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**SUMMARY**

**of**

**DOCTORAL THESIS**

**Refugee Protection in International and European Law**

**and in the Constitutions of Selected States**

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## **SUMMARY**

### **Refugee Protection in International and European Law and in the Constitutions of Selected States**

This paper is based on a research study related to the issues of refugee protection in a double approach, i.e. from the perspective of international and domestic law. The principle objective of this dissertation is to present refugee protection in light of current international and European regulations, as well as national solutions in the asylum systems of Canada, France, Switzerland and Poland.

The subject of this research is, therefore, the refugee phenomenon and legal protection of refugees in the form of refugee status. The discussed involuntary form of migration and the provision of aid to those who escaped from their place of residence due to military conflicts, civil wars or persecution have always been present, though with various intensity. It was only in the 20th century, along with the development of the concept of total war and common repressions unleashed against civil populations, that the first attempts to homogenise this phenomenon were made.

The subject of this research is the mandatory refugee. Thus, the provision of foreigners with protection within borders of a particular state is a specific and problematic issue that involves humanitarian motifs, some legal matters regarding protection of human rights with elements of control of borders and ensuring public order and security of receiving states.

The refugee status was a main issue analyzed in this work. The point of this paper is a issue of the efficiency of the refugee protection, and also political and legal decisions in this field as well as the provision concerning the protection and reception of refugees. The scope of the provision of the refugee protection and its efficiency is the result of many factors, depending on the political system and also including social and economic situation of the country.

Given the above, a multidimensional analysis of normative sources and political and legal solutions to refugee protection problems – which was undertaken as this paper's objective – allow the presentation and explanation of some problems and hypotheses, such as:

**H:** To establish the legal nature of refugee status and the relations between international refugee law, European refugee law and national laws on refugees in selected states.



Moreover, some supportive hypotheses have been formulated:

**H1:** To present securitization tendencies in refugee law, in terms of protecting one's own national interests and on the basis of the principle of sovereignty that narrows refugee protection by way of misinterpretation or inconsideration of the criteria defined in international and European law, and in case-law of the European Court of Human Rights and the Court of Justice of the European Union;

**H2:** The reception and the effect of international and European law and case-law on national constitutional orders in respect of refugee protection;

**H3:** To present refugee protection in constitutional orders of selected states, including effectiveness measures pertaining to the solutions implemented in those states;

**H4:** To establish and demonstrate a relationship between human rights, refugee law and migration policy through the means of explanation of political and humanitarian approach in international and European practice and in legal orders of selected states.

The first part of this paper is a presentation of a historical evolution of the problem of protection of persecuted people and the concept of asylum. This chapter presents also the approach of the international community to the phenomenon of forced migration.

The international protection of refugees is presented in the next chapter. The main issue is refugee protection in the 1951 Geneva Convention relating to the status of refugees and international refugee law and human rights. The human rights are the starting point for rights-based approach to protection. The human rights create a framework for broader and absolute protection of the rights of foreigners, including refugees, and at the same time they protect against excessive securitization of asylum policy. This part presents the international regulations as the basis for refugee decisions. The protection of persons seeking asylum in the European context was analyzed in this chapter. In particular, they have been taken into account the EU's common asylum system and the case law of the Court of Justice of the EU (CJEU) and the European Court of Human Rights (ECHR) and the impact and the role of the Council of Europe, in particular against the background of EU asylum system and the case law of the Court of Justice of the EU (CJEU) and the European Court of Human Rights (ECHR) and the impact and the role of the Council of Europe.



The last part is devoted to the refugee protection in the Constitutions of selected countries, namely: Canada, France, Switzerland and Poland. Sources of asylum law and the forms of protection to foreigners was presented in this chapter. In this part of the dissertation the basis for the constitutional and statutory rights of asylum and refugee status was analyzed. The definition of refugees and its interpretation in selected countries was shown in this dissertation.

This paper concerns the asylum policy and its related problems and solutions: in Canada, in the French Republic, the Swiss Confederation and the Polish Republic. The subject of the study included in this dissertation concerns regulations and institutionalised decision-making processes regarding asylum law, reduced to the protection in the form of refugee status in selected states.

The objective of this dissertation is the consideration of the most recent phenomena with regards to refugees, their impact on the development of legislation as well as institutional changes in that regard. It presents matters that govern legislation and are related to the asylum system, especially to granting refugee status.

The issues dealt with in this paper refer to the presentation of solutions used in selected states in terms of institutional and legal approach to the refugee and asylum problem. This dissertation depicts national, regional and international regulations which define the substance and nature of the asylum legislation. This is done through a holistic approach to the problems presented in this dissertation.

The effectiveness of the system of granting refugee status is of particular importance. Ensuring adequate legal and factual status for foreigners seeking protection plays a key role in determining legal position of foreign nationals and prejudices their rights, freedoms and duties. At the same time, it is crucial to settle this issue because of the matters relating to citizenship or resident status, or the prevention of grey market involving human trafficking, organised crime or terrorism. Since refugees pose a global problem, it is therefore important to focus the attention on providing the effective protection for refugees and on administering [managing] such protection.

Refugee problem is a global phenomenon, therefore, it is so important to regulate it at an international level, as well as regional and national level.