



Abstract:

Article 4 of Protocol No. 4 EConvHR stipulates concisely that "collective expulsion of aliens is prohibited". Since its entry into force on 2 May 1968 the prohibition of collective expulsion has evolved from a symbol against the mass expulsions in the first half of the 20th century to an important instrument of protection against expulsions in Europe.

The analysis of this evolution begins by clarifying the difference between individual expulsion and collective expulsion. In this respect, a case law analysis and a methodical interpretation reveals that the absence of individual examination is all that is needed to establish an expulsion as "collective". Hence, the prohibition of collective expulsions entitles aliens to an individual assessment of their case prior to their expulsion - unless the lack of individual assessment is the result of their conduct. The right to individual assessment includes both substantive rights protecting against discriminatory expulsions and procedural rights protecting against arbitrary expulsions.

The next step consists in defining the scope *ratione personae*, *ratione materiae* and *ratione locii* of the right to individual assessment. Article 4 of Protocol No. 4 EConvHCR protects any person who is not a national of the State taking the expulsion measure. Although this provision *prima facie* protects a collective, the entitled subject of the norm is not a group but the individual. Therefore, the prohibition of collective expulsions is not a collective right but an individual right. The material scope of the right to individual assessment is determined by the expulsion. Expulsion means any measure compelling an alien to leave the territory or preventing him or her from gaining access to it. The territorial scope of the right to individual assessment is based on the general principles of the responsibility of States Parties to the Convention for extraterritorial measures. Thus, an alien outside the territory of a State may be the victim of collective expulsion when the State exercises *de jure* or *de facto* control over him or her.

In conclusion, Article 4 of Protocol No. 4 EConvHCR prohibits States Parties to the Convention from compelling an alien under their jurisdiction to leave their territory or preventing him or her from reaching it without any individual assessment.