

The Performance of the European Union regarding the Acceptance and Support of Immigrants

Abstract

Several factors contribute to migration, including an unfavorable economic situation, continuing education, work, political and cultural issues, security concerns, war, etc. On July 20, 2001, the European Union regulations formed the legal basis of protection in the form of a directive of the European Council regarding the standards concerning people who have been forced to leave their country to provide support and acceptance to people who have come to the member states. The directive requires member countries to take the necessary steps to allow people to stay. At the same time, if the situation is only temporary, this circular suggests rules and minimums to create a safe environment for immigrants.

When controlling immigration, the relationship between governments and immigrants is considered. As national sovereigns, governments have the right to protect any of their interests, but discrimination and racism against immigrants are illegal under international law, especially international human rights law. There are two primary types of support available to immigrants. In the first instance (diplomatic support), it is described as support from the relevant government; in the second instance (treaties and human rights instruments), it is considered that people should have rights regardless of the situation, both in their home country and abroad.

The primary purpose of this study was to assist immigrants in international law, with a focus on the performance of the European Union. A descriptive-analytical method was used in this study. Thus, it should be noted that according to the Court of Human Rights, migrations are not always approved depending on the laws and conditions of each country.

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Introduction

The sociological sciences focus most of their attention on migration. However, it is also a topic of discussion in the legal sphere since migration often results in legal and judicial actions and reactions both in the country of origin and destination (immigrants first and immigrants last). In contrast, “migrant” does not have a legal meaning accepted globally under international law. However, in recent years, the rise of nation-states has given immigration a new order requiring unique concerns to be considered. This calls for more stringent regulations. Although the term “immigrant” is used to refer to a different idea, the term “immigrant” is commonly used to refer to seasonal and short-term immigrants. However, seasonal migration of employees and labor (for example, for less than a year) is commonly considered a form of migration. This is because the long-term residence is implicitly referred to as migration.

Migration is primarily caused by considerations of repulsion and attraction between countries. Immigration has both beneficial and negative effects on countries; international documents and organizations support the protection of immigrants under international law. Although nations have the right to conserve their resources, international law prohibits discrimination or bigotry toward immigrants. Only strong immigration control regulations can secure government security and interests. Consequently, governments must make plans in compliance with international documents and within this framework. By implementing immigration policies that benefit the country, European nations have attempted to

maximize the benefits of mass immigration while minimizing costs.

Europe has traditionally been a popular destination for immigrants and asylum seekers because of its economic, cultural, social, and political advantages. It has had a considerable influx of refugees, primarily from the Middle East and Africa, who have fled their home countries for various reasons, including safety, improved living conditions, and international protection. Since 2015, this issue has risen tremendously, contributing to Europe’s refugee crisis and posing difficulty for European nations attempting to safeguard migrants by adhering to human rights standards. So, the policies that helped asylum seekers have been changed to protect the Union’s privacy. This makes it harder for asylum seekers to get into the Union. No research has yet been undertaken on protecting immigrants under international law. The European Union used to be the global leader in immigration law, but now it takes a more passive approach. As a result of a large number of unwelcome immigrants, it is slowly becoming more supportive of measures to help asylum seekers.

The Union has abandoned its privacy protection measures and is progressively working toward implementing harsher admissions standards. Some EU member states, notably Cyprus, France, Greece, Malta, and Spain, received more asylum claims in 2019 compared to the migrant crisis of 2015 and 2016. Regarding 738,425 asylum application cases in 2019, Germany was responsible for 22%, France for 17%, and Spain for 16%. The number of refugee applications submitted

in Europe during the first two months of 2019 increased by 16%, but the COVID-19 epidemic precipitated a sharp 86% fall in applications. In April 2008, there were only 8,700 people seeking asylum in Europe, which was a record low. Even though the number of asylum petitions rose somewhat in May, this European organization believed that eliminating border restrictions after quarantine would return the situation to its pre-Corona state.

It should be noted, however, that all forms of immigration, including illegal immigration, asylum, the immigration of war victims, internally displaced people, political refugees, and brain drain, unavoidable phenomena in developing and third-world nations, have been covered by international law. Whether they do or not, it is essential to assess the European Union's policy towards them. This study uses descriptive and analytical methods to evaluate how well the European Union accepts and helps immigrants.

Temporary Protection under European Union Law

In EU member states, the term "temporary protection" has two distinct meanings. When a person requests asylum, the government immediately grants them temporary protection while processing the application. This pertains to mass immigration into the European Union. One of the best examples of how the temporary protection mechanism works are how some European countries helped people fleeing the war in Yugoslavia in the 1990s.

