



# PROBLEM QUESTION

# THE ISSUES

◆ PIERRE: (a) Promotion rejection  
(b) Deportation

- CANDY: General advice
  - Rights to residence
  - (a) separated
  - (b) divorced

# PIERRE AND CANDY

## ◆ Located the appropriate LAW

- Pierre: EU citizen - exercise of the free movement of workers (*Laurie-Bloom*: subordination- period of time- remuneration)
  - ◆ Article 45 TFEU – Norway (not EU but EEA)– same rules

# ISSUE (a): Promotion rejection

- ◆ Direct discrimination ie grounds of nationality – Art 18 + Art 45(2) TFEU
- ◆ Justification? – only expressed derogation
  - public policy, security & health – Art 45(3) – proportionality See Art 27(2) CRD 2004
  - Employment in public service – Art 45(4)
    - ◆ Yes BUT (a) not re employment but promotion and (b) what kind of public service work?

# ISSUE (b): Deportation

- ◆ Art 45(3) TFEU (pub policy,.....)
- ◆ Art 27(2) CDR 2004/38
  - ◆ 'Personal conduct'
  - ◆ Proportionality

'The personal conduct of the individual must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society. Justifications that are isolated from the particulars of the case or that rely on considerations of general prevention shall not be accepted.'

# Art 28 CDR re expulsion

- ◆ 1. Before taking an expulsion decision on grounds of public policy or public security, the host MS shall take account of considerations such as how long the individual concerned has resided on its territory, his/her age, state of health, family and economic situation, social and cultural integration into the host MS and the extent of his/her links with the country of origin.

# CANDY

- ◆ Non-EU national
- ◆ Wife of a EU WORKER

# Candy's rights under EU Law

- ◆ (a) Right to residence card (post 5 years) – Art 9 CRD
  
- ◆ (b) separation/divorce/deportation re Pierre
  - Art 13(2) CDR
    - ◆ (a) married 3 years (1 year in host State)
    - ◆ (b) ??? Custody of child....



# Other comments

- ◆ Position of CANDY much more secure post CRD..... Before *Reed v The Netherlands; Singh*