



**ПЛОВДИВСКИ  
УНИВЕРСИТЕТ  
1961**

---

**ПАИСИЙ  
ХИЛЕНДАРСКИ**

**Veronika Samuilova Doichinova**

**MIGRATION PROCESSES IN THE CONTEXT OF LEGAL  
SYSTEM THEORY**

**ABSTRACT**

of a dissertation for the award of an educational and scientific degree "doctor"

in the field of higher education 3. Social, economic and legal sciences;

professional direction 3.6. Law;

doctoral program "Theory of the State and Law"

Research supervisor: Prof. Dr. Boyka Cherneva

Plovdiv city  
2023

## I. General characteristics of the dissertation work

In the current dissertation, an attempt is made to present a new view regarding the impact of migration processes on the development of law, using the Theory of the Legal System for this purpose. It makes it possible to trace the influence of migration processes on the development of law in two aspects. On the one hand, the law should regulate all the main manifestations of migration as a subject of legal regulation.

On the other hand, the analysis of migration relations as part of the social environment provides an opportunity to discuss the effectiveness of the legal system in this area. This dissertation examines migration processes as factors that influence the social environment. They have an impact on the legal environment. Their research as a social phenomenon is a prerequisite for the theoretical understanding of the relationship between migration and the legal system, aimed at improving the legislation in the field of the border regime and the protection of migrants' rights .

The theory of the legal system makes it possible to trace the influence of migration processes on the development of law in two aspects. On the one hand, the law should regulate all the main manifestations of migration as a subject of legal regulation.

On the other hand, the analysis of migration relations as part of the social environment provides an opportunity to discuss the effectiveness of the legal system in this area. This dissertation examines migration processes as factors that influence the social environment. They have an impact on the legal environment. Their research as a social phenomenon is a prerequisite for the theoretical understanding of the relationship between migration and the legal system.

Migration is human mobility, expressed in crossing state borders, but also a process of establishment, adaptation and integration in a foreign social environment. As part of human history, migration affects the development of society in demographic, socio-economic and cultural terms. In jurisprudence, migration is a fundamental human right regulated in international legal acts. Guaranteeing the rights of migrants and preventing their violation is a major challenge for state institutions.

There are various manifestations of migration in law. International public law and EU law establish the protection of migrants' rights . Policies on the protection of state borders and control of migration flows are implemented. The law should find solutions regarding illegal migration related to human trafficking. A comprehensive approach to the creation of legal

frameworks in these areas implies a thorough study of the interactions between migration as a social process and the elements of the legal system.

The concept of a legal system allows to trace the influence of migration processes on each of the individual elements of law – norms and principles, legislation, institutions and jurisdictions, rights and obligations. Due to its complex nature, it includes elements, among which are the legal norms, on the one hand, and the rule-making and law-giving activity of state bodies, on the other. Different elements of the legal system also allow for different definitions of law. The emphasis is on the composition, not on the characteristics of the right. For this reason, it is necessary to specify that we mainly focus on examining the impact of migration on the normative system of law. Thus, we methodologically delineate the boundaries of a typical legal theoretical study, which allows definition and explanation of legal concepts. The notion of a legal system makes it possible to define migration as a factor that affects the effectiveness of law.

The elements of the social environment – morals, culture, traditions and others – are important, as well as the elements of the legal system. Migration processes influence the formation of normativity and even the notion of justice in society. This means that they affect values whose reflection in law affects its effectiveness and functionality. Their relationship with human rights further illustrates their importance in affirming the principles of modern law - equality before the law and universality of human rights. Migration processes also complicate the relations between moral systems and law, as they enrich the social environment with new moral content. Change in the social environment also affects the effectiveness of law as an ability to regulate social relations. Human rights are real rights when state institutions have created adequate conditions for their realization. Violation of human rights violates legal principles.

We use the Theory of the Legal System and the concept of a legal system in order to stay within the legal theoretical matter and ultimately to give a primarily legal aspect to the discussed issue, which undoubtedly has sociological aspects. Even here it is necessary to note that the Theory of the Legal System is not favored and does not have the narrow limits of legal positivism. We conceptually draw on it in explaining the legal system. But the work also perceives the contribution of the Natural Law Theory in explaining the legal protection of the rights of migrants . What needs to be emphasized here beforehand is that the protection of migrants' rights is an element of the effectiveness of the legal system.

In relation to migration, the effectiveness of the legal system is manifested in two directions (aspects): 1) realizing the purpose of the laws and 2) protecting the rights of

migrants . The concept of a legal system and the pluralism of legal systems are of primary importance.

In the dissertation work, we consider migration as a carrier of legal culture and even of a legal system, which is actually established as part of another legal system - the system of the state, in which migration has acquired the character of a factor that affects the identification of the legal system and in general of its development.

Validity, along with effectiveness, determine the existence of the legal system. The validity of legal norms is an indisputable condition for the existence of legal systems. It represents the legal force possessed by the legal norms that are contained in a source recognized by the legal system and determines their generally binding character. The existence of the legal system is related to its effectiveness. If the legal system is in difficulty in carrying out its functions, then it fails to be effective. The relationship between effectiveness and efficiency has its social conditioning. Efficiency is expressed in the social efficiency of the legal system.

The question of the efficiency of the legal system is extremely complex and at the moment there is no unequivocal answer derived from legal science. In the attempt to justify the development of the legal system on the basis of the impact of the social phenomena with which it interacts, using migration processes, we consider the efficiency of the legal system as its characteristic in a practical aspect . Analyzing the theories of the identity criteria of the legal system, we adhere to the conclusion that efficiency is considered as a condition for the existence of the legal system, but we can add that efficiency is a sign of the functionality of the legal system. Efficiency is a condition for a well-functioning legal system that performs its functions and is able to meet the needs of society, including in relation to migration.

At the end of the twentieth century, Joseph Raz criticized the view of efficiency as a criterion for the existence of a legal system. According to him, it is possible to have more than one legal system in a given society, and the general efficacy of each of them must first be established. After the "efficacy test", which must first of all establish whether the existing normative systems have a legal character, a second test must be conducted - the "exclusion test", which must establish which of the legal systems actually exists.<sup>1</sup> J. \_ Raz recognizes the fundamental role of legislation in legal systems, but emphasizes that it is not the only method of creating law. Law-making bodies materialize the legal system through the creation of laws. They determine the validity of legal norms, as well as to which legal system they belong. J. \_

---

<sup>1</sup> Raz , J. The Concept of a Legal System ( An Introduction to the theory of Legal System). Oxford, 1980 , p . 212.

