

# **The Legal Status of Migrant Workers in the Light of International European Law**

## **ABSTRACT**

The objective of this thesis is to analyse the current level of protection of the rights of migrant workers regardless of their status in the light of international, European and EU law and to compare their rights guaranteed in the relevant international and regional instruments and the EU law with the rights and obligations arising from the International Convention on the Rights of Migrant Workers and Members of Their Families, the most comprehensive document relevant to the status of migrant workers.

Following the introductory chapter, the first part of this thesis is focused on terminology and defines the key legal terms such as “migrant worker”, “migrant worker in an irregular situation”, “member of the family”.

The second part is dedicated to the sources of law which govern the legal status of migrant workers, and describes the relevant general and specific international conventions and mechanisms of protection and their impact on the rights of migrant workers. In greater detail, this part analyses the genesis, aims and the content of the International Convention on the Rights of Migrant Workers and Members of Their Families.

The third part analyses the legal status of migrant workers on regional European level; at first, a distinction is made between the system of the Council of Europe and the European union, both of which are critical for the level of protection of migrant workers in Europe. An overview on the protection under the European Convention on Human Rights and the role of the European Court for Human Rights is presented with focus on the rights of migrant workers, as this mechanism represents the cornerstone of human rights protection in Europe. A reference is made to the European Social Charter. The chapter then proceeds to describe the EU legislative relevant to the status of migrant workers.

The key part of this thesis ensues in part four which compares the rights guaranteed in the instruments defined in the second and third part. First, the anti-discrimination clauses are compared, as the principle of non-discrimination is a cross-sectional principle in human rights law. In the following chapters, the rights are categorised according to the extent of which they are covered by the ICRMW in comparison with other relevant instruments. From approximately equal protection (chapter 4.2.), wider protection under ICRMW (chapter 4.3.), narrower protection (chapter 4.4.), specific protection (chapter 4.5.) and omitted protection

(chapter 4.6.) and attempts to ascertain which rights or protection guaranteed by ICRMW are not covered by the current protection in EU.

In the conclusion, the thesis draws from the outcomes from the comparative part and attempts to establish to what extent the standards of protection of migrant workers rights amongst EU states fulfils the standard of protection of the rights of migrant workers under ICRMW and whether a formal ratification of ICRMW is necessary in order to meet the standards and enhance that protection.

**KEY WORDS:** migrant workers, third country nationals, human rights