According to European Union regulations in the form of a "Directive of the Council of Europe" dated July 20, 2001, the standards for people who are forced to leave their country and, in the case of a group seeking asylum, to provide temporary protection and accept these individuals into the country, form the basis for temporary protection. The interim protection directive has been created, and member states have acknowledged its outcomes. In paragraph (a) of Article 2 of the circular, the term "temporary support" is defined as follows: "In the case of group asylum or the imminent threat of group asylum, people who come from third countries and cannot return to their countries have been forced to leave their country, mainly when the immigration system with this flow performs poorly. If he is affected and cannot handle it, these people are given temporary and immediate help in the best interest of those affected or others who need protection.

Group asylum is defined as follows: "A significant portion of those who were forced to leave their country originated from a certain nation or region and was transported there by themselves or others as a result of offering assistance and thus reaching the community, such as an evacuation program." Thus, the circular stipulates an interim protection period of one

year. Unless the Council decides to stop a case, this term can be automatically extended by six months up to one year.

The directive mandates that the member nations take the necessary steps to provide residence permits, necessary visas, including transit visas, a sheet outlining the rights and provisions for temporary protection within their borders, as well as the relevant person's personal information (name, nationality, date, and place of birth, marital status, and family relationships), as well as educational resources, professional training, and practical experience in the workplace. At the same time, the circular has suggested temporary measures and minimums for setting up a temporary protected status in case of a temporary situation.

The United Nations High Commissioner for Refugees defined "group asylum" as occurring when so many persons request asylum that they cannot individually go through the process on their own; this was stated in the circular¹.

Deportation

Deporting Aliens

Deporting aliens involves the removal of foreigners who were illegally present on the territory of the responding state and hence cannot be called "settled immigrants." The term "settled immigrants" refers to persons who have been granted the right to remain in the host country, only to have this privilege later rescinded. For instance, when the individual has been convicted of a criminal violation, the court applies Article 8 of the Convention's pertinent compatibility criteria. This article discusses the length of the applicant's stay in the country from which he is to be deported, the time elapsed since the commission of the crime, the applicant's conduct during that time, and the nationality of the applicant's family members. For instance, the length of the applicant's marriage and other aspects that represent the relationship of a couple's life should be considered; for instance, were the spouses aware of the offense before they began their lives together? Do they have children, and if so, how old are they? What difficulties may the applicant's family experience after deportation? In addition, the best interests and welfare of the children, including the severity of the issues and problems each of the applicant's children are likely to face in the country to which the applicant is deported. The strength of the children's social, cultural, and familial ties with the host and destination countries must be considered.

Furthermore, the duration of the exclusion order is essential, especially if the re-entry ban is temporary or permanent (Article 182). Article 184 says that, if needed, other parts of the case, like how it affects the patient's health, must be considered. The Court has considered instances under Article 8 addressing denial and whether it has occurred and scenarios

¹ Ministry of Interior of the Republic of Turkey, United Nations High Commissioner for Refugees, Turkey, Asylum

and Migration Regulations, Bashkent Printing House, Ankara, 2005, page 146

involving entrance to the territory for family reunification. A commitment to grant residence permits to individuals currently residing on the responding state's territory. Regarding the administrative fees that must be paid for a residence permit application to be processed, the court also considered how simple it was for a foreigner to use administrative procedures in their home nation. Recognizing that Article 6 of the Convention does not apply to the process of expelling aliens, governments adopted Protocol No. 7, which lays out the steps for this kind of operation. In a recent judgment, the court outlined its case law regarding the provision that applies to the deportation of foreigners who are lawfully residing in the territory.

The first fundamental assurance it provides is that the individual at issue cannot be deported except based on a decision made by a court of law. In addition to this essential legal requirement, paragraph 1 of Article 1 of Protocol No. 7 provides three specific procedural safeguards: foreign nationals must be permitted to give reasons against their deportation; have their case examined; and, lastly, for some instances, have their case dismissed. Objectives against the responsible authority In Protocol No. 7, Article 1 and Article 2 provide an exception that enables states to deport a foreigner who is legally resident in their territory even before using the rights listed in paragraph 1 of Article 1 in the interest of public order or for reasons related to national security. This can be done for reasons related to public safety or reasons related to national security. Take, for example, the situation of a Pakistani national who has obtained a student visa and is currently residing in Romania. They broke Article 1 of Protocol No. 7, but it was only because of national security concerns; they did not have access to any classified information at the time of the violation. They did not have access to the records utilized to make the decision, nor were they provided with specific details regarding the circumstances that led to their deportation. Therefore, they had a severe restriction on their capacity to access the material in the documents used to justify their deportation. This constraint was not addressed throughout the domestic processes. Even though the petitioners have not left the nation as the ruling instructed them to, Article 1 of Protocol 7 is still in effect because it was written into law.