Raz introduces a new moment in the clarification of the concept of the legal system. He speaks of its dynamic justification. Criticizing the position of H. Kelzen, that each norm is justified by another, and the active legal system is one of the conditions for their validity, J. Raz accepts the notion that the existence of a legal norm is justified if it belongs to an effective, functioning legal system. This necessitates the conclusion that the effectiveness of the legal system is manifested in its operation, i.e. the realization of its functions and goals.

existence of the legal system, based on the principle of efficiency, J. Raz considers that the solution cannot be sought in the interpretation of efficacy according to the ratio of cases of obedience to its laws and the total number of possibilities of obedience. In this sense, the question arises as to how far violations of the law affect the existence of the legal system and whether it is necessary to examine exactly which law is violated and what is the significance of this law for the social system. J. \_ Raz finds that the way people use or don't use what is given to them by "empowering laws' rights, is no less important for the existence of the legal system. Reasoning in this direction, it can be concluded that efficiency determines qualitative characteristics of the legal system rather than being a condition for its existence. Effective or not, the legal system exists. The fact that it is ineffective does not automatically affect its performance in a certain time interval. It is necessary to analyze the way the legal system works, i.e. whether it is effective or not, and to evaluate its efficacy. It can be concluded that the efficiency of the legal system is not a criterion for its existence, but rather it can be defined as a way, a model of existence. In this regard, the analysis of migration problems and the taking of actions to solve them is carried out on the basis of the evaluation of the efficiency of the legal system. This assessment could not cover its entirety, a judgment could only be made in relation to its individual elements.

Achieving the efficiency of the legal system is a prerequisite for its development, as this leads to the improvement of the legal system with a view to achieving one of its main goals - regulation of public relations and resolution of social conflicts. The process of interaction between the legal system and its surrounding social environment is always bilateral.

The legal system introduces order, orderliness, rules of behavior in a given society. Public behavior conforms to the rules established by the legal system. For its part, the legal system is built to be a contribution to society. The goals of the legal system are not to subjugate society, but to enable it to exist as such.

The identity of the legal system is a complex issue that cannot be investigated solely by focusing on the considered criteria for existence. Bearing in mind that these are criteria

that are tied to the operation of the legal system within its existence, it is necessary to indicate one more criterion, namely the jurisprudential one, which is indicated as such by J. Raz and adopted by Rosen Tashev as a condition for the existence and a prerequisite for the development of the legal system.

Unlike H. Hart, J. Raz accepts that "in order to answer the question whether a particular law exists as a right in a particular legal system, we must ultimately refer not to the law but to a jurisprudential criterion."<sup>2</sup>

Rosen Tashev develops this view not in the direction of substantiating a criterion for the existence of legal systems, but by posing the question of the degree of conflict between two uniform legal systems, such as national legal systems. He thinks that the theory of J. The place of jurisdictions as part of the legal system is the direction in which the development of the theory of the legal system should be sought. <sup>3</sup>Jurisdictions certainly influence the formation of that part of the legal system that contains normativity regarding foreigners and migrants.

Regarding the acquisition of an administrative legal status by foreign citizens, which legalizes their stay in the interior of the country, the category of foreigners to which they fall is taken into account - EU citizens, citizens of third countries, stateless persons, persons seeking asylum, etc. The criteria for effectiveness and efficiency of the law are observed during its application. The legal regulation of the status of foreigners covers legal migration, as the prerequisites for admitting foreigners to the territory of each country are comprehensively listed in the current law. Due to the lack of legal provisions regulating the status of different categories of foreigners, provisions intended to regulate public relations in the area of asylum are applied to illegally staying foreigners. The legal regulation regarding the regime of foreigners is applied in accordance with the international legal standards of the protection of human rights. Imperfections in the legal system lead to the violation of guarantees of legal protection. The problems of migration processes are an example of a practical nature, on the basis of which general theoretical conclusions can be drawn about the criteria for the identity of the legal system.

The presented methodology of the dissertation study allows for the formulation of a scientific thesis: Migration processes have a significant impact on the structure, content and functioning of the legal system. Their effective regulation through the means of law is a

---

<sup>2</sup> Raz, J. \_ Op . cit ., p . 205.

<sup>3</sup>Tashev. R. Theory of the legal system. S., Sibi, 2007, pp. 69-71.

condition for its development as a whole, for the improvement of legislation and judicial practice in the field of migration and the protection of human rights.

#### 1. Relevance of the research

The relevance of the research stems from the rapid pace of change in public relations in the field of migration. As a result of the mass departure of groups of people from some regions of the Middle East and North Africa and their unregulated entry into European countries, migration processes acquire a wide public resonance and occupy a key place among the priority tasks of national and international politics. The scale of their impact in political and socio-economic aspect requires the institutions to take adequate and effective measures for their regulation. Due to its geographical position, the Republic of Bulgaria finds itself in an area of increased migratory pressure, which the external borders of the European Union have been subjected to for several years. Our country is a transit point for migrants illegally crossing the Turkish-Bulgarian border, who are heading to countries such as France, Germany, Great Britain.

The complicated migration situation in Europe is a fact that implies engagement of the legal mechanisms available to the current legal system. The analysis for several years shows weaknesses and contradictory practice in the application of legal norms in the field of migration. In this case, the assessment of efficacy is rather negative. The legal system is faced with the challenge of adapting the currently existing legal regulation and introducing a new, more efficient one that adequately responds to the challenges that have arisen in view of the changed social relations as a result of the migration processes. The functionality of the legal system is an expression of its practical application, through which the subsystems contained in the legal system reflect and directly affect the social processes developing in the legal environment, but also in the social system as a whole.

The current migration situation proves this statement from a practical point of view. Europe is currently undergoing two different migration flows. One migration flow is carried out by foreigners with the profile of illegal migrants, and the other with the profile of asylum seekers. The essential thing to say here is that the need to regulate social relations related to migration processes predetermines the identification of a new branch of law, which has a narrower scope of action than administrative law and a wider one than refugee law. In any case, it is necessary to outline the rights and obligations of each category of foreigners.

The question of limiting the migration flow to Europe is extremely important, but of no less importance is another current problem – the integration of these masses of people into

the European legal order. This means that they must be ready not only to familiarize themselves with established rules of conduct on the territory of the continent, but also to comply with them and comply with them.

It must be recognized that there is a huge difference between the migration processes of the 20th century and those observed today. In the 20th century, large masses of people moved mainly to countries they considered their own. They wish to become part of the united European space, as some of them come from countries that have historical ties with it. People are coming to Europe from other continents, from unstable and poor countries, with different traditions, beliefs and behavioral perceptions, who are looking not only for salvation from persecution and security, but also for a better life. The question of their willingness to make efforts to adapt to the rules of conduct established by the host country is key. One of the main characteristics of modern migration processes that should not be overlooked is that a large proportion of those migrating come from the Islamic world. This fact is of extreme importance regarding the implementation of the integration function of the legal systems operating on the territory of Europe. Tracking the migration process of groups of people with different cultures in a given country would justify the conclusion that the integration of people with a close culture like that of the local population is far more easily feasible than the integration of persons with completely different culture, traditions, religion, upbringing and attitudes.

