizenship. Likewise, attempts to read the EU as a successful post-nationalist experiment due to its system of free movement and EU citizenship have been criticised for failing to grasp the legal relationship between nationality and EU citizenship or the role of EU states in realising rights (Hansen 2009). Nonetheless, Favell (Favell 2022) argues that globally post-national citizenship – that is, citizenship as a progressive institution that will eventually embrace all - has not fared particularly well in terms of (more equitable) rights distribution with the exception of the EU system of free movement. What is exceptional about the EU is that its regime of free movement enables mobilities outside of the immigration/integration paradigm since it allows disadvantaged migrants to exercise transnational rights in an instrumental manner affecting the political economies of both home/sending and host/receiving states. The effects observed by Favell – namely, the power given to migrants to use their rights without requiring them to display 'thick patriotism' (Kostakopoulou 2006) are linked to the fact that legally EU free movement and EU citizenship require equal treatment. In light of the above, the contribution will examine the following questions. Can we speak of a 'progressive temporality' in relation to EU citizenship? If so, what does it imply and where should we look for clues of its existence?

Thomas McGee, PhD researcher, University of Melbourne
Abdullah Yassen, Erbil Polytechnic University

Time Not Counted: The Non-applicability of Naturalisation and Temporary Residency Provisions for Refugees in Iraq

"We will be guests forever." This oft-heard citation sums up the situation of the vast majority of migrants in Iraq (including refugees and those who are also stateless), for whom time residing in the country does not typically count towards the possibility to naturalise under the law. While the Iraqi Nationality Law (of 2006) includes provisions for naturalisation for foreigners after 10 years of residency, refugees and other migrants who entered the country irregularly are excluded from this right in practice. Our paper thus considers how the (non-)implementation of the legal framework, and resulting non-citizenship status, impacts the ability of long-term resident migrants to access rights in Iraq. We consider how, against the spirit of the legislation, similar exclusions also apply to children born in the country to migrant and refugee parents. Specifically, we focus on the situation of different categories of refugees in the Kurdistan Region of Iraq (KRI) who have been present since the 1980s (Iranian refugees), the 1990s (Turkish refugees) or the 2000s (Syrians refugees). We unpack the demographic and political sensitivities between the Kurdistan Region (hosting the majority of refugees) and the central Iraqi government, which impact how time is regulated, and does not count, for such refugees, resulting in a situation of protracted limbo, or "prolonged liminal statuses"[4]. Significantly, this paper is a timely contribution and engages directly with the seminar theme in view of the fact that it is now more than 10 years since the start of the large influx of Syrian refugees to neighbouring countries, including Iraq. This present context will therefore serve as a starting point to understand how other older, and smaller, populations (e.g. Palestinians, Iranian and Turkish) have similarly been excluded from naturalisation provisions, sometimes for multiple decades. The research for this paper adopts a mixed-methodology approach based on desk research and key informant interviews with legal professionals, (international) NGOs, government representatives and refugees themselves. The lack of a viable pathway to naturalisation for refugees, therefore, curtails the possibility for their full integration, irrespective of the length of time they might spend in the country. Drawing on earlier discussions that took place at the Amsterdam conference ("Temporalities in Migration Law"), we consider how the indefinite "temporariness" of being repeatedly issued renewed annual residency (if one holds any official residency status at all) speaks to the use of time as a governmental technique to regulate the lives of refugees in a state of exception against the provisions established in national legislation.[5] We consider the

[4] Bridget Anderson (2019) About time too: Migration, Documentation and Temporalities, in Paper Trails Migrants, Documents, and Legal Insecurity, eds. Sarah B. Horton, Josiah Heyman (Duke University Press), 53.

[5] Melanie Griffiths has coined the phrase "temporal governance" to refer to this phenomenon: Interrogating time and temporality in migration governance, in (eds) Emma Carmel, Katharina Lenner, and Regine Paul, Handbook on the Governance and Politics of Migration (Edward Elgar Publishing, 2021). See also: Melanie Griffiths, Ali Rogers,

suspension of the rights of refugees to (even) apply for citizenship in Iraq against the global discourse on naturalisation, and the regional paradigm that governs its practice in the context of the MENA.

