



THE PLACE OF REFUGEE RIGHTS IN THE EUROPEAN LEGAL SYSTEM: INTEGRATION OF HUMAN RIGHTS PRINCIPLES

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<https://doi.org/10.5281/zenodo.15472215>

Abstract. This article explores the position of refugee rights within the European legal system, analyzing how core human rights principles are integrated into laws and policies governing asylum and migration. It examines international legal obligations, particularly the 1951 Refugee Convention and the European Convention on Human Rights (ECHR), and their influence on European Union (EU) legislation and the jurisprudence of the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU). The article also considers the impact of recent refugee crises on the evolution of legal norms and assesses whether the European legal framework sufficiently protects the rights of refugees, especially in the context of border controls, detention, non-refoulement, and socio-economic rights. Through doctrinal and comparative legal analysis, the paper argues for a more cohesive and rights-based approach to refugee protection in Europe.

Keywords: Refugee rights, European legal system, human rights, European Union, ECHR, asylum, non-refoulement, ECtHR, migration law, international protection

Introduction. The ongoing challenges posed by global displacement have placed refugee protection at the forefront of European legal and political discourse. In recent decades, the European legal system has become a pivotal arena for defining and defending refugee rights. As migration pressures increase due to armed conflicts, political persecution, and climate change, the legal mechanisms designed to safeguard the rights of refugees are being tested.

This article investigates the integration of human rights principles into the European refugee protection regime. It focuses on the legal interplay between international refugee law and European human rights law, emphasizing the normative frameworks that guide states' obligations toward asylum seekers and refugees. Special attention is given to how the European Court of Human Rights and the Court of Justice of the European Union interpret and enforce such rights within the European context.



The 1951 Refugee Convention and Its Relevance in Europe. The cornerstone of refugee protection is the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, which define a refugee and outline the rights and obligations of both refugees and host states. Although the Convention is an international treaty, it has been deeply embedded in European legal systems through national legislation and EU directives.

One of the key principles is non-refoulement (Article 33), prohibiting the return of refugees to territories where their life or freedom would be threatened. This principle is considered a peremptory norm of international law and is reinforced in European human rights instruments.

European Convention on Human Rights (ECHR). The ECHR, adopted in 1950 under the Council of Europe, does not directly regulate asylum but provides crucial human rights safeguards for everyone within the jurisdiction of its signatories, including refugees and asylum seekers. Article 3 (prohibition of torture), Article 5 (right to liberty and security), and Article 8 (right to private and family life) are particularly significant in asylum jurisprudence.

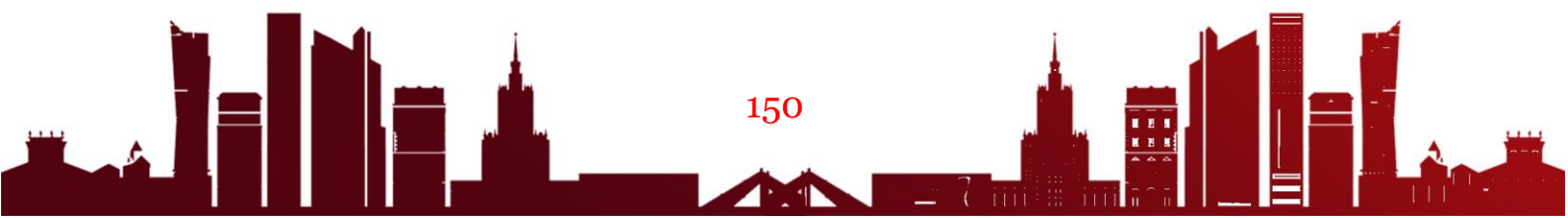
The ECtHR has interpreted these rights in a manner that effectively supports refugee protection. For example, in *M.S.S. v. Belgium and Greece*, the Court found violations of Article 3 due to inhumane conditions faced by asylum seekers returned under the Dublin Regulation, thereby indirectly enforcing the non-refoulement principle.

The Common European Asylum System. The CEAS represents the EU's commitment to harmonizing asylum procedures and standards across member states. It comprises several key legal instruments:

- Asylum Procedures Directive (2013/32/EU)
- Reception Conditions Directive (2013/33/EU)
- Qualification Directive (2011/95/EU)
- Dublin III Regulation (604/2013)

These instruments aim to ensure uniform standards for refugee status determination, reception conditions, and burden-sharing. However, disparities in implementation and systemic deficiencies in some states have undermined the effectiveness of the CEAS.

The Charter of Fundamental Rights of the EU. The Charter, which became legally binding with the Lisbon Treaty in 2009, elevates human rights within the EU legal order. Article 18 explicitly guarantees the right to asylum in accordance with the 1951 Convention. Article 19 reinforces the non-refoulement principle





by prohibiting collective expulsions and removals to countries where individuals risk serious harm.