## 2. Object, subject, purpose and tasks of the dissertation work

The object of the study is public relations related to migration processes and their influence on the legal system. The existing relations between the elements of the social and legal system, as well as between the main elements of the legal system, which cover the social, cultural, historical, political and legal manifestations of migration. Their research defines the subject of the general theoretical analysis of the legal dimensions of migration processes.

The subject of the research is the legal essence and characteristic features of migration processes in the context of their influence on the legal system, incl. changes in legislation and judicial practice on its application, as well as the derivation and definition of basic legal concepts, through which to explain the way in which they influence the development of law. The effectiveness of the legal system and the protection of the rights of migrants is the subject content of the dissertation.



The aim of the dissertation research is to determine migration processes as a social factor that influences the development of legal systems and the interaction between them. An attempt has been made to trace the relationship of migration as a social phenomenon with the elements of the legal system in order to clarify whether the migration process affects the development of law and to what extent.

The dissertation sets itself the following tasks: determining the legal system through the influence of social factors and examining the problem of the effectiveness and efficiency of the legal system; defining migration as a process that is essential to modern law; definition of the legal concepts of migration, migration process, migrant, types of migrant, as well as their general theoretical meaning; review, interpretation and commentary of migration law, the international human rights protection system, Bulgarian legislation; drawing conclusions about how migration processes influence the development of international standards for the protection of human rights and domestic law; the role of international processes through the lens of international standards of human rights protection and human rights development.

### 3. Research methods

Several research approaches and methods were used in the dissertation work. The approaches derive from the subject of the research, namely, building a conceptual apparatus in the field of migration and revealing the connections between the concepts of "migration", "migration process", "migration law", "migrant", "migrant rights".

The main approach on which the research is based is the normative approach. It corresponds to the subject of the study, which is aimed at examining the legal phenomena that have a normative essence and are legally regulated based on the principles and values of law. It examines the impact of migration processes on the development of law. It is a legal dogmatic approach and refers to the application of legal norms, the activity of jurisprudence, the interpretation of the law. The normative approach is a type of legal thinking that is based on normativity as the main characteristic of law. It defines the limits of what is prohibited and permitted by legal norms. This is the approach that identifies the relationship between the state as the creator of legal norms and the law. In this connection, formalism is contained, which is expressed in the formal enshrining of the prescriptions of the law in the normative acts and in their obligation, protected by the state. The study of the influence of migration processes on the development of law brings another point of view, namely – law comes from society. Legal normativity is social normativity. Migration is a social factor that participates

in the formation of legal norms. This predetermines the next main approach, which is used in the dissertation - the legal sociological approach.

A legal sociological approach has been used to identify migration as an essential social factor that affects the effectiveness of the legal system. Examining the relations between different communities of persons, between systems of social norms and principles raises questions about the functioning of the legal system. The ability of law to regulate existing social relations explains its effectiveness. Law regulates the behavior of subjects, their rights and obligations, based on social relations that already exist. On the one hand, legal regulation guides human behavior based on the principles of modern law, including the rule of law and equality before the law. On the other hand, law effectively regulates social relations, remaining as close as possible to social needs. It balances between its regulatory function within the legal system and its social role to be effective and respond to society's social issues. The study of these two goals of legal regulation in the field of migration explains the influence of a separate social factor on the development of law and its effectiveness.

The dissertation uses the comparative legal approach, which examines the relations between legal systems in a historical and functional sense. This approach includes a historical review of social phenomena and significant events in human history related to migration. The historical review of migration processes is necessary in relation to the argumentation of the main thesis in the dissertation about their impact on the development of law. Migration is a factor that predetermines the spread and permanent establishment of legal systems in a territorial aspect. It is a process that is a condition for a change in the content of its elements. It is a prerequisite for the interaction of two or more legal systems. The comparative legal approach is useful for analyzing the pluralism of legal systems. In the dissertation, it is used to clarify how legal systems interact to respond to the social issues that arise from migration.

The systematic approach, which is typical for legal theoretical research, is also used in the dissertation work. Moreover, it is imposed as necessary given the prism through which migration processes are examined - the theory of the legal system. Law is defined by its components and the relationships between them (subsystems). The paper examines the impact of migration processes on the various elements of the system and on the legal system as a whole. The conclusions of the systemic approach complement and unite the results of the normative and legal sociological approach. It is also useful in examining the impact of migration on the functioning of the legal system. The systemic approach examines the structural characteristics of the legal system and the relationships of its elements with the legal environment. In the dissertation, the application of the systemic approach is used,

through which we explain the systemic nature of legal institutionality. It examines the qualities that allow the identification of the system, among which are the integrative qualities that guarantee its integrity; the structural nature that determines the functionality of its components and the relationships between them, the analysis of which gives an answer to their way of interaction. This approach explains the operation of the system in a certain environment. The interaction of the system with the environment in which it exists is carried out through the exchange of information, thus manifesting the system qualities and functions of the components. The quality of the legal system to regulate public relations is manifested in the specific social environment and through specific processes of information exchange <sup>4</sup>. In particular, the integrative qualities of law are manifested in the regulation of migration processes – the ability (effectiveness) of law in regulating the interaction between different social and legal systems, very often based on fundamental content and value contradictions. In this sense, the Theory of the Legal System corresponds to the subject and approaches of the study. Moreover, it provides a "ready-made" methodology for tracing the relationship between migration as a social factor and the legal system, which is used as the main one in the dissertation work, of course with the necessary scientific criticality.

Research methods are formal-logical research methods that are typical of legal science and methods that are typical of sociology, namely, criticism of the normative framework. The logical method is used in explaining the law. In the dissertation research, the inductive and deductive methods are mainly used in formulating conclusions about the interaction between legal systems in relation to migration.

#### 4. Scientific novelty of the study

The dissertation work contributes to a better clarification and deeper understanding of the general theoretical and practical aspects of the rights of migrants in the modern legal doctrine. The scientific novelty is determined by the general theoretical, historical legal and practical analysis of migration as a social phenomenon, an element of the legal environment.

The work is an independent study of current general theoretical issues related to the regulation of public relations in the field of migration and the implementation of effective legal mechanisms to protect the rights of migrants .

---

<sup>4</sup> Kiskinov , V. The Legal System Part I , Ontology and Methodology, S., University Publishing House "St. Kliment Ohridski", 2019, p. 279.

