

Acknowledgements

To write a PhD. thesis is a great experience. To do a PhD. abroad, gives you also the opportunity to experience the academia life at the host university and to get to know the culture of the country.

Looking back on the time that I spent at Erasmus University writing this thesis, I must admit that even though it was not easy, I enjoyed doing this research, as well as giving classes to the exchange students very much. I am grateful for being given the chance to have such a great experience. My very special thank to Professor Dr. Jaap W. de Zwaan, who encouraged me to come to the Netherlands to do research on European Union and Slovak asylum law under his supervision. Thank you for directing me through my research and for all your help during my stay. I would also like to thank the members of my doctorate committee for their valuable comments.

Thanks to Dr. Delano Verwey and Silvia Romein for reading my whole thesis patiently and for their helpful comments and encouragement. Thanks again to Silvia for helping me with the Dutch Summary; and with Türkan Ertuna for being not only nice colleagues but also good friends with whom I could always share my opinions and feelings. I had very good working conditions at the EU Law department and I am grateful for that to all of my colleagues.

One chapter of my research deals with the state of affairs of asylum in Slovakia. As far as the level of complexity in gathering information and documents is concerned, this was the most troublesome part of the whole research. Therefore, I would like to give thanks to everybody who made this less of an obstacle by sharing their experience and knowledge with me. The people at the UNHCR office in Bratislava were always very welcoming and helpful; my particular appreciation goes to Mr. Pierfrancesco Maria Natta, who also provided me with his comments on chapter 3 and to Mr. Ján Šikuta.

I am also grateful to people from the Slovak Ministry of Interior, the Migration Office, the Regional Court in Bratislava, the Institute for the Approximation of the Law of the Slovak Government, the Slovak Ministry of Foreign Affairs and the Embassy of Slovakia in the Netherlands, the Ministry of Justice of the Netherlands, the General Secretariat of the Council of the European Union and the Commission of the European Union - DG Justice and Home Affairs for their suggestions and help.

When the research and the writing of the PhD. thesis approach the end, one finds out that the PhD. is not only about doing research and writing the thesis, but also about checking the spelling, correcting the language constructions and arranging the technical parts related to its publishing. Here I would like to express my gratitude to PhDr. Erna Haraksimová, PhDr. Mária Rupprechtová and Mgr. Ľubka Jurická, PhD. from the Department of Languages of the Faculty of Arts, Bratislava for checking my English. Mrs. Gloria Jean Garland provided me with excellent comments on the linguistic and legal aspects of my thesis. Thanks also to Laura Schepers, a student assistant at the EU Law department, for her help.

It has been very important for me to have a support of my family and friends back home, friends living in other countries and those I met here in the Netherlands. Thanks to everyone who helped me to feel here at home and on whom I could always rely. You all have been my big adoptive family in the Netherlands and although I cannot mention you all, I am genuinely grateful to every one of you: Tiny Gerrickens, Ingrid Neuman, Peter and Mercedes Higgins, Veronika de Waal, Jaroslav and Pavla Sova, Mirka Graeffinger, Rolf and Suus Kroes, father Rafael Ojeda, Mari Carmen Versteeg, Mrs. Lelieveldt, Anna Mignosa, Alessandra Arcuri, Barbara van der Zon, Yariv Ilan and Hila Nevo-Ilan, Daniëtte de Groot and Moody Aboutaleb, Cathelijne van der Schoot.

Even though that after staying abroad for a longer time one changes and many things might appear different, deeply in my heart I believe that everything good that I have learnt and received at home will always remain a vital part of me. I want to thank my dear parents who have always been a great support and a good example for me. Despite the distance, we were always very close to each other. I am also very grateful to my dear grandparents who already passed away. Thanks to my sister Katarína for her encouragement and good humour and to her family where I always found a nice place to rest. Thank you all for your love, care and patience.

Thanks to all my relatives and friends for their support, for always letting me know that I can count on them even if being far away from each other. This thesis would have never been written without the considerable help from you all. Special thanks go to my husband Humberto who helped me greatly and who has been here for me at the happy moments as well as at the difficult ones. He read my whole thesis and gave great ideas. He always managed to make me laugh and he has been an excellent husband. I dedicate this thesis to him.