The CJEU has increasingly interpreted EU asylum law in light of the Charter, as seen in *NS v. Secretary of State for the Home Department* (C-411/10), where the Court ruled that member states must not transfer asylum seekers to other EU states where systemic deficiencies in asylum procedures may violate their fundamental rights.

The European Court of Human Rights (ECtHR). The ECtHR plays a critical role in shaping refugee rights through its interpretation of the European Convention on Human Rights. Even though the Convention does not directly mention asylum, the Court has consistently interpreted its provisions to apply to refugees and asylum seekers in a protective manner.

A key case in this context is *Hirsi Jamaa and Others v. Italy*, where the Court ruled that the interception and forced return of migrants on the high seas violated Article 3 (prohibition of inhuman or degrading treatment) and Article 4 of Protocol No. 4 (prohibition of collective expulsion). The Court emphasized that ECHR rights apply extraterritorially when a state exercises effective control over individuals, reinforcing the universality and indivisibility of human rights protections for refugees.

In *M.S.S. v. Belgium and Greece*, as mentioned earlier, the Court established that inhumane reception conditions and deficient asylum procedures can themselves amount to a violation of Article 3. This decision triggered widespread debate over the implementation of the Dublin III Regulation and led to a temporary suspension of transfers to Greece by several EU countries.

The Court of Justice of the European Union (CJEU). The CJEU, while traditionally more focused on economic and institutional matters, has become an increasingly influential body in refugee protection, particularly after the Lisbon Treaty.

In *Abdullah v. Bundesrepublik Deutschland* (C-175/17), the CJEU ruled on the cessation of refugee status under the Qualification Directive, emphasizing the need to assess whether the individual continues to face a real risk upon return. The Court emphasized consistency with international refugee law and the Charter of Fundamental Rights, reinforcing a rights-based interpretation.

The *Jawo v. Germany* (C-163/17) ruling also demonstrated the Court's commitment to human rights: it ruled that an asylum seeker cannot be transferred under Dublin rules if there is a real risk of inhuman or degrading treatment due to systemic flaws in the receiving state's asylum system.



Legal Nature and Binding Force. Non-refoulement, as enshrined in Article 33 of the 1951 Convention and Article 3 of the ECHR, prohibits states from expelling or returning an individual to a country where they face a real risk of persecution, torture, or other serious harm. In the European context, this principle has gained additional strength through its recognition in the Charter of Fundamental Rights (Article 19) and national constitutions.

The ECtHR has affirmed that non-refoulement is an absolute right under Article 3, meaning it allows for no exceptions or derogations, even in cases involving national security or terrorism.

Despite its strong legal basis, the application of non-refoulement in practice faces substantial challenges. Border pushbacks, offshore processing, and third-country agreements have led to widespread criticism from human rights organizations and scholars. These practices often circumvent judicial oversight and place refugees at risk of indirect refoulement.

Moreover, the concept of “safe third country” has been used to justify denying asylum claims without a full assessment of the risk upon return, raising serious concerns about compliance with international standards.

Legal Framework. The Reception Conditions Directive outlines minimum standards for the housing, health care, and subsistence of asylum seekers. It obliges member states to ensure a standard of living adequate for the health and well-being of applicants.

However, reports from civil society and EU bodies highlight significant discrepancies in implementation. In countries like Hungary and Greece, reception conditions have been repeatedly criticized for violating basic human dignity.

Access to Health, Education, and Employment. Access to socio-economic rights is a fundamental component of refugee protection. The Qualification Directive grants recognized refugees and subsidiary protection beneficiaries access to health care, education, and the labor market. However, in practice, bureaucratic barriers, language obstacles, and xenophobia often impede full enjoyment of these rights.

Moreover, the ECtHR has expanded the scope of Article 8 of the ECHR (right to private and family life) to cover aspects of integration, education, and even housing in certain refugee-related cases, such as *Paposhvili v. Belgium*, where the Court stressed the need for humane treatment of seriously ill migrants.

Detention of Asylum Seekers. While EU law permits detention under specific conditions (e.g., to verify identity or prevent absconding), the ECtHR has



held that such detention must be lawful, necessary, and proportionate under Article 5 of the ECHR.

In *Saadi v. United Kingdom*, the Court upheld detention during the initial asylum determination but stressed that it must be accompanied by procedural safeguards. Arbitrary or prolonged detention without judicial oversight has been deemed unlawful in several rulings.

External Border Control and the Rise of Pushbacks. Pushbacks—where migrants are summarily expelled without due process—have been widely reported at EU external borders, particularly in Croatia, Greece, and Hungary. These practices violate both the procedural rights of asylum seekers and the non-refoulement principle.