In the dissertation, we consider law as an intermediary between the social environment in which it is created and applied, and the social goals that modern state-organized society sets for itself. We see migration as an element of the social factors that influence the development of law, namely - history, culture, morality, economic and political system and others. Migration is an external social factor that implies the existence of the relationship between the legal system and the environment and affects its development.

The definitions of refugee, third-country national, stateless person, and asylum seeker are defined in the international legal framework. It is necessary to derive a definition regarding a migrant in an unregulated situation and an environmental migrant . Unlike the legal status of refugees and asylum seekers, the legal status of environmental migrants has not been derived either in the international legal system or in national legal systems. Despite the topicality of the topic, European legislation also does not define an ecological migrant . At present, no such independent legal category has been identified.

## 5. Scientific contributions of the dissertation work

The presented issues once again show the need for a general theoretical study in the field of law, which would provide an opportunity to clarify migration as a social factor that affects the development of the legal system. The place of migration processes in the structure of society and their importance for building the structural elements of law is a matter of identifying legal systems, the problem of the social effectiveness of law and a condition for improving the human rights function of the state. The present dissertation outlines the following main results.

First of all, the use of Legal System Theory to explain migration processes in the context of the system and structure of the legal system is justified. The concept of a legal system made it possible to consider two groups of relations: 1) relations between law as a system and other social institutions, which also have a systemic character: politics, economy, culture, etc.; 2) the relations between different legal systems, distinguished at different levels: pluralism of legal systems, main groups of legal systems. The object of research is placed in the middle of law studies, given the affiliation of the Theory of the legal system to legal positivism. The dissertation work is also based on the contribution of the Natural Law Theory regarding the consideration of the protection of the rights of migrants .

Secondly , the legal-sociological approach was used in the dissertation work considering the consideration of migration processes as a social factor. Migration processes are a prerequisite for a conflict between values, ideals, which also leads to a conflict of legal systems. The development of a separate legal system has been put to the test. Its institutionality, durability and homogeneity are being disrupted. In the analysis of the interaction between the legal system and other social systems, the historical and comparative legal approaches were used for additional argumentation of the main theoretical theses. This is how completeness and objectivity of the research is achieved.

Thirdly, certain basic legal concepts have been brought out in the dissertation work, through which we believe that the theory of law is developed. Among the given definitions, the concepts: migration process, migration, migrant , economic migrant , illegal migrant should be explicitly mentioned . Reflections are made on migration law as a legal branch.

A new category of foreigners has been identified, that of migrants , which is divided into several profiles: migrants with granted status under the ZUB, migrants in the procedure for granting protection, migrants with refused or terminated status, migrants in an unregulated situation (illegal migrants ), economic immigrants. Depending on their profile, it is necessary to determine their rights and obligations.

As a continuation of the idea of a single general definition of the concept of " migrant ", a proposal has been made to codify the acts regulating the entry, residence, departure from the territory of the country and the status of persons who are not Bulgarian citizens.

Fourthly, the set topic of the social effectiveness of law is examined as an element of the state's human rights function. The role of law as a regulator in this regard is decisive. The creation of a unified system of subjective rights and legal obligations of migrants within the framework of the regulation of the status of foreigners within the national legal system. Migration processes pose a number of humanitarian issues related to the protection of migrants ' rights , which necessitates the separation of basic and special rights. This allows to further develop the idea of the legal system from the point of view of foreigners, migrants and refugees. The theoretical analysis in this direction allows to draw conclusions in the direction of improving the legislation in the field of migration. The reviewed practice of the European Court of Human Rights and the Court of Justice of the European Union is also relevant in this regard.

The social effectiveness of law is considered as an element of the human rights function of the state. The role of law as a regulator in this regard is decisive. The creation of a unified system of subjective rights and legal obligations of migrants within the framework of

the regulation of the status of foreigners within the national legal system. Migration processes pose a number of humanitarian issues related to the protection of migrants' rights, which necessitates the separation of basic and special rights. This allows to further develop the idea of the legal system from the point of view of foreigners, migrants and refugees. The theoretical analysis in this direction allows to draw conclusions in the direction of improving the legislation in the field of migration. The reviewed practice of the European Court of Human Rights and the Court of Justice of the European Union is also relevant in this regard.

As migration becomes an increasing priority in the EU's relations with the countries of origin of illegal migrants, the migration issue regarding a new differentiation of categories of foreigners should be a basic prerequisite for deepening partnerships with third countries, becoming a full part of long-term relations, which include areas such as legal migration, combating migrant smuggling and readmission. It is necessary to continue the work on the creation of a stable and effective European system in the field of migration and asylum in each and every affected country, including Bulgaria.

Here the conclusion could be drawn regarding compliance with the laws as a major problem in the implementation of migration legislation. The legal possibility<sup>5</sup> for foreigners, including those seeking asylum, to enter the territory of a country in a regulated manner, where they can seek protection, is expressly regulated. The mass entry of groups of people into the territory of a foreign country through the places designated for this (border control checkpoints) would make it difficult for the competent authorities from the point of view of workload and security of the official activity, but certainly in this way a number of problems would be avoided in the application of the legal framework. Crossing the state border illegally complicates the overall regulation of the migration process.

After all, at the present moment, still in the process of debates, a final political decision on migration policy in Europe has not been taken. It must be derived from the interests of a united Europe, as proclaimed at the beginning of its development as a union, where the national interest is compatible with the basic principle of solidarity. In the search for a solution, legal science has its reason to be sympathetic. The present work does not pretend to have clarified in detail the essential characteristics of migration processes. The attempt to outline the role of this social phenomenon in the context of the theory of the legal system makes it possible to pose specific problems and give suggestions for their elimination.

---

<sup>5</sup>Law on foreigners in the Republic of Bulgaria, add. DV. No. 28 of March 24, 2020 According to Art. 17 para. 1 of the ZCRRB, foreigners enter the Republic of Bulgaria and leave its territory only through the border checkpoints, which are defined by an act of the Council of Ministers or in an international treaty.

## 6. Practical significance of the study

In the dissertation, questions of practical importance are posed and an attempt is made to find answers by using the theory of the legal system. One of them is how to grant the right of protection to a person without personification, who legally does not exist, because illegal migrants do not move within Europe without identity documents, they permanently reside on the territory of the continent. That is why the formation of the conceptual-categorical apparatus of the modern science of migration is of fundamental importance for the implementation of effective mechanisms for the protection of human rights. In this regard, issues related to the violation of migrants' rights were discussed .

The work could be used as a basis for a more in-depth analysis of the impact of migration processes in public life and law and their influence in political and socio-economic aspects worldwide. The review of the rights of migrants can be a prerequisite for an extended study on the effectiveness of the existing mechanisms for the protection of human rights.