Sara Morlotti, University of Milan

Waiting for Justice: Understanding Delays in Italy's Asylum Process

The asylum process in Italy poses significant challenges, with prolonged waiting periods affecting both asylum seekers and legal proceedings. This paper examines the timeframes involved both in administrative assessments and judicial reviews, analysing causes, the impact on asylum seekers and on the entire legal system. Upon arrival, asylum seekers typically face a wait of six months to a year before undergoing interviews. Subsequently, the Asylum Territorial Commission (administrative authority) may take an additional two to six months to decide on the case. During this period, asylum seekers are housed in reception centres spread across Italy. They are provided with food and accommodation, language courses, psychological and legal assistance, medical care and vocational training courses. Reception ends when they receive the decision on their asylum application. By October 2023 there were 141,000 asylum seekers housed in Italian accommodation centres. If the application is rejected, asylum seekers have the option of appealing to the ordinary Court (with the possibility of free legal aid if they need it). Specialized Section of the Civil Court were created in 2016, to deal with increased flows of international protection (2015-16 migration crisis). Despite the law stipulating a 120-day timeframe for judicial proceedings, the reality often exceeds this limit. Data from the Ministry of Justice in 2020 reveals a considerable gap between prescribed timelines and actual practice. Appeals before judicial authorities take an average of 1200 days, or three years, to decide—a substantial deviation from mandated timelines. Such extensive delays heighten uncertainty for asylum seekers and strain the asylum system. These prolonged waits often prompt asylum seekers to consider relocating within the Schengen area, challenging the Dublin Regulation and complicating migration management in Europe. This paper explores the causes of delays in both administrative and judicial phases. In the administrative phase, resource limitations, including understaffing and insufficient funding, contribute to processing backlogs. Procedural inefficiencies, such as bureaucratic obstacles and delays in the scheduling of interviews, also have an impact on progress. In the judicial phase, delays are compounded by several factors. The very high number of appeals overwhelms the system (see Figure 1), with a shortage of judges exacerbating the issue. Collegial decision-making processes, despite the support from the experts of EU Asylum Agency (EUAA) also contribute to delays. Furthermore, the shortage of lawyers with specialized knowledge in asylum law further hampers progress.

Bridget Anderson (2013) Migration, Time and Temporalities: Review and Prospect, Centre on Migration, Policy & Society: https://www.compas.ox.ac.uk/wp-content/uploads/RR-2013-Migration_Time_Temporalities.pdf.

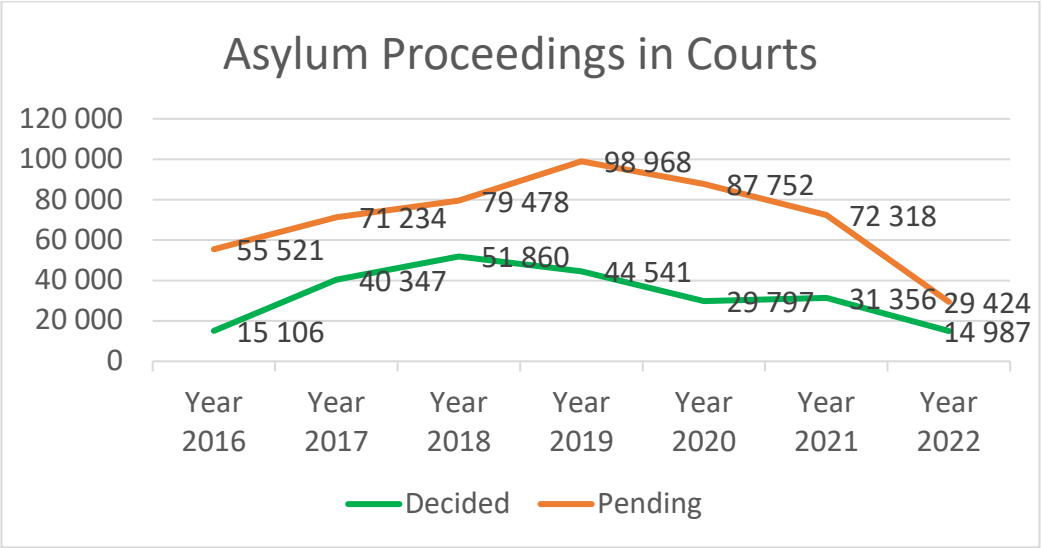

Figure 1 data on international protection proceedings in Courts (national basis - Source: webstat.giustizia.it)

