

## 28 NAGY BOLDIZSÁR, A MAGYAR MENEKÜLTJOG ÉS MENEKÜLTÜGY A RENDSZERVÁLTOZÁSTÓL AZ EURÓPAI UNIÓBA LÉPÉSIG – ERKÖLCSI, POLITIKAI-FILOZÓFIAI ÉS JOGI VIZSGÁLÓDÁSOK

*(Boldizsár Nagy, Refugee Law and the Status of Refugees in Hungary from the Change of Regime to the accession to the European Union – Moral, Political Philosophical and Legal Disquisitions, Budapest, Gondolat Kiadó 2012)*

*Eszter Kirs\**

The basis of the monograph of Boldizsár Nagy was his doctoral thesis. The synthesis of his thoughts about the theory of free movement of refugees, and the Hungarian refugee law is the result of the thorough research and the professional experiences that the author has gained in the field of refugee law. The style of the book makes it easily readable and the multidisciplinary character of the author's arguments provides an interesting reading for everyone interested in the issue of the status of refugees. The author analyses refugee law and the relevant practical matters using moral, philosophical, legal political, sociological and economic arguments, providing valuable reading not only for lawyers.

Boldizsár Nagy is a well-known and widely acknowledged expert of refugee law both in Hungary and on the international academic scene. In addition to lecturing at the Faculty of Law of the Eötvös Loránd University of Budapest and the Central European University, he was involved as an expert in the drafting of the Acts on Hungarian refugee law of 1997 and 2010, and he contributed to the work of the UNHCR, the Council of Europe, the Refugee Association (Menedék Egyesület) and the Hungarian Helsinki Committee

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(Magyar Helsinki Bizottság). He is the author of more than 50 academic papers and articles on refugee law.

The author discusses two major topics. In the first part of the volume he analyses the moral philosophical, economic, cultural and historical arguments which strengthen the obligation of states to provide efficient protection to refugees. In the second part of the monograph, from the perspective of these arguments, he introduces the status of and the law on refugees in Hungary from the change of the regime in 1989 to the accession of the state to the European Union in 2004.

The author is arguing for the big dream of open borders. The hypothesis might look like utopian for the first sight. Then, the scepticism reduces from chapter to chapter and finally even the most sceptic reader may qualify the views of the author as realistic. The analysis of statistics on migration and the experiences gained by the enlargement of the European Union led the author to the conclusion that an international order without borders would not implicate significant threats on national interests. Questioning major arguments of communitarian theories, the author emphasizes that migration does not create any substantial danger on the democratic and economic order maintained within a state or the culture of the majority of the population. At the same time, he does not exclude the necessity of specific rules on the restriction of the right to free movement of those individuals who are endangering public order or public safety.

Following the discussion of the theory of open borders, the author introduces the arguments for the obligation to protect refugees and against their automatic refusal on the borders. The line of his arguments is determined by the standpoint of the universal egalitarian: "All people are equal by nature having equal dignity and freedom, and the interests of none may overrule those of the others. Human beings are members of the undivided community of humanity." (p. 68) At the same time, the author puts on also the glasses of national, ethnic and religious communities and discusses the tradition of the reception of refugees and the obligation for that based on historic debts. From the point of view of political utility, he comes to the conclusion that the efficient protection of refugees can be deemed also as national interest. At the end of the first part of the book, the author emphasizes the unavoidable legal obligation of states (based on Art. 33 of the Geneva Convention) not to deny automatically the entrance of any refugee no matter if his or her status is certified by the competent national authorities. Then, he analyses the possibility of qualifying the principle of *non-refoulement* as a norm of international customary law or as an imperative norm of international law.

In the second part of the monograph, the creation and amendments of Hungarian law on the status of refugees are introduced in a clearly structured way from the change of the regime in 1989 to the accession of the state to the European Union in 2004. The author builds up his arguments taking into account not only international legal obligations but also the context of the political and academic dialogue. As such, he sheds light on all the

gaps and anomalies in the system of norms and institutions of Hungarian refugee law. He describes how refugees who arrived from Rumania at the change of regime and the masses of those who fled the former Yugoslavia during the Balkan War fell out of the system of norms and institutions for the protection of refugees and were put into an uncertain legal category. Thereafter, he discusses in details the absurdity of the geographic restriction maintained by Hungary while joining the Geneva Convention in 1989.

The accession of Hungary to the European Union spurred the Hungarian legislation to draft a law on the status of refugees and to harmonize domestic law with international obligations. Nevertheless, the drafting procedure in 1997 lacking thorough discussions and analysis manifested once again a restrictive refugee policy. Although the geographic restriction was removed from the domestic regulation, the adopted act did not reflect international standards outlined by the Geneva Convention. Certification of the refugee status by the competent national authority and residence in the territory of Hungary were set as pre-conditions of the refugee status. The amendment of the act adopted in 2001 did not fill in the gaps to be found in the law. The author compares Hungarian law with international norms of refugee law systematically. He demonstrates discrepancies with regard to the definition of the notion of protected persons, the notions of safe third countries and safe country of origin, the rules of procedure and the problem of detention. The reader is provided with the description of practical implications of the insufficient regulation. The goal of the author is to draw attention to the need for changes. He provides a guideline for the legislator how to harmonize domestic law with international legal norms.

The multidisciplinary approach of the author makes the volume a multi-faceted analysis meeting the complexity of the issue. His excellent idiom and the diagrams and charts makes the arguments of the author easily comprehensible. Due to the above described characteristics of the book, it is a valuable reading for many kinds of readers who are interested in the protection of refugees. It can be a guideline for the legislator and for the competent national authorities of law enforcement, a resource rich in inspiring theories and new information for researchers and an interesting reading describing practical problems for the lay reader.