## 7. Volume and structure of the dissertation work

The dissertation on " Migration processes in the context of the theory of the legal system " is 243 pages long . Structurally, it covers: introduction; three heads; conclusion and bibliography in Cyrillic and Latin.

The literary sources used are 149 in number, 76 in Cyrillic, 39 in Latin, 14 decisions from judicial practice, the footnotes are a total of 316 in number.

## II. Content of the dissertation

Chapter one is entitled " Validity, Social Efficiency of the Legal System and Migration ". Migration processes are considered as a social factor that influences the development of legal systems. This question is examined through the prism of legal positivism in order to take into account the social nature of migration, as different directions of legal positivism are indicated, through which an attempt is made to outline the legal theoretical theme before proceeding to an in-depth examination of migration processes as a social factor .

Three main general theoretical questions are posed: 1) identification of the legal system from the point of view of migration processes; 2) functionality of the legal system

considering the changes in the social system that migration leads to, including the effectiveness and efficiency of the law; 3) explanation of the legal system through its elements that are related to migration: laws establishing the status of foreigners and migration laws.

The concept of a legal system allows to trace the influence of migration processes on each of the individual elements of law – norms and principles, legislation, institutions and jurisdictions, rights and obligations. Due to its complex nature, it includes elements, among which are the legal norms, on the one hand, and the rule-making and law-giving activity of state bodies, on the other. Different elements of the legal system also allow for different definitions of law. The emphasis is on the composition, not on the characteristics of the right. For this reason, it is necessary to specify that we mainly focus on examining the impact of migration on the normative system of law. Thus, we methodologically delineate the boundaries of a typical legal theoretical study, which allows definition and explanation of legal concepts.

In Section One "Functionality of the legal system and migration processes" the idea is adopted that the effectiveness of the law is also an expression of its functionality. In relation to migration, the effectiveness of the legal system is manifested in two directions (aspects): 1) realizing the purpose of the laws and 2) protecting the rights of migrants .

The topic of the dissertation requires clarifying how migration processes affect the identification of the legal system; what does functionality of the legal system mean, how can the concepts of effectiveness and efficiency be distinguished. As part of the social environment, migration has an impact on the formation and development of the legal system and is definitely relevant to defining the boundaries of the legal system and its functioning. It should be placed in the context of legal system theory to examine the relationship between migration processes and the effectiveness of law.

theory of J. Austin on the power of the sovereign as the basis for the validity of the law and its relationship to its efficacy is the basis on which the reasoning in the dissertation is formed on the relationship between the state and the law in modern law. Migration laws, which regulate the regime of foreigners and their rights, are an expression of the will of the state, the purpose of which is to establish stability through the functions of law in the regulation of social relations in which foreigners under its jurisdiction participate.

In the current dissertation, we share the thesis of the legal system as a general concept with a complex nature, which consists of subsystems that connect with each other.



Of interest to the research are V. Ganev's views on the role of human actions and their reflection on the relationships of the elements that make up the legal system. The human factor affects the change of social relations. The development of society is related to the development of the legal system. Social phenomena contribute to these development processes. The changes that affect the relationships between the elements of the legal system and the legal system as a whole are the result of the logical conditioning of the impact that human actions / actions / have on these elements. Human behavior is subject to regulation by law. It is law that introduces the rules of behavior in response to the social need to regulate public relations.

Theories of the legal system make it possible to explain the relationship between the social environment, of which migration processes are a part, from the point of view of law. This is also the reason why the concept of legal system has a key importance for the present work as an attempt to consider migration through the prism of the main social and political factors that influence the formation of national law. First of all, modern law guarantees equal rights and obligations to citizens.

Second, national law details the rights and obligations of citizens depending on their individual status and respective behavior to provide equal access to fundamental rights. Although modern law has established the principle of equality before the law and recognizes the fundamental rights of every person, the challenges to guaranteeing the rights of migrants are much greater than those of other citizens.

Thirdly, the concept of a legal system makes it possible to raise the issue of the effectiveness of legislation in the field of the legal status of foreigners and, in particular, of migrants . This third aspect brings to the fore the specificities and importance of the social problems of migration in the creation and implementation of legislation that governs the issues of foreigners and migration.

Kelsen 's view that a legal norm is effective when the application of the norms achieves the intended legal result has implications for considering migration as a factor that affects the effectiveness of law in achieving the ideals of modern law related to the rights of man etc.

Kelsen 's position that each norm is justified by another and the effective legal system in force is one of the conditions for their validity , J. Raz accepts that the existence of the norm is justified because it belongs to an effective legal system. This necessitates the conclusion that the effectiveness of the legal system is manifested in its operation, i.e. the implementation of its functions and goals.

In the second section, the structure and functions of the legal system are examined, with references made to the links with migration as an element of the legal environment. In this section of the dissertation, Nicolas Luhmann's views on the legal system are examined. He adopts the narrowest possible conception of the composition of the legal system, in which the law finds its place above all. Considers the legal system as a part of society, of the social system. Sociology has the task of explaining legal norms from the outside. In the theory of N. Luhmann law is a social system. In the concept of system, he puts what is generally known about it by emphasizing the connections between the system and the surrounding social environment, whose internal evolution is dictated by the impact of factors external to the system. The complexity of N. Luhmann's theory comes from the fact that, according to him, the system has no direct contact with the external environment. He developed the theory of circular systemicity, where the elements of modern legal systems are not placed in the conditions of hierarchy, and the connections between them are always two-way and interdependent. Regarding the environment, he was the first to refer to the principle of the paradigm of autopoiesis, i.e. self-reproduction, characteristic of living organisms, to the processes of interaction in the legal system, which lead to the restoration of its elements. The idea comes from the fact that previously adopted ones are used to produce new laws. He sees the legal system as a closed, evolving, self-regulating, i.e. self-productive, self-changing system. N. Luhmann adopts a different theory from the one adopted in the 20th century, which considers law as a system of norms. He considers that it is transformed into a system of concepts. N. Luhmann's new approach regarding the existence of law as a social system is based on semantics. In the same way, N. Luhmann reflects on the origin. He does not share the traditional theory that society as a system is the product of external factors, but is the result of self-productivity. Based on his theory, we can say that the legal system functions by applying the norms that exist in it and that it reproduces. The legal system evolved on the basis of semantic self-productivity. Law could not be considered as a system of norms, due to the fact that it represents a semantic unit and is constituted on the basis of concepts. The change in legislation in this regard does not interfere with the semantics of law, but affects its diversity. Law changes because it is a political instrument. According to N. Luhmann, law represents a social, developing, closed system existing in a surrounding social environment in which other social systems such as economy, religion, science function.

