Abstract

The presented diploma thesis called "*Legality of extraterritorial processing of applications for international protection under international law*" explores the phenomenon of offshore processing of applications for international protection, a practice that has a long history in Australia and that has recently inspired similar practices in Europe. The thesis aims to determine whether existing offshore systems are consistent with fundamental international human rights treaties, and to subsequently identify whether there can potentially be such a system in line with those treaties. In its first part, the thesis differentiates the term "applicant for international protection" from the term "refugee", while highlighting the specific legal status of an applicant, who is provisionally afforded certain rights until the application is resolved. The first part also enumerates the international treaties, which form the frame of reference used to determine legality in this thesis. The second part begins with description of Australia's system of removing people seeking protection in Australia to offshore detention centres in Papua New Guinea and Nauru. It is followed by a legal analysis, which focuses on the topic of extraterritorial application of human rights obligations. The rest of the analysis identifies rights stemming from the international treaties set out as frame of reference, while sorting related rights into several groups. The results of conducted legal analysis are afterwards put into context of findings about operation of Australia's offshore system. The second part concludes by summarizing the most serious violations of applicants' rights and outlines the potential form of an offshore system that would be in line with identified rights. The last part shifts the focus to Europe, where similar systems have recently been introduced by the United Kingdom and Denmark. A brief description of both initiatives is followed by an analysis of The Convention for the Protection of Human Rights and Fundamental Freedoms, which focuses particularly on comparison between the crucial European human rights codification and the rights identified in the second part of the thesis. At the very end, conclusions are drawn about the British and Danish initiatives' respect for international human rights obligations. Conclusions are also drawn about the extent to which the legal analysis in the third part modifies the theoretical model outlined in the conclusion of the second part.