

Right to Personal Liberty in the Context of the Asylum Law of the European Union

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Abstract:

Right to personal liberty is considered to be one of the most important fundamental rights of a person. Unfortunately, the interferences to this right also constitute one of the aspects that generally accompanies asylum and forced migration. Europe is no exception in this respect. The topic of this theses is as follows: Right to Personal Liberty in the Context of the Asylum Law of the European Union. The objective of the theses is particularly to assess the level of protection which is provided within the European Union to asylum seekers and other forced migrant – i.e. refused asylum seekers and so called irregular migrants – against unauthorised deprivation of their liberty. The research is performed in the light of both the European Union law and European Convention for the Protection of Human Rights and Fundamental Freedoms. The focus of the thesis stands on two main pillars. The first one are the rules concerning the deprivation of liberty of asylum seekers and other forced migrants according to Art. 5 of the Convention and related case-law of the European Court of Justice. The second pillar are then the rules concerning the deprivation of liberty of the above mentioned groups of persons according to the European Union law, thus according to the legislation contained particularly in the Art. 6 of the Charter of Fundamental Rights of the European Union and further in specific measures of the secondary Union law. The latter includes particularly so called asylum directives and regulations. The theses initially aims to assess the applicability of the rules contained in the Convention also within the European Union law. Further, the theses examines what requirements the Convention lays down for the deprivation of liberty of asylum seeker and other forced migrants. It also examines in what way the Convention is being reflected into the relevant rules of the Union law. At the same time, the Convention aims to assess the standard of protection of personal liberty which is provided to asylum seekers and other forced migrants by the Union law, in comparison to the respective standard contained in the Convention. In addition, the thesis also endeavour to identify the problematic aspects of the practice of EU member states in the researched field and to give suitable recommendations for improvements, if possible.

Keywords:

Right to personal liberty, asylum law of the European Union, European Convention for the Protection of Human Rights and Fundamental Freedoms