Luhmann's views on the social nature of the legal system, distancing ourselves from his idea of its closedness of such a nature that its development is based on its self-production. We believe that the links between the legal system and the environment are so strong that they

condition the existence of the system itself, on the one hand , and society, on the other. We perceive the functioning of the relations between the legal and public systems as a criterion for determining the effectiveness of the legal system.

Undoubtedly, migration is an element of the surrounding social environment of law, it is an element of the social relations that arise between individuals and the state. Due to its social nature, it is seen as a social phenomenon that arises, develops and leads to changes in the surrounding social environment. The interaction with other social phenomena and processes is polyvalent and affects the relationship between the public and the legal system. From here we conclude that migration is an external social factor that implies the existence of the relationship between the legal system and the environment and affects its development.

The thesis uses Rosen Tashev's views on the legal system in a structural sense, which allows us to trace the impact of migration on each of the elements of the legal system that he brings out. His thesis that the development of social relations leads to the differentiation of new legal branches is accepted. In this regard, the legal norms that regulate social relations in the field of migration aim to cover the rights and obligations of the legal entities participating in these social relations, namely the state and migrants .

The legal system allows the same legal institutes to regulate public relations in different legal branches. In the field of migration law, we observe legal institutes that are characteristic of administrative law, such as the regime of entry, residence, and exit of foreigners from the territory of the Republic of Bulgaria. Essential is the Institute for the Granting of the Right to Protection and Asylum, which is an institute of refugee law and international law. These institutes regulate public relations related to legal migration. The legal norms contained in them carry out their regulatory function in relation to the social relations that existed in the period after the Second World War. In the process of interaction between the international legal system and the national legal system, an order is created, the purpose of which is to respond adequately to the emerging need for the regulation of refugee flows.

The issue of regulating public relations related to illegal migration is different. The identification of two different categories of foreigners, such as refugees and illegal migrants , leads to an attempt to implement institutions that in practice cannot carry out their functions. Theoretical thought follows the course of time. From the analysis of the consequences of social phenomena, we derive proposals for adapting the legal toolkit to the changed social reality, some of which find jurisprudential application. Legal science has a far more advanced character than analyzing the facts of social reality that have already happened, looking for a

legal solution to their consequences. Concentrating on the one-sided profile of one group of society, such as foreigners, prevents the creation of a clear idea about the peculiarities of a certain circle of social relations. Not every migrant is a refugee. Not every refugee is an illegal migrant . A refugee is a person who has been granted the administrative legal status of a refugee. Migrants are a category of foreigners who have different profiles.

In the dissertation work, we adopt R. Tashev's thesis that subjective rights and legal obligations are also part of the legal system. He draws his conclusion based on Kelsen 's position that legal norms can be both general and individual legal norms, the latter representing subjective rights and legal obligations. The thesis that individual legal norms are an integral part of the legal system is also supported by Van de Kerkhove and F. Ost . D. In this regard, following the development of the issues under consideration, it would be important to find a solution to the questions raised, to derive the subjective rights and legal obligations of the different categories of migrants . In the present work, we consider the guarantee of migrants ' rights as a condition for the efficiency of the legal system.

Within the framework of this dissertation, the analysis of the functions of the legal system is necessary in order to argue the thesis advocated in it regarding the impact of migration processes on the legal system.

In the field of migration, the regulatory function of law is significant. Law brings order and stability to social relations. It is the tool through which social conflicts are avoided and resolved. Migration can be considered not only as a social phenomenon, but even as a social conflict. The legal system does not allow contradictions and conflicts to exist within its framework. It is influenced by existing social and cultural conditions. The legal system is concerned with regulating the behavior of people. Through the connections and interaction of its elements, it performs its regulatory function. The law creates an order that is generally binding on the members of society, through this order social relations are regulated. Legal norms, through subjective rights and obligations, determine the due behavior of legal subjects. They prohibit, oblige or allow certain actions of the members of the society. In this way, they become integrated into it.

Enabling the exercise of rights by the state and compliance with the rules of conduct by legal entities is a prerequisite for the successful integration of migrants in the host country. The negative result of the interaction between different value systems is manifested in the refusal of the bearers of a foreign value system to accept local moral and legal principles that do not correspond to their own. When it comes to the transfer of a different religion, culture, language and self-consciousness, it is necessary to make efforts both on the part of the

institutions and on the part of the bearers of a foreign legal system, first of all to acquaint the migrants with the current rules of behavior and secondly, sanctioning in case of non-compliance with legal norms.

The regulative function is concerned with applying normativity and using conflict to form and reproduce new expectations for certain behavior. In this way, it strengthens the foundations of modern society and brings stability to social relations. The dynamization of social relations allows the legal system to undergo evolution, which is expressed in its adaptation to changes in the social environment. Regarding the role of a social regulator, N. Luhmann sees law as a regulatory mechanism that gives rise to conflicts, the resolution of which he uses for the purposes of his own evolution.

We use this conclusion in arguing the thesis advocated in the dissertation that the changing social relations in the field of migration are a catalyst for the development of the legal system, as it is faced with the challenge of solving social conflicts, of which migration processes are a part. This, in turn, modifies it as a result of the process of adaptation to the surrounding social environment. The collision of legal systems also plays the role of a prerequisite for their development.

The regulatory function of the legal system includes the setting of guidelines for a certain type of behavior of legal entities by the state in the role of legislator. Through them, the rights and interests of citizens are protected and protected. Legal norms prohibit, oblige or allow certain actions of legal entities. In the field of migration, these are the conditions for entry, exit and residence on the territory of a country, as well as for granting international protection.

In the present study, we adopt N. Luhmann's views on the social nature of the legal system. We believe that the links between the legal system and the environment are so strong that they condition the existence of the system itself, on the one hand, and society, on the other. We perceive the functioning of the relations between the legal and public systems as a criterion for determining the effectiveness of the legal system.

Undoubtedly, migration is an element of the surrounding social environment of law, it is an element of the social relations that arise between individuals and the state. Due to its social nature, it is seen as a social phenomenon that arises, develops and leads to changes in the surrounding social environment. The interaction with other social phenomena and processes is polyvalent and affects the relationship between the public and the legal system. From here we conclude that migration is an external social factor that implies the existence of the relationship between the legal system and the environment and affects its development.

In section three, migration processes are considered in the context of the interaction between legal systems. It touches on the topic of pluralism of legal systems. The development of the continental legal system is an example of the spread of the operation of the legal system in a territorial plan. Migration processes, expressed in the migratory movements of people, their permanent settlement in a certain territory and their successful integration, contribute to the development of legal systems. The manifestation of migration processes are an example of the application of the identity criteria of the legal system. The functionality of the legal system is expressed in the introduction of an effective legal toolkit of rules of conduct and their efficient application in relation to the social environment. Migration is a complex process with a complex nature, where crossing state borders means crossing territories where different legal systems operate.