The ECtHR and human rights NGOs have raised concerns over these incidents, but enforcement mechanisms remain weak. The European Border and Coast Guard Agency has faced scrutiny over its complicity in such actions, prompting calls for stronger accountability and transparency.

Legal Status and Pathways to Permanent Residency. After recognition of refugee status or subsidiary protection, individuals are entitled under EU law to residence permits, access to social benefits, and in some cases, eventual naturalization. The Qualification Directive provides a harmonized framework for these rights, ensuring that recognized refugees receive at least the same treatment as nationals in key areas such as employment, education, and access to welfare.

However, discrepancies in national implementation still persist. For example, while some states grant refugees indefinite residence permits after five years, others impose burdensome renewal requirements or administrative barriers. Legal uncertainty can severely affect the integration prospects of refugees and undermine their socio-economic stability.

The Racial Equality Directive (2000/43/EC) and Employment Equality Directive (2000/78/EC) offer additional safeguards by prohibiting discrimination on the basis of race, religion, or ethnicity in areas such as housing, employment, and social services. However, studies show that refugees face considerable challenges in practice, including institutional discrimination, social marginalization, and barriers to recognition of qualifications. Programs aimed at facilitating integration—such as language training, vocational education, and cultural orientation—vary significantly across the EU. The most successful examples (e.g., Sweden and Germany) typically combine legal



protection with inclusive policies grounded in human rights and anti-discrimination principles.

Rise of Nationalist Politics and Restrictive Policies. In recent years, the rise of nationalist and right-wing populist movements in several EU countries has led to increasing politicization of migration and asylum issues. Governments in Hungary, Poland, and Italy have introduced restrictive laws that undermine the spirit of EU asylum directives and human rights norms.

Hungary's construction of a border fence and the criminalization of asylum assistance have prompted multiple infringement proceedings by the European Commission and condemnation by the ECtHR. Yet, enforcement remains politically sensitive and slow.

The Rule of Law Crisis and Solidarity Breakdown. The EU's asylum system is premised on mutual trust among member states. However, growing divergence in compliance with fundamental rights and the erosion of judicial independence in some states (notably Hungary and Poland) have triggered a rule of law crisis that threatens this trust.

The breakdown of solidarity became particularly evident during the 2015 refugee crisis, when frontline states like Greece and Italy were overwhelmed, and efforts to relocate asylum seekers under a temporary quota scheme were largely ignored by other members. The CJEU in *Slovakia and Hungary v. Council* (Joined Cases C 643/15 and C 647/15) upheld the legality of this relocation mechanism, but political resistance rendered it ineffective.

The New Pact on Migration and Asylum. In 2020, the European Commission proposed a New Pact on Migration and Asylum, aiming to reform the CEAS and strike a balance between solidarity and responsibility. Key elements include:

- A flexible solidarity mechanism allowing states to choose between relocation, return sponsorship, or capacity-building;
- A common pre-entry screening process;
- Accelerated border procedures and revised asylum management tools.

While the Pact aims to streamline procedures and enhance cooperation, human rights organizations have criticized it for prioritizing border control over legal protection, fearing an erosion of individual procedural safeguards.

Enhancing Judicial Oversight and Accountability. A crucial component of strengthening refugee rights is ensuring robust judicial oversight. The ECtHR and CJEU must continue to play a proactive role in scrutinizing national practices and interpreting EU and ECHR norms in a rights-protective manner.



Further, mechanisms like the European Union Agency for Fundamental Rights and national human rights institutions should be empowered to monitor asylum conditions and address violations in real time. Greater civil society engagement and legal aid support can also improve access to justice for refugees.

Conclusion. Refugee rights occupy a complex and evolving position within the European legal system. While Europe boasts some of the strongest legal instruments for the protection of fundamental rights, the reality for many refugees and asylum seekers remains precarious. Legal guarantees are often undermined by political resistance, inconsistent implementation, and systemic shortcomings.

This article has demonstrated that the integration of human rights principles into refugee law—particularly through instruments like the ECHR, the EU Charter of Fundamental Rights, and the 1951 Refugee Convention—is central to the European approach. Jurisprudence from the ECtHR and CJEU has progressively expanded the protective scope of these rights, affirming non-refoulement, access to justice, humane treatment, and socio-economic entitlements.

Nonetheless, challenges persist. Pushbacks, arbitrary detention, inadequate reception conditions, and the rise of nationalist policies continue to strain the coherence of the Common European Asylum System. The proposed reforms under the New Pact on Migration and Asylum offer both opportunities and risks, and their success will largely depend on sustained political will and rigorous rights-based scrutiny.

Moving forward, the European legal system must reaffirm its commitment to the foundational values of human dignity, equality, and solidarity. Only through the full and consistent integration of human rights principles into refugee law and practice can Europe uphold its international obligations and moral responsibility toward those fleeing persecution and conflict.

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