

**MAPS CONFERENCE hosted by University Goce Delchev – Shtip**  
**23<sup>rd</sup> September 2021, Shtip**

**OUTSOURCING AND COOPERATION WITH THIRD COUNTRIES –  
DECONSTRUCTING THE FORMAL AND THE INFORMAL IN MIGRATION AND ASYLUM POLICIES**

The conference is convened by Ana Nikodinovska Krstevska and Olga Koshevaliska,  
University Goce Delchev – Shtip, as part of the MAPS Jean Monnet Network.

## CONFERENCE ABSTRACTS

**9.30 -10.45 Panel 1: Externalization of EU Asylum and Migration Policy: Questioning the Legal**

Chair: **MARIA GAVOUNELI**, National & Kapodistrian University of Athens (MAPS Network)

**SPEAKERS:**

**1. VIOLETA MORENO – LAX**, Queen Mary University London (MAPS Network): *The Hard Implications of Soft Law: Undermining EU Constitutional Principles through the Informalization of External Migration Cooperation*

**Abstract:** This in-depth analysis focuses on the human rights implications of EU external migration policy interventions: (1) identifying human rights obligations owed to third-country nationals when engaging in cooperation with third countries and non-EU actors; (2) assessing the means and level of compliance with these obligations when designing and implementing the main policy instruments; and (3) determining the existence and adequacy of operational, reporting, monitoring and accountability mechanisms available in each case to track and respond to potential violations. Particular attention is paid to soft-law tools, on account of their enhanced potential to erode the enforceability of obligations, to downgrade democratic accountability and generally undermine the rule of law. Paving the way for the New Pact on Migration and Asylum, special emphasis is placed on cooperation under the Global Approach to Migration and Mobility, the EU Agenda on Migration, and the Migration Partnership Framework, including informal arrangements concluded by Frontex or by the Member States themselves. Four case studies guide the analysis and illustrate findings: (1) the EU-Turkey Statement; (2) the multi-modal cooperation with Libya; (3) the Joint Way Forward with Afghanistan; and (4) collaboration with Niger under the EUCAP Sahel mission. The in-depth analysis reveals that the full effect of the EU fundamental rights acquis in extra-territorial situations has not been duly accounted for and proposes a system to ensure compliance with the relevant standards covering the pre-conclusion,

design, adoption, implementation, evaluation, and review phases, highlighting the role of the European Parliament and civil society organizations.

**2. LILIANA HAQUIN SAENZ, ESTER DEL NONNO and MEHTAP KAYGUSUZ AKBAY**, University Jean Moulin Lyon III (MAPS Network): *The Externalization of the Asylum: A Process to Limit Asylum?*

**Abstract:** What are the key steps in the outsourcing of asylum in the European Union? What is the role of the EU-Turkey Statement in the outsourcing of asylum? What is the significance of Denmark's policy on asylum outsourcing and the threats it poses? Is the outsourcing of asylum applications a transfer of legal responsibility from the receiving states? These are some of the questions we will attempt to answer in this paper through the exploration of the following main areas. Firstly, we will give a general but necessary overview of asylum and its externalization. Secondly, we will analyze the EU-Turkey Statement as example of this externalization, to show its effects and consequences since its application. Thirdly, we will focus on the Denmark's proposal to externalize asylum, introducing the possibility of transferring asylum seekers for the examination of their application and their accommodation in third countries through bilateral instruments.

**3. GEMMA ANDREONE**, National Research Council, ISGI – Rome: *Critical aspects on migration at sea: questioning national and European policies?*

**Abstract:** The presentation has the main aim of highlighting some critical aspects of the European and national policies regarding the issue of migration in the Mediterranean Sea. Indeed, migration by the sea in this basin has some very sad records among which the high number of fatalities occurred in the recent years. Given the complexity and the fragmentation of the existing rules on migrations at sea, the presentation will focus on three main issues, that will be explored across the Italian and EU policy, namely: criminal jurisdiction over foreign ships intercepted on the high seas without the consent of the flag state; the “non refoulement” principle and the definition of place of safety; the conflict between the obligation to provide assistance and the prohibition of illegal access to the territory.

