

dr. Wetzel Tamás

Immigraion in Hungary

Ph.D. Thesis Abstract

Supervisor:

Prof. Dr. Kilényi Géza DSc, professor emeritus

Dr. Varga Zs. András PhD, egyetemi docens

Pázmány Péter Catholic University Faculty of Law and Political
Sciences

Budapest, 2009

I. Objectives of the Research

The objective of the research was the presentation and analyses of the Hungarian immigration law, having regard to the closely adjunct nationality and refugee law. In immigration law the actual custom bulks large, which I tried to present utterly and criticize the operative regularization. The thesis presents and analyses law according to the frame of the statute, but integrated contexture with historical and theoretical introduction.

The residence and settlement of aliens and their integration are very important question in almost every advanced countries, which gives very serious social tension. Because of the actual tendencies it depends on immigration regularization that who will live in next decades in Europe, in Hungary and what will be the future Europe like. Immigration and social integration of immigrants become one of the most important problem in the domestic politics of western countries. Between majority and immigrants is large difference in demographic tendencies, which shows the increase of problems. In almost every countries there are xenophobia significantly, and in last years extreme terrorist groups propagated among immigrants as counteraction. In increasingly more countries arise that the myth of multicultural society crashed, collateral societies came off, which cultures are against each other. In most European countries demographical statistics are negative, the societies become obsolescent, so absolutely necessary the immigration of educated and well-integrable people. Because of this I looked out for foreign immigration law and I analysed the problems and tendencies of more immigration-experienced countries. Hungary, as a member of EU is not yet transit-country but already target-country, so we have to use the experience of other countries in order to bypass the mistakes west-european countries made.

We can feel the liberties of the European Union in our country, so I analysed the law of free movement and residence. Next to the evolution of law and regularization I analysed

also the custom of EU Court, which had a very important part in the union law's development.

The events of September 11th amplified the sounds that demanded stronger arrangements against terrorism. The global world is even more endangered, next to terrorism global conspiracy appeared, the national states do their best to remove undesirable people, undesirable immigrants as far as possible legally. But the counterbalanco of all this the commitment for human rights, which is confirmed by the European Convention on Human Rights and the case-law of the European Court of Human Rights.

We cannot forget that immigration law in Hungary concerns Hungarian nationality of Carpathian basin, and these Hungarians want to work, study, or settle in Hungary. These Hungarians connected closely to their mother country, and expect with good reason that immigration offices and the immigration law treat them as aliens and do not hinder their contacts to the mother country.

The objective of the dissertation is to demonstrate the aforementioned problems along the case-law, giving a critical analysis of the questions in cause.

II. Applied Research Methods

I made use first of all of the scientific statements of the Hungarian and most important international researchers of immigration law and European law, which was completed with statistics, which show social trends behind law. After the historical view and the definition of concepts the backbone of my thesis is given by the immigration act and executive decrees, of which the analysis was based on the methods of interpretation of international treaties (grammatical, logical, historical, systematic, practical, teleological interpretation). The thesis presents actual administrative custom, Hungarian and European case-law, and often criticizes the national regularization, in addition try to give solutions based on foreign, usable instances.

I tried to analyse not just legal, but social background widely. The strategic management has special importance in thesis, I tried to propose bases of long-range, national immigration strategy.

III. Brief summary of the dissertation, scientific results

The thesis dedicated more than 20 pages to evolution of the national immigration law, which is based on mostly new results of research. This part analyses the last 100 years of law history comprehensively and in detail, illustrating the historical-economical background of the century. From this historical part can be understood present regulation most properly, on the other hand there are institutions and regulation models in the former immigration law of which bringing back would be very useful.

The terminology in immigration law is unfortunately not fully clarified and well-known, legal and common content of concepts often differ. Most people do not know the residence permits of foreigners and belonging rights, but this is true for lawyers also. Unclarified terminology is typical, which has effect to the immigration regulation too. I highlighted the advance in this case, because this is the base of every scientific works and codification.

This thesis tried to analyse the procedures from all aspects, so 31 tables show immigration statistics. In Hungary many preconceptions are about immigrants, which often spring from lack of information. I hope, I made the process transparent with the presented tables and behind articles of law showed people who want to enter and live in our country.

It is important to create a coherent national strategy and on this a migration strategy, because as Seneca said: *„If we do not know which port we sail, there is no favour wind.”* It is unambiguous for the Hungarian society that Hungary do not want to be an immigration target-state, we are luckier in this case than western-european countries, because we can learn from their problems. In this countries liberal immigration policy was rendered more strict after huge social conflicts. Obviously the non-Hungarian immigration must be little and checked, because mass presence of other ethnics would cause severe conflicts in Hungary.

Now the birth-rate is far fewer than the death-rate in Hungary, in 2008 132 938 death was by 97 613 birth. The decrease of population is typical of other European countries also and with this the senescence of societies. In Hungary these negative tendencies, which undermine competitiveness of our country, last for long time, since the beginning of the 1980s. The employment-rate is already fairly low according to European comparisons, senescence of society causes severe problems. Present tendencies predict accelerated worsening, because significant part of birth is by unproductive layers, so demographical situation will be the most important problem in Hungary in next decades. In any case urgent and radical steps are necessary, which increase the birth-rate, but reversing of negative tendencies is very time-consuming according to observation of demography. The thesis can help making the national strategy and within this a coherent immigration strategy, which determines the Hungarian position in the long run and hopefully with help of this strategy Hungary can respond to challenge of future the best possible.

I think, the immigration is not answer for decrease of population, but complex, radical reforms are needed to increase number of births. For this family-friendly tax policy and parent-keeping allowance can be usefull. The expected economic growth and strenghtening of national identity is very important for decrease emmigration. High priority is making possibility for success in Hungary to decrease „brain drain” and to lure home those who live abroad.

The non-Hungarian immigration should be suitably controlled and not much so that Hungarian society could integrate immigrants. The quality immigration should take priority, better immigrants should come who are disposed to take part in developing and sharing in taxation.

The bad employment rates should not neared EU-rates with immigration. High unemployment and inactivity rate should be bettered with complex methods (tax system, undertaking-friendly atmosphere, education, employment and developing policy, inner migration), to be established missing place of work.

IV. Publications

Wetzel Tamás: History of immigration law, In.: Doktori iskola, Prelegálások III., Budapest, Szent István Társulat, 2004.

Wetzel Tamás: Settlement or immigration?, Közgazdasági Fórum, 2004/III., Kolozsvár,

Wetzel Tamás: Future of immigration law, Magyar Rendészet, 2004/IV., Budapest,