In addition, some of these decisions are subject to an appeal to the Court of Cassazione, which may refer the case back to the Court of first instance: this obviously lengthens the time it takes for a final decision to be taken. The human rights implications of prolonged waiting periods are profound, affecting asylum seekers' access to protection and their right to a fair asylum procedure. Extended uncertainty exacerbates mental health concerns among asylum seekers, amplifying their vulnerability. By drawing on disciplines such as law and human rights studies, this paper contributes the ongoing debates on asylum policy in Italy and EU. It identifies systemic challenges and proposes targeted interventions to improve efficiency, fairness, and the protection of asylum seekers' rights within the Italian asylum system.

Christine Straehle, University of Hamburg

Migration, death, and human rights

Migration is dangerous. A recent ICRC report states that about 20, 000 migrants are believed to have gone missing between 2014 and 2019 in Europe alone (ICRC 2022). Many of those missing are expected to have died – either when crossing the Mediterranean (IOM 2017; Kovras and Robins 2016; Last et al 2014), or in transit in the back of a smuggler's truck, or through untreated illness. Similarly, many migrants die in the desert along the Mexican-US border in their attempt to reach the opportunities of the US and Canada (De Leon 2015; Hinkes 2008). The objective of this paper is to investigate how the dead are conceptualized in human rights and humanitarian law. In particular, I want to examine if a philosophical analysis of human rights can help explain the status of dead migrants. Think here for example, of the fact that the European Union has stipulated that member states have obligations to honour the dead on their territory (Grant

2016) - but it is not clear what this stipulation actually entails (critically Steinhilber et al 2018). Or think of the fact that Italy is the only country documented to have undertaken recovery efforts of sunken ships used by migrants to cross the Mediterranean, the last one in October 2015. In the words of then Prime Minister Renzi, he ordered the recoveries in order to honour the dead (Renzi 2015). One way of explaining these policy interventions would be to say that all individuals have rights and that allowing individuals to be buried is part of the rights catalogue. However, the puzzling question is how those who have died can be rightsholders. Put differently, I raise the question what account of the grounds of human rights can be employed to justify rights protective interventions for those whose time on earth is over. I examine three different accounts of the grounds of human rights, based on dignity, basic needs and to protect human interests and argue that to make human rights transcend human time, the only plausible account might be one that considers human rights to protect human dignity.

Hanna Scott, Linköping University
Anders Roos, Malmö University

Just in time? The struggle over dis/counted time under the Swedish study law

Saed, a teenager from Afghanistan, arrived in Sweden on 19 November 2015 to seek asylum. Saed did not find his way to the migration reception centre immediately, staying with relatives in a municipality in the south before travelling north. On 21 November he went to a police station to ask for directions to the migration authorities. On 26 November he managed to formally register his asylum application. The Upper Secondary School Act ("Study Law") was introduced in the summer of 2018, as part of temporary asylum legislation (2016:752) to provide a new opportunity for residency for unaccompanied children whose asylum claims were negatively affected by the long delays in asylum processing and who had become "rooted" in Sweden (prop. 2017/18:252). While we see the law as having been motivated by political understandings of the importance of human time (Stonks 2020:101), the meaning of time under the law is recast through meritocratic or neo-liberal integration requirements (Stonks 2020:101; Wyss and Fischer 2022). Technically, regularisation under the law is dependent upon apparently rigid temporal requirements: 'unaccompanied' children must have arrived in Sweden before 24 November 2015 and have waited for more than 15 months for their initial decision. If, additionally, they were able to demonstrate an intention to study they could qualify for temporary residence. Those who, within six months upon completing studies, find permanent employment, may be eligible for permanent residence. 24 November 2015 is significant as it was on this day that the announcement of the political decision to close external borders was made, after which stricter asylum legislation was introduced. The Study law, then, is steeped in the "politics of time" (Stonks 2020:18) in the aftermath of the long summer of migration 2015 (Abdelhady et al 2020). Time

