



CONFLICT AND COMPROMISE BETWEEN LAW AND POLITICS IN EU MIGRATION AND ASYLUM POLICIES

ODYSSEUS ANNUAL CONFERENCE

THURSDAY 1ST OF FEBRUARY 2018 - Brussels, ULB

9.00 - 10.00

OPENING PLENARY SESSION

Assessing the Implementation of the Agenda on Migration

STREAM 1



EXTERNALISATION

WORKSHOP A

INTERNATIONAL RESPONSIBILITY FOR THE COOPERATION OF THE EU & ITS MEMBER STATES WITH THE LIBYAN COAST-GUARD?

10.00 - 12.30

WORKSHOP B

VISAS FOR ASYLUM: NOT UNDER EU LAW OR NOT AT ALL?

13.30 - 15.30

STREAM 2



HUMAN RIGHTS

WORKSHOP C

THE HUMAN RIGHT TO LEAVE A COUNTRY: TO PROTECT OR FORGET?

WORKSHOP D

COLLECTIVE EXPULSION OR NOT? INDIVIDUALISATION OF DECISION MAKING IN MIGRATION AND ASYLUM LAW

STREAM 3



INSTITUTIONS

WORKSHOP F

MONITORING AND STEERING THROUGH FRONTEX & EASO 2.0: THE RISE OF A NEW MODEL OF JHA AGENCIES?

WORKSHOP E

EXTERNAL COMPETENCE AND REPRESENTATION OF THE EU AND ITS MEMBER STATES IN THE AREA OF MIGRATION AND ASYLUM

16.00 - 17.00

FINAL PLENARY SESSION

Towards "Judicial Passivism" in EU Migration and Asylum Law?

More information on this conference and how to register can be found at:

<http://odysseus-network.eu/conference-2018/>

Université libre de Bruxelles | 1050 Brussels

OVERVIEW

This Annual Conference is organised by the Odysseus Academic Network, a leading network of legal experts in immigration and asylum in Europe, in the framework of the OMNIA project and with the support of the Jean Monnet activities of the Erasmus+ Programme of the European Union. The 2018 edition will take place in Brussels on Thursday 1st February 2018.

The overarching theme of the conference is "Conflict and Compromise between Law and Politics in EU Migration and Asylum Policies" as 2017 has been marked by several rulings of the Court of Justice of the European Union in extremely sensitive cases like humanitarian visas for asylum seekers, relocation and solidarity, as well as the EU/Turkey Declaration. A series of six workshops will give the opportunity to participate to discussions during which complex legal and policy issues will be analysed by high level experts and policy makers from academia, EU institutions and agencies, International organisations, Member States and NGOs representatives.

The opening plenary session will be devoted to the assessment of the implementation of the European agenda on Migration on the basis of the Commission Communications of 27 September and 7 December while the closing plenary session gathering representatives of the Court of Justice of the European Union will deal with the idea of "judicial passivism" as an emerging trend. In order to allow networking among the participants, sufficient time has been left for discussions and breaks. Participants arriving in Brussels the evening before on Wednesday 31 January will be welcome for an evening cocktail in the European Press Club.

The conference programme is organised along three thematic streams: (1) Externalisation (2) Human Rights (3) Institutions. Participants are invited to choose their preferred stream within each workshop session.

PROGRAMME

OPENING PLENARY SESSION 9.00 to 10.00

ASSESSING THE IMPLEMENTATION OF THE AGENDA ON MIGRATION

Several questions related to the implementation of the European Agenda on Migration will be analysed in relation with the Commission Communications of 27 September and 7 December 2017.

- Welcome speech by **Philippe De Bruycker**, Coordinator of the Odysseus Academic Network, ULB, Brussels
- "From illegal to legal migration: the importance of pull factors" by **François Crépeau**, Professor, Mc Gill University, Canada ; Former UN Special Rapporteur on the Human Rights of Migrants
- "From Dublin to sharing people: a viable model of solidarity?" by **Francesco Maiani**, Associate Professor, University of Lausanne, Switzerland
- Comments by **Simon Mordue**, Deputy Director-General, DG Migration and Home Affairs, European Commission

FIRST WORKSHOP SESSION

10.00 TO 12.30

WORKSHOP A: INTERNATIONAL RESPONSIBILITY FOR THE COOPERATION OF THE EU AND ITS MEMBER STATES WITH THE LIBYAN COASTGUARD?