TABLE OF CONTENTS

Introduction.....	1
 Chapter 1 Towards a Common European Asylum System.....	7
1.1 Introduction.....	7
1.2 Geneva Convention (1951).....	8
1.3 Internal market: freedom of movement.....	10
1.4 Schengen Agreement (1985) and Schengen Implementation Convention (1990).....	12
1.5 Dublin Convention (1990).....	14
1.6 Treaty of Maastricht (1992).....	17
1.7 Treaty of Amsterdam (1997).....	18
1.7.1 Area of Freedom, Security and Justice.....	19
1.7.2 Title IV TEC.....	22
1.7.3 Protocols.....	22
1.7.3.1 Asylum for nationals of Member States.....	22
1.7.3.2 The position of the United Kingdom, Ireland and Denmark.....	23
1.8. Tampere Conclusions (1999).....	25
1.9 Treaty of Nice (2001).....	28
1.10 Institutional Aspects.....	29
1.10.1 Decision-making.....	29
1.10.1.1 Council.....	29
1.10.1.2 Commission.....	31
1.10.1.3 European Parliament.....	31
1.10.2 European Council.....	32
1.10.3 Court of Justice.....	33
1.11 Conclusions.....	34
 Chapter 2 EU Legislation on Asylum.....	37
2.1 Introduction.....	37
2.2 Responsible Member State.....	38
2.2.1 Evaluation of the Dublin Convention.....	38
2.2.2 New hierarchy of criteria.....	44
2.2.3 Evaluation of the 'Dublin II' Regulation.....	46
2.2.4 Eurodac.....	51
2.3 Reception.....	52
2.4 Qualification.....	56
2.4.1 Assessment of applications.....	58
2.4.2 Refugee.....	62
2.4.3 Subsidiary protection.....	66
2.4.4 Content of International Protection.....	68
2.5 Procedures.....	70
2.5.1 General provisions.....	72
2.5.2 Basic principles and guarantees.....	72
2.5.3 Procedures at first instance.....	78
2.5.4 Procedures for the withdrawal of refugee status.....	91
2.5.5 Appeal procedures.....	92
2.6 Temporary protection and burden-sharing.....	95
2.6.1 Temporary protection.....	99
2.6.2 Solidarity between Member States (Burden-sharing).....	102

2.6.2.1	European Refugee Fund.....	102
2.7	Other Directives.....	104
2.7.1	Family reunification.....	105
2.7.2	Long-term residents.....	107
2.8	Conclusions.....	108

Chapter 3 The Perspective of a new Member State: Slovakia.....111

3.1	Introduction.....	111
3.2	EU-Slovakia relations before joining the EU.....	112
3.3	The challenges of harmonisation.....	114
3.4	Evolution of the Slovak Asylum Legislation.....	115
3.4.1	The beginnings of the Slovak asylum law.....	116
3.4.2	Amendment to the 283/1995 Refugee Law.....	120
3.4.3	Asylum Law 480/2002.....	120
3.4.3.1	Procedural aspects.....	124
3.4.3.2	Review of decisions.....	125
3.4.4	Two examples of Court decisions.....	127
3.4.5	Considerations concerning the Slovak Asylum Law.....	129
3.4.6	Amendment to the 480/2002 Asylum Law.....	130
3.5	Assessment by the European Commission.....	131
3.6	Implementation.....	134
3.6.1	A fictitious case.....	135
3.6.1.1	Entry into the asylum procedure.....	136
3.6.1.2	Registration at the reception centre.....	138
3.6.1.3	Procedure leading to a first-instance decision.....	139
3.6.1.4	First-instance decision.....	140
3.6.1.5	Appeal against a first-instance decision.....	141
3.7	Conclusions.....	144

Chapter 4 The Future of the EU Asylum Policy.....149

4.1	Introduction.....	149
4.2	Communications of the Commission.....	150
4.2.1	“Towards more accessible, equitable and managed asylum systems”.....	150
4.2.2	“Area of freedom, security and justice: assessment of the Tampere programme and future orientations”.....	154
4.2.3	“On the managed entry in the EU of persons in need of international protection and the enhancement of the protection capacity of the regions of origin - Improving access to durable solutions.....	156
4.2.4	“A more efficient Common European Asylum System: the Single Procedure as the next step”.....	162
4.3	Activities of the Council.....	164
4.3.1	Evaluation of the Conclusions of Tampere (6 December 2001).....	164
4.3.2	Laeken European Council (14-15 December 2001).....	166
4.3.2.1	Laeken Declaration on the future of the European Union.....	167
4.3.3	Seville European Council (21-22 June 2002).....	167
4.3.4	Council (5-6 June 2003).....	170
4.3.5	Thessaloniki European Council (19-20 June 2003).....	170
4.3.6	Brussels European Council (12-13 December 2003).....	171
4.3.7	Council (29-30 April 2004).....	172
4.3.8	Council (19 July 2004).....	172
4.3.9	Brussels European Council (4-5 November 2004).....	173

4.4	The Hague Programme.....	173
4.4.1	Common European Asylum System.....	175
4.4.2	External dimension of asylum and migration.....	177
4.4.3	Action Plan.....	179
4.5	Conclusions.....	182
Concluding Remarks.....		185
1.	Common European Asylum System.....	185
2.	Implementation in Slovakia.....	185
3.	More effective solutions?.....	187
4.	A complex problem.....	187
5.	A balanced approach.....	188
6.	External dimension.....	188
7.	Internal dimension.....	189
8.	Constitutional Treaty.....	190
9.	The immediate future.....	191
Selected Bibliography.....		193
Selected Documents.....		201
Index.....		207
Samenvatting (Summary in Dutch).....		213
Curriculum vitae.....		219