**11.00 - 12.30 Panel 2: Migration and asylum in Western Balkan countries: Shaping public perceptions and exploring the ‘security – rule of law’ dichotomy**

Chair: **GABRIELA OANTA**, University of ‘A Coruña’ (MAPS Network)

Exhibition of art posters on Asylum and Migration from students of the Academy of Fine Arts, University Goce Delchev – Shtip under mentorship of **JANA JAKIMOVSKA**

**Abstract:** This presentation contains posters from students of the Academy of Fine Arts, University Goce Delchev – Shtip, which under mentorship of prof. Jana Jakimovska from the Academy of Fine Arts, University Goce Delchev – Shtip elaborated posters about migration, asylum, and human rights for the purpose of different events organized within the MAPS network at the University Goce Delchev – Shtip.

The posters have been published in two publications, *It's not a joke: human rights, censorship* (2019) and *Migration and human rights* (2020). In the forthcoming publication within the MAPS network entitled *Migration and asylum: a national, international, and European framework* which is scheduled to be published by the end of 2021, art pieces from the field of female migration which were subject to prior exhibition and publication by the Macedonian Young Lawyers Association in 2018 will be republished in this volume.

#### SPEAKERS:

1. **MAJA SAVIC BOJANIČ**, Sarajevo School of Science and Technology (MAPS Network):  
*Solidarity or Crisis? How Personal Migration Experiences Shape Popular Perception on Forced Migrants in Bosnia and Herzegovina?*

**Abstract:** Since the end of 2017, Bosnia and Herzegovina has experienced a significant increase in the number of migrants transiting through the country. Based on an ethnographic reading of nineteen recollections of ‘personal migration experiences’ of Bosnians during 1992–1995 war, which form the basis for popular perception of migrants in the country, this paper explores how the concept of solidarity is imagined and lived in the context of this significant increase. We argue that Bosnians interpret these recent arrivals as a ‘test of humanity’, having been in a similar situation in the early 1990s. In this regard, the concept of solidarity opens a window onto the interactions with and between migrants and non-migrants, recognizing a shared set of concerns and orientations, rather than exceptionalizing migrants through the lens of ‘crisis’. That said, the concept of solidarity is less popular among those who do not share a so-called ‘migrant’s faith’, resulting in negative perceptions of migrants. In these perceptions, migrants’ presence in the country is criminalized, resulting in various calls for more aggressive, even violent, ‘popular’ handling of migrants transiting or settling in Bosnia and Herzegovina.

2. **ZHANETA POPOSKA**, University Goce Delchev – Shtip: *Hate Crime Against Migrants along the Balkan Route*

**Abstract:** Hate crime on grounds of refugee or migrant status is a form of hate crime arising from bias or prejudices of the perpetrator on ground of actual or perceived migrant status of the victim, or because of their connection to refugee or migrant (in association with). Even though comparatively this ground is

less often taken into consideration when hate crime legislation is drafted, still as other types of hate crime, hate crime on grounds of refugee or migrant status can be seen as a globally spread phenomenon taking many forms, from verbal abuse and damaging property, to assault and murder. The Western Balkan societies are no exception from this trend, especially witnessed during the migrant influx.

The paper elaborates the constitutive elements and features of the hate crime on grounds of refugee or migrant status, the existing standards for prevention and protection, and key challenges in relation to the under-reporting of this type of hate crimes, both pre-emptive and post-facto. Finally, it assesses the lack of official data on hate crime on grounds of refugee or migrant status and insufficient victim support. Specifically, the paper analyses the positioning of refugee and migrant status as a protected characteristic in the national legislation of the Western Balkan countries in comparison with the international standards. Furthermore, the paper explores more in details the weak position of hate crime on grounds of refugee or migrant status and its features. The text uses results from research and surveys as an illustration of trends and patterns and is based on a desk-research methodology.

