Chapter 4

Providente Asylum vs. the Council of Europe: The Case of Greece

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ABSTRACT

The existing European legislative frameworks seem to be unable to deal with the huge amount of refugees. Greece failed to fulfil its obligations according to the European Union Dublin Regulation and allowed refugees to move on a country of their choice. Therefore, taking into account the difficulties that the European states have to face regarding the increasing flow of refugees, the present chapter reviews the existing jurisprudence of the European Court of Human Rights regarding the protection of refugees, in order to explain whether the CoE Member States have obligation to protect and promote the rights of refugees. Moreover, it focuses on the contribution of the Council of Europe in the harmonisation of national policies towards the treatment of refugees. Finally, it assesses the Greek policies with regard to the treatment of refugees and suggests improvements in accordance with the Council of Europe’s recommendations.
INTRODUCTION

The recent report of the International Organization of Migration (hereinafter as IOM) showed that in 2015 more than 1,000,000 people crossed the Mediterranean borders of Europe (International Organization for Migration, 2015), followed by more than 230,000 people in the first semester of 2016 (International Organization of Migration report for the first semester of 2016). In addition, specialists are expecting the flows to increase until the end of 2016 and during 2017. In these numbers two main categories are included: the economic immigrants and the refugees (Art. 1 United Nations Convention relating to the Status of Refugees, 189 U.N.T.S. 150, entered into force April 22, 1954).

Having in mind the extremely massive immigration flows, the European States still make significant efforts to handle with their huge demands. Towards this direction, the European States are assisted by the guidelines of two most important regional organizations in Europe; the European Union (hereinafter as EU) and the Council of Europe (hereinafter as CoE). Both have already set the named ‘refugee crisis’ on the top of their agendas in order to address it as well and sufficiently as possible.

More significantly, the matter of refugees has drawn the attention of the CoE with regards to their protection and the elimination of any kind of action that opposes to their rights being on the center of any negotiation in which CoE takes part. Besides, the CoE, in order to protect and promote the human rights of refugees, attempts to harmonize the national standards in relation to the asylum procedures and the reception conditions (European Union Agency for Fundamental Rights, 2014).

Since 1949, the CoE has made an outstanding progress in the harmonization of the national policies of its -up-to-this-date- 47 Member States in the field of democracy, rule of law and human rights. The 47 Members States have enriched with the obligation to protect each and every person that lives within their national territory/jurisdiction regardless their nationality, sex, color and beliefs. A distinct example of the strict human rights protection is the obligations that the Strasbourg institutions create for the States and particularly for these States that have already ratified the European Convention of Human Rights (hereinafter as ECHR).

In addition, the CoE does not operate on its own for the protection of human rights. The established human rights monitoring system; such as the European Court of Human Rights (hereinafter as E CtHR) was created in order to supervise the States Parties in compliance with the ECHR provisions. In the event of any alleged human rights violation, the States and the individuals can bring their case in front of the E CtHR. Further, the E CtHR does not only vindicate the victims of any violation of their rights may be occurred by a State, but also imposes on the States the obligation
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