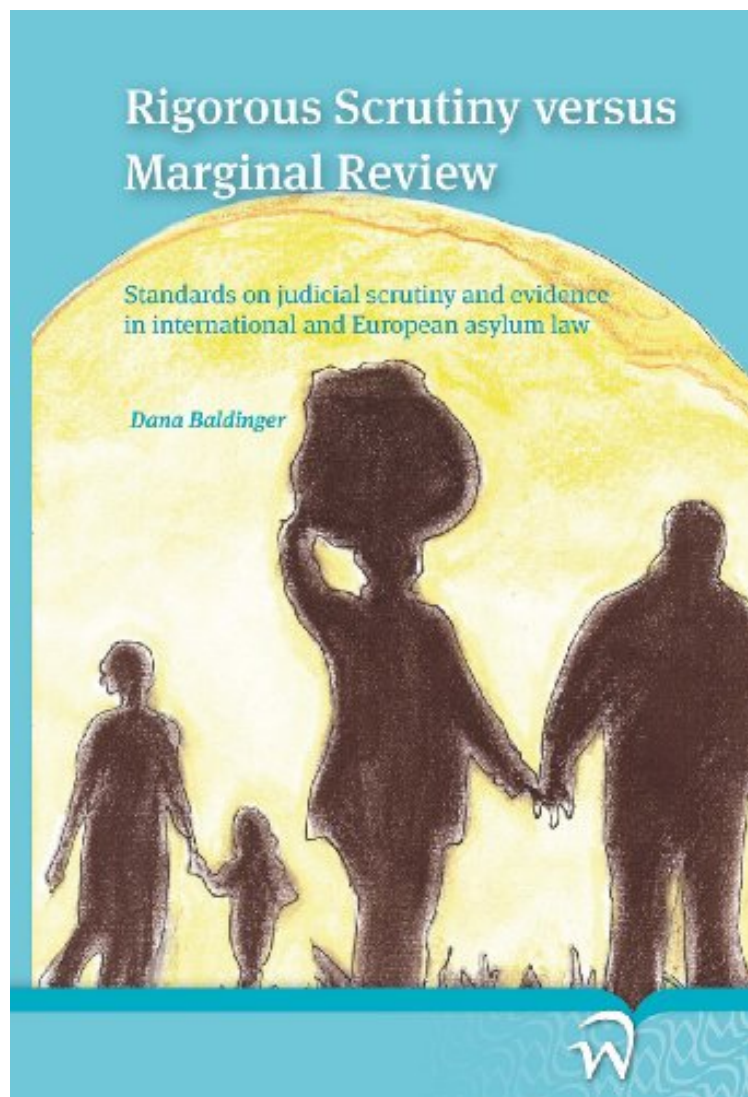


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Rigorous Scrutiny versus Marginal Review: Standards on judicial scrutiny and evidence in International and European Asylum Law

Dana Baldinger

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This book explores what both international and EU law require from a national asylum judge with regard to the intensity of the judicial scrutiny, and with regard to evidentiary issues, such as: the standard and burden of proof * the assessment of credibility * the required level of individualization * the admission and evaluation of evidence * opportunities for presenting evidence * time limits for submitting evidence. To that end, an analysis is made of the provisions on national (judicial) proceedings and a number of secondary EU law instruments. The book's research has revealed that international and EU laws contain many specific standards on the intensity of judicial scrutiny to be applied by national asylum courts, as well as standards on evidence. It has also revealed that it has become, in fact, impossible for national asylum courts to ignore or discard these standards, as that would amount to a breach of Articles 18, 19, and 47 of the EU Charter on fundamental rights and thus a violation of primary binding EU law. An important common denominator following from international and EU law is that national asylum courts must perform an independent, impartial, and rigorous national judicial scrutiny of asylum refusals. This scrutiny implies, inter alia, that national courts examine evidence submitted by applicants in a careful and serious manner. It also requires that national courts are able to make an independent and fresh determination of the disputed facts and that - if necessary in order to clarify the facts - these courts undertake judicial investigations.