Restriction of freedom of movement and detention for immigration purposes

After a foreign national has been issued a final order to be deported, his continued presence in the country is no longer considered "lawful." He cannot rely on the right to freedom of movement granted by Article 2 of Protocol No. 4. The provision of detention under Article 5 must be made in good faith to prevent arbitrary designation. It must have a strong connection to why the government is holding the individual in

custody. Both the custody location and the confinement terms must be appropriate. The period of confinement cannot go beyond what can be justified as being essential to accomplishing the goals of the facility. Detention should not be regarded as reasonably necessary to prevent the offender from committing a crime or fleeing the scene of the crime; it will only be justified while deportation or extradition processes are taking place. According to the first paragraph of Article 5, it does not make a difference if the decision that led to the expulsion or surrender of the individual can be justified by national law or the Convention.

Transferring a person in extremely bad health poses a significant danger, even if the transfer is carried out under medical supervision; this increases the likelihood that the person will be treated in a manner that violates Article 3 for that individual (Article 108). The evaluation of how a particular transfer will affect the person in question must be based on medical evidence that reveals the particular medical hazards involved in the situation. Because of this, it is essential to do an individual assessment of the patient's health and any special medical issues for each transfer, taking into account the specifics of each case.

In addition, this evaluation needs to consider the patient's present state of health. This is because the risks recognized at one moment in time may shift over time based on the individual, depending on whether or not the risks are transient or permanent. The progression of time should be measured according to how that person's health has altered over the years (Article 91).

In a case involving the return of an unaccompanied five-year-old child to its country of origin, the Court concluded that Belgium had breached Article 3. (Articles 71–64). I ensured that the infant was being cared for there. Article 3 may be violated by mistreatment by government officials during the deportation procedure. Also, a breach of confidentiality during the process of leaving, which could be a problem under Article 8 by itself, could lead to lousy treatment when the person returns, which is against Article 3.

In the Belgium case, the court concluded that the petitioner had not abandoned his Article 3 rights by signing a "voluntary return" paper at the airport, despite having an enforceable deportation order and being escorted to the plane by police. Consequently, the victim lost his position (Article 60–61).

Following Rule 39 of the Rules of Court, the Court has the right to order the respondent government to adopt any interim steps it deems necessary pending its review of the case.

In conformity with its established law and practice, the Court will only provide interim relief when there is a genuine and imminent threat of grave and irreparable harm. Typically, these actions demand that a government refrain from shipping individuals to locations where they could be exposed to torture,

execution, or other cruel treatment. They may also involve a request for the recipient country to accept and evaluate self-declared asylum petitions. Often, interim remedies are used for people being extradited or tried to get asylum but were turned down and did not have any current domestic appeals that could stop their departure.

In other immigration proceedings, such as child detention, the court also refers to temporary measures as “procedural features.” Because the respondent government did not meet any of the court’s Rule 39 requirements, Article 34 of the Convention was broken.

4. Applicants suffering from mental illness

In his case against Turkey, Tehrani talks about the return of Iranian citizens and former members of the People’s Mojahedin Organization of Iran, whom the UN High Commissioner gave refugee status for Refugees.

After one of the applicants wrote to the court requesting that his application be withdrawn, his attorney informed the court that he wished to follow up on the issue and that his client had poor mental health and needed therapy. The government determined that the petitioner did not have a mental condition, but the further evaluation was impossible due to his uncooperative nature. The court noted that one of the petitioner’s accusations related to the potential for death or ill-treatment and found that removing the case from its list would jeopardize the court’s ability to protect the right to life and physical health.

Having a person concerned about the applicant’s mental state and inconsistencies in the medical reports led to the judgment that respect for human rights as outlined in the Convention and its Protocols requires the continuation of the applicant’s studies (Articles 56–57).

If the deportation decision is not carried out and the individual stays on the territory of the country attempting to deport him, the six-month period does not begin (Articles 41–38). The same is true for dismissals based on the sending state’s supposed risk of flagrant denial of Articles 5 and 6 rights in the receiving state.