Whilst they avoid triggering directly the application of the ECHR, the EU and its Member States collaborate closely with the Libyan coastguard by providing training, equipment and/or funding. Can these policies lead to international responsibility of the EU and its Member States and, if yes, which court(s) would establish jurisdiction?

Convener: **Achilles SKORDAS**, Professor, University of Copenhagen, Denmark

- **Ramses Wessel**, Professor of International Law and Governance, University of Twente, the Netherlands
- **Mariagiulia Giuffre**, Senior Lecturer in Law, Department of Law and Criminology, Edge Hill University, United Kingdom
- **Sonja Boelaert**, Senior Legal Adviser, Council of the EU
- **Carolyn Moser**, Research Fellow, Max Planck Institute for Comparative Public Law and International Law, Heidelberg, Germany

WORKSHOP C: THE HUMAN RIGHT TO LEAVE A COUNTRY: TO PROTECT OR FORGET?

The freedom to leave any country including his own recognised under human rights law is challenged by pull-back practices as part of the fight against irregular migration and the externalisation of the EU migration policy. Turkey is requested to prevent migrants and asylum seekers to leave its territory. Transit countries like Libya if not origin countries, are asked to act in a similar way. The compatibility of such measures with the right to leave should be assessed.

Convener: **Elsbeth GUILD**, Jean Monnet Professor ad personam, Queen Mary University of London

- **Nora Markard**, Junior Professor of Public and International Law, University of Hamburg
- **Adriano Silvestri**, Head of Sector Asylum, Migration and Borders, European Union Agency for Fundamental Rights
- **Pia Oberoi**, Advisor on Migration and Human Rights, Office of the United Nations High Commissioner for Human Rights
- **Ulrike Brandl**, Associate Professor, Department of Public Law and European Union Law, Faculty of Law, University of Salzburg

WORKSHOP F: MONITORING AND STEERING THROUGH FRONTEX AND EASO 2.0: THE RISE OF A NEW MODEL OF JHA AGENCIES?

The (envisaged) enhanced mandate of key EU JHA agencies goes far beyond support, or administrative cooperation, and includes functions that have the potential to directly steer the implementation of EU policies, as well as monitoring functions. This creates obvious tensions with the agencies' internal governance structures which are largely intergovernmental, and more broadly with the legal, and political limits to their functioning. This workshop integrates insights from practice, policy input, and legal debate and critically assesses: the (envisaged) design and operationalisation of these monitoring and steering functions; the level of independence afforded to JHA agencies; the effectiveness of existing accountability mechanisms.

Convener: **Lilian TSOURDI**, Doctor, Lecturer, Refugee Studies Centre, University of Oxford

- **Kris Pollet**, Senior Legal and Policy Officer, ECRE
- **Richard Ares Baumgartner**, EU Affairs Strategic Advisor, Frontex
- **Patricia Van de Peer**, Head Department of Asylum Support, European Asylum Support Office
- **Ellen Vos**, Professor of European Union Law, Maastricht University

LUNCH 12.30 TO 13.30

SECOND WORKSHOP SESSION

13.30 TO 15.30

WORKSHOP B: VISAS FOR ASYLUM: NOT UNDER EU LAW OR NOT AT ALL?

While asylum seekers have recourse to smugglers because they cannot travel legally to the EU, the CJEU ruled on 7 March 2017 on the application of a Syrian family for a short-term visa that would have allowed them to travel and apply for asylum in Belgium. The severely criticized decision of the Court in X & X denying its jurisdiction should be scrutinized, including the issue if the refusal of a visa may lead to a violation of non-refoulement in relation with the own initiative report of the European Parliament on humanitarian visas.