In the context of Anglo-Saxon law, migration processes are a prerequisite for a clash of legal systems. The degree of impact of customs, traditions and culture on the legal system in the process of its development is important for its confirmation. Migration plays the role of source and transmitter of different customs and cultures, and with it also of different legal systems.

Migration processes have a positive impact on the understanding of culture and religion, which affects the improvement of the legal system. Migration affects the development of the legal system from the point of view of the religious effect, which is manifested in the relations law - religion and law - morality. The contribution of migration is expressed in the affirmation of basic human principles such as humanity, common human values, protection of human rights.

The need to adapt European and national legislation to the specifics of modern migration processes is a legal expression of the public and state interest in the development of the legal system in the part of regulating public relations between the legal subjects of a country - a foreigner with the aim of greater effectiveness of law enforcement in this area of law.

Chapter two " Migration as a social factor affecting the legal system " defines the various aspects of migration processes: historical, social, political, economic. A legal-historical analysis of migration processes, which had an impact on the development of legal systems, was made . It is concluded that, as a result of the migration processes, the development of the commodity-money turnover and the need to regulate the relations between the various feudal societies and state entities deepened, which necessitated the adaptation of Roman law in order to effectively regulate the new social relations. As a result of the

migration processes at that time, institutions of Roman law were transferred and adopted by the legal system in foreign territories where local legal traditions existed. As a result, Roman legal provisions operated outside the Roman Empire, continued to exist after its collapse, and were established over time by being incorporated into national legal systems.

Here, the need to examine migration as a social factor that significantly influences the development of law and the effectiveness of the legal system is substantiated. In the present part of the study, an attempt is made to look for more specific dimensions of this interaction and to explore and explain the way in which migration affects law and vice versa, how law establishes legal regulation to achieve the goals of laws and with a view to preserving of the unity and homogeneity of the legal system. Migration processes represent a social form through which legal culture and experience are spread (exported) to other regions of the world.

A significant part of the second chapter is devoted to determining the nature, causes and consequences of migration processes in Europe. The concepts are placed in the context of the legal systems in Europe in order to discuss the general theoretical issues raised already in the first chapter. Definitions of concepts such as migration process, migration, migrant , economic migrant , illegal migrant have been derived . A distinction is made between the concepts of migrant and refugee.

A comment was made about the place of migration law in the legal system. It is argued that migration law has not yet emerged as an independent legal branch. The systematization of norms regulating social relations resulting from migration processes continues. Special laws are adopted and specialized state bodies are created. Gradually, in the legal system of the EU, migration law is distinguished as a legal branch, while in Bulgaria it is in the process of development. It should be borne in mind that the identification of new branches depends on the development of the legal system and, more specifically, on the system of legislation.

The third chapter is dedicated to the current topic of protecting the rights of migrants . Here the idea of human rights as natural rights arising from the biosocial essence of the person is adopted. Also used were the ideas of the Enlightenment - humanism, liberalism and individualism, which undoubtedly influenced modern law. The interaction of the legal systems that have become established as systems for the protection of human rights has been traced. It is concluded that the protection of migrants ' rights can be seen as an indicator of the effectiveness of the legal system in view of the modern idea of law and the human rights function of the state.

The implementation of international standards on the rights of migrants in national law aims to improve the legal systems and achieve the efficiency of the institutions. This process takes place in the context of the social and legal system. The elements of the social environment – morals, culture, traditions and others – are important, as well as the elements of the legal system. Migration processes influence the formation of normativity and even the notion of justice in society. This means that they affect values whose reflection in law affects its effectiveness and functionality. Their relationship with human rights further illustrates their importance in affirming the principles of modern law - equality before the law and universality of human rights. Migration processes also complicate the relations between moral systems and law, as they enrich the social environment with new moral content. Change in the social environment also affects the effectiveness of law as an ability to regulate social relations. Human rights are real rights when state institutions have created adequate conditions for their realization. Violation of human rights violates legal principles.

On the other hand, the large number of migrants who illegally enter the territory of Europe puts the countries to a severe test. Despite the statistics of international organizations and national competent services, the exact number of illegal migrants can hardly be determined, and in the case of secondary migration, it is impossible at this stage to specify the country of destination of each one of them. This makes it difficult to introduce indicators that lead to effective control and management of the migration process, which makes it difficult for institutions to apply the legal mechanisms to protect the rights of migrants . Without status and without legal recognition by state institutions, their rights cannot be fully protected.

The protection of their rights is closely related to the level of integration of migrants in the host country, which, in turn, is related to the willingness of the country to provide conditions for integration, but also to the manifestation of efforts by the migrant to integrate. The protection of migrants ' rights is an institution of humanitarian law. The level of effectiveness of protection mechanisms is an indicator of the degree of development of the national legal system.

The movement of people across the borders of European countries with unprovable identity and undetermined place of residence hinders the application of the current legal regulation in the field of migration control and asylum.

The first section examines the legal mechanisms for the protection of migrants ' rights in international law, EU law and national law.

Defining migration as a factor that influences the development of legal systems for the protection of human rights allows the subject of the study to be placed in the context of



human rights, which means that we pay attention to theories of natural law . Before looking at the protection of migrants ' rights , which is definitely a question of the effectiveness of legal systems and the interaction between them, we consider it necessary to outline the accepted basic idea of human rights. The right of defense should also be briefly clarified, given the subject under discussion.

The topic of migrants ' rights is of great importance for the overall protection of human rights in the modern world. Three approaches are required when considering them. First of all, migrants are recognized with all the fundamental rights that derive from the human nature of the person. They are guaranteed at all levels of legal regulation – international law, supranational law, domestic law. Secondly, migrants have rights that are related to the status of foreigners under national law, directly related to the institution of citizenship. Here, in domestic law, specific rights and obligations of foreigners are established in a special law. Migrants , in addition to having rights, also have obligations. They are required to comply with the laws of the countries in which they reside. International standards of human rights and humanity, characteristic of modern society, impose thirdly the introduction of special protection for migrants when they meet certain criteria for a vulnerable group of persons. Here again, we are talking about fundamental human rights, which give rise to obligations for states to respect, protect and implement fundamental rights, on the one hand, and refrain from violating rights, on the other. Duties are assigned to both governmental bodies and non-governmental bodies, humanitarian organizations, local or even private organizations.

Section two of the third chapter is devoted to defining the rights and obligations of migrants ; the types of rights; theoretical and practical-applied aspects of the issues under consideration.