When the applicant is no longer at risk of deportation immediately or for an extended time, he may file an appeal against any new deportation order with national authorities. In contrast to the Court, the Court typically agrees that the application’s continuation under Article 37, paragraph 1 of the Convention is no longer justified and removes it from its list of cases, barring exceptional circumstances. Respect for human rights stipulated in the Convention and its protocols need a continuous examination of implementation. After taking a case off its docket, the Court keeps the right to bring it back at any time if it calls for it.

Following Article 37.2 of the Convention, after withdrawing an application from its list of cases, the Court may reinstate it at any time if the circumstances warrant it.

Conclusion

Many years ago, the European Union developed a discriminating stance towards immigrants. According to the listed situations involving refugees, the loss of life and the endangerment of people’s lives and dignity cannot be overlooked. According to international human rights documents, the minimum standards for immigrants, of which fundamental human rights are also considered a part, should be evaluated in multiple dimensions, such as the social, political, economic, cultural, and civil, and the European Union’s approach is contrary to this principle. The European Union has acted in such a way that it has always preferred to accept immigrants with a high level of knowledge and the ones who fulfill their needs, violating human respect and dignity. In the meantime, it is not without grace to acknowledge the role of Iran, one of the most critical countries in taking Afghan-Iraqi immigrants and refugees, which has done so even during times of crisis. Considering the extensive history of Afghan immigration to Iran, their sizeable quantity, and Iran’s success in this regard, a distinction may be made between these two performances.

Immigration management requires understanding the reciprocal rights and responsibilities of immigrants and governments. Some of the barriers that have prevented governments from paying attention to human rights treaties to safeguard immigrants, resulting in the non-implementation of its laws and regulations and the disregard of their rights, are as follows: Governments fear that human rights treaties may restrict or deny their sovereign authority to accept them. In the convention of migratory workers and their families, it is stated explicitly that certain governments cannot implement long-term objectives. The presented methodology of the treaties contrasts with the government’s aims, which are frequently based on security concerns. Governments’ pursuit of low-cost labor has also led to views on immigration that are incompatible with defending the labor rights of immigrants. These factors contribute to the improper understanding and recognition of human rights accords.

In any event, there are two critical support networks that immigrants benefit from. The first is protection from the relevant government, which is diplomatic protection. The second is derived from human rights treaties and documents and considers people entitled to rights both in their home country and in a foreign one, independent of nationality. Is. Within the context of these documents, the obligations of governments are evaluated separately and independently to follow and respect their requirements. The general protections provided by human rights documents under the headings

“everyone” and “any person” apply to all humans, including immigrants. However, as a vulnerable population, immigrants have unique needs and concerns and must receive additional protection from human rights documents. In this regard, there are further publications that, despite not being titled migration or immigrants, are related to it and have assisted immigrants in some way.

Consequently, various documents protect immigrants, with human rights documents being the basic set of legislation to protect immigrants, particularly illegal immigrants. In these documents, immigrants' rights vary based on the type of immigration. For instance, international documents on the status of refugees are consistent with the rights of those who fall inside the refugee concept. Documents about migrant workers have established the rights of all migrants hired and working outside their home country. International documents offer protection for all immigrants, regardless of their legal status. Even though many international documents do not acknowledge immigrants as a distinct group, they have supported them in various domains, including refugee and migrant worker rights. Therefore, human rights principles about immigrants and their protection are widely available in pertinent texts.

The rights of all migrants employed and working outside their governments are detailed in documents dealing with migrant workers. All immigrants are protected by international documents regardless of their legal status. Even though many international documents do not recognize immigrants as a distinct group, they have supported them in other areas, including refugee and migrant worker rights. So, the immigrants' human rights and their protection criteria are written down in relevant documents.

At every level of the immigration process, respect for the human rights of immigrants should be taken into account. This is a responsibility mandated by international conventions, and nations are required to incorporate it into their immigration procedures. In accordance with international law, particularly international human rights, all human beings, including nations and immigrants, are endowed with fundamental rights and liberties.

Immigrant protection is less developed than refugee protection, and it is impossible to identify a single protection system for immigrants. For this reason, international law, human rights, and labor law often favor immigration. Although there are particular documents for some vulnerable groups, such as children and refugees, there is currently no comprehensive document that protects all immigrant groups and covers all their relevant aspects. Even though the situation improved slightly with the passage of the Migrant Workers Convention and immigrants received more attention than previously, this

treaty was limited to legal and illegal migrant workers and did not include all immigrants.

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