

Resumé

The Regulation of Asylum in the European Union and its Influence on the Regulation of Asylum in the Legal System of the Czech Republic

I decided to write this dissertation because I am interested in the issue of asylum. I acquired practical experience in this field during a year of practice in the Organization for Aid to Refugees and during an internship of several months in the Prague branch of UNICEF.

The goal I set for my dissertation is to map and summarize asylum policy in the European Union and in which manner the asylum policy of the EU has influenced the asylum policy of the Czech Republic and the extent of this influence.

From its beginnings to today, the Czech Republic has gone a long way in the field of asylum.

Today, asylum law in the Czech Republic is regulated in a rather complex manner; however, one might pose the question of how effectively this has been done, whether this law is examined from the point of view of state organs or from the point of view of the applicants for asylum themselves. Asylum law is a branch of law which evolves and changes very quickly and very often, as it must reflect changes in international immigration, and not only political immigration – an essential criterion for granting asylum, but also economic immigration. The latter is not a reason for granting asylum; nonetheless, foreigners entering our country in search of better social conditions often apply for asylum.

It also occurs that a greater or lesser number of persons abuse asylum law, even when they know that they do not meet the criteria for being granted asylum; they only do this in order to remain on the territory of the Czech Republic or at least prolong their stay. This is a particular issue that the asylum system in the European Union must confront.

My dissertation is divided into three chapters, which are further divided into several sub-chapters.

My work concerns itself both with the current solution to the problem of asylum policy in the European Union and the Czech Republic and with a historic overview. The first chapter

outlines the historic beginnings and development of the institution of asylum. From time immemorial, states have been faced with the problem of migration. People have migrated due to different causes. Large numbers of people have left their homes in search of refuge in foreign countries for various reasons, whether political, religious, social, economic or other.

The second chapter deals with the interpretation of the terms „asylum“ and „refugee status“. The difference between these two institutions is also described here.

In the third chapter, I have further attempted to closely examine the legislative regulation of asylum law within community law, what the issue of asylum was like in the Czech Republic before its accession to the European Union, and furthermore, how it has changed since accession.

The institution of asylum is regulated on three levels – in the framework of public international law, in European Union legislation and in national legislation, including its relationship to the general regulation of human rights. That aspect of the law is also described in this chapter.

Differences can be seen in the regulation of asylum by individual member states of the European community, despite the fact that the EU is making efforts to unify the conditions for granting and denying asylum. Nonetheless, the EU respects these differences in individual states, as it understands that each state has developed differently and that each state has faced the influx of immigrants differently in reaction to its historical and socioeconomic conditions and development. There is therefore no unified legal regulation of asylum in the member states, even though the effort to create a European asylum system is working toward overcoming these differences and is developing so-called „minimal rules“ for this purpose.

In the past two decades, the question of migration has become one of the main issues of political discussions in all developed European and non-European states.

My work also marginally mentions the differentiation of persons migrating for different reasons (in particular due to economic reasons) from refugees (as defined by the Geneva Convention). In practice, it is often difficult to differentiate between these groups, as a given person can have multiple motives and it is difficult to determine whether fear of persecution or economic reasons are the predominant motive. Nonetheless, this difference is important for

granting refugee status. Migration and refugee control are fields that are closely related and interdependent. Therefore, legislation and its actual application should follow clear criteria and individually assess every concrete case.

Organizations for aid to refugees are universally criticizing the creation of a common European system, claiming that it does not work well in spite of despite the attempts of the European Union to perfect this system and help the individual states to improve their asylum systems, which are battling the influx of immigrants not only legally but also financially, creating asylum funds.

Asylum is an institution that was created in order to deal with the effects of crisis situations. It is not the only legal institution, nor is it perfect, and it does not fully meet the present needs of the international community and the protection of persecuted persons. Even though it is a very old institution, the long period during which asylum and refugee status have evolved has not guaranteed them to be fully worked out legally and has not freed them from the imperfections which accompany the said institutions.

The issue of asylum, including new legal institutions arising in this field, is currently a controversial and much discussed topic. It will certainly be interesting to follow further discussions between the member states in the Council of the European Union about the European Commission's proposals for reform and the gradual abandonment of the vast majority of the positive proposals that are current at this time.

The present situation indicates that the number of foreigners on the territory of our country will not decline; on the contrary, more foreigners will come, and therefore, Czechs will have to adapt to this situation and learn to coexist with foreigners. A proper understanding of the asylum system and the law on foreigners should be of use in this matter, not only to government officials, but also to the public at large.