In a legal sense, human rights are defined as a legal mechanism that outlines the legal sphere of the individual in which the state should refrain from interfering. In international law, when defining human rights, the historical approach is mainly used. One of the classifications of the types of rights is their division into three generations of rights <sup>6</sup>. The essential thing about it is that it creates an arrangement of basic human rights. The emergence of generations of human rights is explored . First generation rights are civil and political rights. They appeared as a result of the bourgeois revolutions in the 18th century.

---

<sup>6</sup> Vasak , K. A 30-year struggle ; the sustained efforts to give force of law to the Universal Declaration of Human Rights . – The UNESCO Courier , 1977, XXX, pp . 28-29 , p. 32.

They are an expression of the political, i.e. individual freedom of man as a basic and inalienable human right. This understanding was established at the end of the 18th century as the ideology of the French Revolution for freedom and equality. The significance of this generation of rights is that it introduces the understanding of the human individual as the fundamental value of law. In history, this period is defined as a transition to modernity, which is characterized by individualism as a philosophical trend. Liberal freedoms arise, forming defensive rights, in which the individual opposes the state as the bearer of public authority. Civil and political rights are detailed in the International Covenant on Civil and Political Rights, as well as in the European Convention for the Protection of Human Rights.

The struggle for social justice in the XIX century gives rise to the need to supplement the catalog of human rights. This is how economic, social and cultural rights arise. These rights acquire their political and legal meaning within the framework of the idea of a social and legal state. The second generation of rights arises as empathic rights, as they require active policy from the public authority. These rights refer to people's social and cultural life, their right to work, to education, to social security. They are associated with the scientific and technical development of society and the growth of industrialization. These rights are binding on the state. They are set out in the International Covenant on Economic, Social and Cultural Rights, as well as in the European Social Charter of the Council of Europe.

Solidarity rights are accepted as third generation rights. An explanation for their occurrence began to appear in legal literature at the end of the 20th century. The third generation of rights is associated with the development of new technologies and environmental protection. These include the right to development, the right to peace, the right to a healthy environment, the right to humanitarian aid, the right to information, the right to a decent living minimum for the existence of the human individual, the right to self-determination. They are an extension of liberal freedoms and social rights. They appear as a response to the need to strengthen integration, globalization processes and problems related to the development of society. These rights encompass the collective rights of society or peoples. Due to their collective nature, the recognition of these rights is controversial. The acceptance of the idea that rights are individual and that their bearer can be an individual but not a group of people is used to argue against their existence. In addition, the problem of the protection of these rights, which in this case is the international community, is highlighted. The role of law is to resolve this problem. Each of these rights also has its own individual character, since each society or group of people is composed of human individuals who bear these rights.

Regarding migrants, we adopt the thesis that they are the bearers of all basic human rights, some of which can be singled out as special rights arising from their particular status.

In the third section, theoretical and practical issues of the protection of migrants' rights are discussed. In the present study, attention is directed to some problems in the regulation of migration flows in Europe, which are relevant for the whole world. The created legal mechanism includes legal regulation of the initial actions in the work with illegal migrants, among which are reception, registration, granting the right of protection, accommodation in centers, return to the countries of origin, etc. National institutions are faced with the need to implement adequate measures to control and regulate illegal migration. Some of the migrants who entered illegally remain residing irregularly on the territory of their countries. Unsolved migration issues cause international political controversies and become one of the factors that threaten the stability of international relations. In an attempt to maintain national security, some countries are taking measures to restrict the access of migrants to their territories. Unifying standards and eliminating inequality between migrants and citizens requires the introduction of legal mechanisms, which requires greater commitment on the part of individual countries.

Unsolved migration issues cause international political controversies and become one of the factors that threaten the stability of international relations. In an attempt to maintain national security, some countries are taking measures to restrict the access of migrants to their territories. Unifying standards and eliminating inequality between migrants and citizens requires the introduction of legal mechanisms, which requires greater commitment on the part of individual countries.

An in-depth study of the jurisprudence of the ECtHR and the CJEU in the field of protection of migrants' rights was made. Problems in the implementation of European and national legislation are discussed. Conclusions are drawn regarding the violations of the human rights of migrants, which are violations of international humanitarian law and are expressed in the prohibition of return, repulsion and violent attacks against migrants, arbitrary and indefinite detention in inhumane conditions, exploitation, torture and other forms of ill-treatment. In the fight against illegal migration, migration cooperation with third countries is associated with several human rights risks, which increase as attention shifts from countries of origin to countries of transit. In order to minimize the number of readmitted migrants, these transit countries typically limit their inbound and outbound migration by strengthening border controls, restricting visa policies, and entering into readmission agreements with their neighboring countries. In this way, the EU's cooperation with

neighboring countries creates a ripple effect in the region. This threatens the principle of human dignity enshrined in international law and the EU Charter of Fundamental Rights, in particular if the migrant is unable to return to his country of origin. This cooperation also affects migrants on their way to safety, as the vast majority of them do not have legal means of travel. There is a risk that they will not be able to leave their own country or will be stranded in a transit country with a non-functioning protection system. This provision affects the right to leave a country, the right to asylum and the prohibition of return, as well as the prohibition of inhuman or degrading treatment . As migrants may face obstacles in exercising their rights, providing conditions for the exercise of the right to effective legal remedies would limit the violation of their fundamental rights.

### III. Scientific publications related to the dissertation work

1. **Doichinova, Veronika.** Legal problems of migration processes in Europe. – Studies Iuris [online]. Plovdiv, 2019, No. 2, pp. 118-131. [accessed 06/27/2023]. Available from: <https://studiaiuris.com/wp-content/uploads/2021/01/Studia-Iuris-2-2019-book-all.pdf>
2. **Doichinova, Veronika.** Illegal migrants in Europe - the new category of foreigners. – Society and law. Sofia, 2020, No. 2, pp. 4-14.
3. **Doichinova, Veronika.** The role of migration processes for the development of the legal system. - In: Collection of reports from the X national conference for doctoral students in the field of legal sciences. 2020. Sofia, BAS-IDP, 2021, pp. 158-170.
4. **Doichinova, Veronika.** Protecting the rights of migrants by sea entering Europe. - Ius Romanum [online]. Sofia, 2021, No. II , pp. 593-610. [accessed 06/28/2023]. Available from: [https://iusromanum.info/wp-content/uploads/2022/03/IUS-ROMANUM\\_2\\_2021\\_MARE-NOSTRUM.pdf](https://iusromanum.info/wp-content/uploads/2022/03/IUS-ROMANUM_2_2021_MARE-NOSTRUM.pdf)
5. **Doichinova, Veronika.** Practical problems in the regulation of migration processes. – Justice and Human Rights [online]. Sofia, 2023, No. 1, pp. 70-87. [accessed 06/27/2023]. Available from: <https://justicehr.com/wp-content/uploads/2023/04/Justice-and-prava-na-čoveka-broi-1.pdf>