under the Study Law is highly unstable; travelling backwards, creating elements of retrospectivity, or folding into pockets of discounted time. This state of flux makes navigations towards regularisation challenging (e.g. MIG 2023:23). Whilst the law imposes a form of highly disciplinary temporal governance, time is also a potential resource (Griffiths 2014:2003) that can, sometimes, be (re)claimed. This is what happened to Saed who initially was told that he did not qualify under the Study Law, as he had applied for asylum two days late. Yet, when he sought legal advice, he was helped to demonstrate an intention to apply for asylum on 21 November and hence met the date requirement. In this paper, we examine the law's rigid yet fluid temporal requirements as a form of temporal migration management, where legal time exerts a violently disciplinary power, yet carries potential for contesting its (multiple) meanings. Drawing on legal materials and, ethnographically, upon our experiences as legal practitioners, we reflect upon legal mobilisation as a struggle over dis/counted time. While time stolen by the state can never be returned (Bathia & Canning 2021), the instability of time not only constitutes a powerful tool for temporal migration management but also - more rarely - can be made to count in favour of those struggling to meet the law's requirements. Finding inspiration in arguments about the radical potential of human time (Stonks 2022), this paper argues that the struggle for making (human) time count becomes a quiet contestation of the neoliberally informed migration politics in which the law is embedded.

Christos Tsevas, Democritus University of Thrace

The compressed time of the refugee narrative during interviews

The narratives of the refugees and migrants during interviews, especially during reception and asylum procedures, can be assessed under the concept of compressed time. This concept shows the importance of the content during this time. Several events in their life, political and social changes in their respective countries that have affected them, the time and the events of the route from their country of origin to the country of reception and asylum, their trauma, their disability or mental health, their age, the death or birth of members of the family and in general parts of their lives are compressed in two or three hours of an interview. Their whole life is compressed into a two or three-hour interview. Examples of narratives can show the length of time. Assessing the speed, duration, length, expansion, or compression of time is needed to understand the persons involved. Which theory of justice can reconcile this time? Can asylum or migration law and the relevant guidelines regulate this time fairly with proper temporal legal techniques? What kind of risks appear in categorizing refugees and migrants? The role of the interpreter and the relation between the interpreter and the refugee/migrant are crucial to approach the concept of compressed time. The aim and the effectiveness of the interview, managing the dialogue, and the legal techniques to compress time are vast difficulties of the

process. However, these exact elements point out the importance of refugees being heard during this period.

Zvezda Vankova, Lund University
Tesseltje de Lange, Radboud University Nijmegen
It's about time. Bringing the future of work to EU labour migration law

European Union's legal migration landscape is characterized by segmentation and temporariness since its very inception. Migrants with different skills are categorized in different migrant statuses and various temporal - limited - frames are used to give them access to residence and guarantee that temporary and circular migration categories deliver the work force the EU 'needs' or to return to their countries of origin if they – or their employer – violate their admission conditions. Time as used in the EU legal migration *acquis* has a significant role as it deepens the already existing labour market divide between low-waged (a term we prefer over low-skilled) and high-waged highly qualified migrants by shaping their prospects for (easy/fast track) admission and long-term stay. Furthermore, these temporalities influence the possibilities for enforcement of migrants' rights, including access to justice, a topic still largely understudied in the field of labour migration into the EU. Combining legal and policy analysis, this paper aims to shed light on this temporal aspect of EU migration law by mapping the existing temporal legal techniques and analysing their impact on the status and rights of third country nationals, such as Blue card holders, trainees, and seasonal workers. Building on this, we aim to contribute to the academic literature by developing a novel typology of temporality and circularity. While there is a vast literature critiquing labour migration policy aiming at temporariness, there is still little known on its intersection with e.g., remote working, future automation or future 'seasonal' work. This typology engages time and temporality as well as migration law for a new narrative on "labour migration 4.0". In doing so, we hope to bring the reality of the future of work to EU labour migration law.

Enes Zaimović & Věra Honusková, Charles University
Temporariness of protection: can we justly reflect the passage of time?

Within the area defined by EU Member States, several protection statuses share a similar conception regarding the relevance of time: they provide protection only for as long as needed. Temporary nature of the protection granted is declared by the Qualification Directive for both (internationally anchored) refugee status and (regional) subsidiary protection (Articles 11 and 16 respectively). Another status, temporary protection, even enshrines temporariness in its name and limits the duration to three years under the wording of the Temporary Protection Directive. Thus, legal rules foresee the temporariness of protection. The practice, however, is different.

