LIVING IN LIMBO – BETWEEN HOPE, CRIME AND DEPORTATION

Non-removable irregular migrants in Austria

Supervisor: Prof. Paolo De Stefani

Candidate: Philipp Hamedl

A.Y. 2013/2014
ABSTRACT

The number of failed asylum seekers and irregular migrants who have lost or never had the right to stay but cannot be removed to their countries of origin is rising all over Europe. Practical and technical obstacles such as the absence of travel documents due to the lack of cooperation from countries of origin and difficulties in identifying the individual are the most frequent reasons preventing removal. The EU Directive 2008/115/EC on common standards and procedures for returning illegally staying third-country nationals lacks clear guidelines on how to deal with this residual group of “undesirable” migrants. Only a few EU Member States provide sufficient legislation to protect the human rights of non-removable migrants, others leave them vulnerable to human rights violations, in a legal limbo situation for years.

This research examines the policies and procedures of Austrian immigration and prison authorities and their correlation with social exclusion and crime. It highlights the vicious circle of irregularity and its effect on the well-being by focusing with semi-structured interviews with prison inmates on this even more excluded group of migrants who are considered a “threat to the society”. Recommendations in order to meet international human rights obligations conclude this thesis.

Key words: irregular migrants, return, removal, non-removability
TABLE OF CONTENTS

LIST OF FIGURES AND TABLES.........................................................................................9
INTRODUCTION ..........................................................................................................................10
  1.  Context and content ...........................................................................................................10
  2.  Structure and approach of the thesis ................................................................................15
  3.  Case story ............................................................................................................................17
PART I – THE ISSUE: Non-removable irregular migrants ..............................................21
  1.  Number of IM and NRIM in Austria and the EU ......................................................21
     1.1  Number of IM in Austria .........................................................................................22
     1.2  Number of IM in the EU .........................................................................................23
     1.3  Number of NRIM in Austria ..................................................................................25
     1.4  Number of NRIM in the EU ...................................................................................27
  2.  Legal analysis of irregularity and non-removability .................................................29
     2.1  The main pathways into irregularity ..........................................................................30
     2.2  The Return Directive .................................................................................................33
     2.3  Reasons preventing removal ....................................................................................35
     2.4  Practical circumstances and technical reasons preventing removal .........................37
     2.5  Cooperation with/of the country of origin .................................................................38
     2.6  Cooperation of the IM .............................................................................................40
     2.7  Policy options of the immigration authorities of Austria .........................................42
  3.  Assessment .........................................................................................................................47
PART II – CASE STUDY ON NRIM IN AUSTRIA: Trapped ..............................................50
  1.  Human rights of IM ............................................................................................................51
  2.  Social exclusion of NRIM .................................................................................................53
  3.  Psychosocial strains of NRIM .........................................................................................57
  4.  The well-being of NRIM .....................................................................................................59
     4.1  Pre-migration ..............................................................................................................61
     4.2  The migration / flight ..................................................................................................62
     4.3  Post-migration .............................................................................................................62
  5.  Qualitative study: Interviews with inmates of an Austrian prison ....................................63
Living in limbo: between hope, crime and deportation: non-removable irregular migrants in Austria

Hamedl, Philipp

https://doi.org/20.500.11825/378

Downloaded from Open Knowledge Repository, Global Campus’ institutional repository