Convener: **Violeta MORENO-LAX**, Doctor, Associate Professor in Law, Queen Mary University of London

- **Emmanuelle Bribosia**, Director of the Center for European Law, Institute for European Studies, ULB
- **Juan Fernando Lopez-Aguilar**, Member of the European Parliament, Committee on Civil Liberties, Justice and Home Affairs
- **Sophie Magennis**, Head of Policy and Legal Support Unit, UNHCR, Bureau for Europe
- **Adriano Silvestri**, Head of Sector Asylum, Migration and Borders, European Union Agency for Fundamental Rights
- **Nicolas Cariat**, Attorney, Stibbe

WORKSHOP D: COLLECTIVE EXPULSION OR NOT? INDIVIDUALISATION OF DECISION MAKING IN MIGRATION AND ASYLUM LAW

The ECtHR delivered two contradictory rulings on collective expulsion in the case *Khlaifia*. The recent ruling in *N.D. & N.T.* on 3 October 2017 about returns from Mellila to Morocco adds a seventh case to the list of violations of Protocol 4 of the ECHR on the prohibition of collective expulsions. What is at stake is the level of individualisation of return decisions required by judges. This principle of administrative law appeared also in the case law of the CJEU on family reunification. But what does individualisation require precisely?

Convener: **Jean-Yves CARLIER**, Professor, Faculté de droit, Université Catholique de Louvain

- **Luc Leboeuf**, Scientific Collaborator, Institut pour la recherche interdisciplinaire en sciences juridiques, Université Catholique de Louvain
- **François Crépeau**, Professor, Mc Gill University, Canada ; Former UN Special Rapporteur on the Human Rights of Migrants
- **Marta Hirsch-Ziembinska**, Principal Legal Adviser of the European Ombudsman and member of the Research Network on EU Administrative Law

WORKSHOP E: EXTERNAL COMPETENCE AND REPRESENTATION OF THE EU AND ITS MEMBER STATES IN THE AREA OF MIGRATION AND ASYLUM

The General Court considered in case T-192/16 that the EU-Turkey Statement of 18 March 2016 was not adopted by the European Council but rather by the Heads of State or Government of the Member States. If that is the case, can we consider the collective action of Member States in fields within the scope of EU external competences to be lawful? The current discussions in the UN of the Global Compacts on refugees and migration also raise questions regarding who takes part in those negotiations on behalf of the EU and its Member States.

Convener: **Paula GARCIA ANDRADE**, Associate Professor of Public International law and EU law, Universidad Pontificia Comillas, Madrid

- **Juan Santos Vara**, Jean Monnet Chair in EU External Action, University of Salamanca, Spain
- **Thomas Spijkerboer**, Professor of Migration Law, VU University of Amsterdam
- **Mauro Gatti**, Research Associate, University of Luxembourg
- **Sonja Boelaert**, Senior Legal Adviser, Council of the EU

COFFEE BREAK 15.30 TO 16.00

FINAL PLENARY SESSION 16.00 TO 17.00

TOWARDS "JUDICIAL PASSIVISM" IN EU MIGRATION AND ASYLUM LAW?

While the Court has sometimes been considered as a judicial activist, one may wonder if the recent case law analysed in the workshops does not show an opposite direction. This final session will look at the position and role of judges in the European integration process and in migration and asylum in particular.

Convener: **Iris GOLDNER LANG**, Jean Monnet Professor of EU Law, University of Zagreb, Croatia ; UNESCO Chair on Free Movement of People, Migration and Inter-Cultural Dialogue

- **Françoise Tulkens**, Former Judge and Vice-President of the ECtHR
- **Eleanor Sharpston**, Advocate General, CJEU
- **Franklin Dehousse**, Professor, University of Liège, Belgium ; Former Judge at the General Court, CJEU
- **Henri Labayle**, Professeur de droit européen, Université de Pau et des Pays de l'Adour, France
- **Daniel Thym**, Jean-Monnet Chair of Public, European and International Law, University of Konstanz, Germany

PRACTICAL INFORMATION

- **Date and time:** 1st February 9.00-17.00
- **Location:** Université libre de Bruxelles - Avenue Jeanne - Buildings K and R42
- **Registration:** online at <http://odysseus-network.eu/conference-2018/>
- **Cost of participation:** Professionals 95 EUR / PhD Students and NGO's 60 EUR / Students till 25 20 EUR
- **Catering:** Refreshments and lunch will be provided
- **Public transport:** <http://www.stib-mivb.be/> (nearest bus/tram stops: Buyl, Cambre-Etoile, Jeanne, ULB)
- **Parking:** on request at odysseus@ulb.ac.be