For many years, European states used refugee status more as a permanent, indefinite status (see also Durieux, 2004). In practice, its withdrawal was barely taking place, mainly because the situation of its holders stayed the same. The same is often true of efforts to return subsidiary protection holders. Again, the continuing situation in the country of origin, coupled with the high standard of human rights protection, renders, in many cases, their return impossible. Thus, once again, the temporariness turned into permanence. This discourse of permanence was even fostered by EU law by anchoring integration measures (Qualification Directive) or allowing protection holders to access permanent residence solutions (Long-Term Residence Directive).
The push for an explicitly temporary status as opposed to a permanent one is rooted in the national reaction to the mass influx in the 1990s. A more politically viable (temporal) concept was then adopted and is also applied - this time on an EU level - in a similar situation in 2022. Its problem is that it is impossible to control time, just as it is impossible to limit (or predict) the dynamics of human rights violations. The misunderstanding of the role of time is now being repeated when the extension of temporary protection, whose (legislative) maximum length is 3 years, is being considered. In the 1990s, some states adhered to temporariness within national temporary statuses (notably Germany, cf. Ineli-Ciger, 2018). It puts in sharp contrast the temporal aspect required by legislation and the natural passage of time in terms of human experience. But can the natural passage of time be fairly reflected at all? It was reflected, for example, by the Czech Republic when regulating the end of temporary refuge in the 1990s. Allowing free choice, it returned those who wanted to be returned and allowed those who had put down roots to obtain permanent residence without meeting the necessary time requirements (10 years). A special humanitarian status was also created for those who could not return due to severe reasons, others applied for refugee status. The Czech approach treated migrants with dignity and respect to natural passage of time. In this paper, we would like to focus on the shift in the discourse of permanence in the currently adopted New Pact on Migration and Asylum and how the Czech experience can nowadays contribute to a fair reflection on the passage of time when states try to regulate migration through temporary protection.

Hannah Zaruchas, Humboldt-University Berlin

Temporary status and family unification rights

The article explores how and to which extent States can employ temporary status as a means to control family unification, or: as a tool of temporal migration governance. More specifically, I will explore the limitations that European human rights law may pose to this. For that purpose, I will analyse a recent set of cases in front of the ECtHR1 in which forced migrants (the sponsors) challenged restrictions to their family unification rights based on Article 8 and 14 ECHR. States largely justified these restrictions by the temporary nature of the sponsor's status. Temporariness, thus, seems to play a role for the extent of family rights. To begin with, the sponsor's status can be employed to control family unification because the extent of family unification rights under Article 8 largely dependent on the form of connection the sponsor has to the political community (membership). Legal personhood as such is not enough to make a successful claim to family unification. Rather, family unification rights are construed as membership-specific rights, not human rights. To establish the relevant level of connection to

the state in question, migration status is used as a proxy. While a settled status increases one's claim, a temporary or precarious status reduces it. The temporality of the sponsor's status, thus, influences the extent of family unification rights one has. This, in turn, allows States to determine the scope of the right to family life by normatively ascribing a specific temporality to the sponsor's status. Control over family migration can thus be advanced through the temporality of the sponsor's status. Due to its prospective character, temporary status is structurally challenging to contest through human rights law. This is illustrated in the cases above where the sponsors claimed that their stay was foreseeably more than temporary. Not only was the general prediction of temporariness on which the status was based wrong, but also in their individual case the insistence on the temporary nature of their stay distorted their factual continuing presence. The ECtHR showed itself reluctant to question the empirical basis on which legislators based their general predictions of temporariness. It seemed more apt to consider challenges to the temporary nature of a stay on an individual, retrospective basis. Where sponsors have, in fact, stayed a long time, the court use criteria other than status to determine the relevant membership level. It looks at the sponsors' actual ties and time spent on the territory. Thus, although status is generally respected as the relevant determinator for membership, where its prescribed temporality strongly dissonates with the lived temporality of the status holder, at one point, she can claim inclusion to rights through a human rights notion of membership. This, however, is only possible after the passage of a considerable period of time. The gap between the prospective prescription of temporariness and the retrospective claim to inclusion through human rights, allows States to significantly delay family unification rights through temporary status. That makes it highly prone to temporal governance of family unification.