1. **ANA NIKODINOVSKA KRSTEVSKA, OLGA KOSHEVALISKA and ELENA MAKSIMOVA**, University Goce Delchev – Shtip (MAPS Network): *EU Solidarity and Cooperation in Migration and Asylum with North Macedonia*

**Abstract:** Migration in Europe does not affect all European countries equally. Due to their geographical position, to different destinations of migrants and to the settings of the EU asylum and migration system, Member states which are situated on the external borders of the Union are affected more severely than the others. This was proven with the massive influx of migrants in 2015/2016, when these States witnessed a significant burden upon their migration and asylum systems that overstretched their capacities to cope with the mixed influx, bringing into question EU's asylum and migration system and above all EU's solidarity and burden sharing of responsibilities among EU Member states. This situation deeply impacted upon neighboring transit countries, which in the past years were involved in different activities led by the EU or Member states that sometimes-pursued conflicting goals. In concrete, EU led activities in North Macedonia have been focused on nurturing a more humanitarian approach towards migration and asylum, focusing on capacity building and humanitarian assistance to reception facilities. On the other hand, bilateral cooperation between North Macedonia and EU Member States (ex. the Visegrad countries), has promoted a more security-oriented approach, emphasizing the protection of external borders and prevention and fight against illegal migration, and smuggling of migrants. Therefore, these diverse activities are contradictory and incoherent with the principle of EU's external solidarity. In base of this, the presentation will examine the superposition of legal regimes in the country in the field of migration management and prevention and fight against irregular migration and will examine the different types of police cooperation in the country and their impact upon human rights. All this will entangle the real scene behind EU's solidarity towards North Macedonia.

2. **ALEKSANDAR DIMOVSKI**, FRONTEX Human Rights Trainer and **MILICA SHUTOVA**, University Goce Delchev – Shtip (MAPS Network): *Border Cooperation and Human Rights Issues: the Just and the Unjustifiable*

**Abstract:** All human rights are inviolable, universal, interrelated, indivisible, and interdependent. Universality is a cornerstone of international human rights law. Respecting, promoting, and protecting human rights are just, not only because we are obliged to, but also because respecting one human right leads to justified decisions, solutions, and performs any action by law. In some circumstances, there are procedures or actions/inactions taken by the authorities that are seen as unjustifiable from the treated persons, or organizations which are monitoring the practicing of law by the authorities.

Based on previous research which was focused on the wide breaches of human rights during the migration influx, the purpose of the paper is to emphasize the need for respect and protection of human rights of migrants and refugees in every stage of the border guard's activity, getting better views on the registration process, and reviewing situations where rights can be subject to infringement during the registration process. In base of this, as well as of the fact that not all nationalities and minorities are treated the same way, the focus of this research will be to examine and depict the process of screening procedures on borders (concerning nationality assumption), with the intention to outline possible shortcomings or good practices in reference to protection of human rights.

**13.30-14.45 Panel 3: Migration and Asylum in North Macedonia: Balancing Rights, Freedoms, Obligations and Security**

Chair: **GIUSEPPE CATALDI**, University of Naples 'Orientale' (leader of the MAPS project)

Media presentation of the situation in Afghanistan, **IVANA MITEVA** – Student in Journalism and Media studies at University Goce Delchev - Shtip

**Abstract:** The presentation is delivered by Ivana Miteva, graduated student in Journalism and Media studies at the University Goce Delchev – Shtip. The presentation speaks about the situation in Afghanistan, and it raises issues and possible concerns about human rights issues, migrations, and international protection of refugees and internally displaced persons. Nonetheless the presentation also poses a series of questions regarding possible impact upon European migration and asylum policy and policies of Member states.

## SPEAKERS:

1. **CRISTINA BUNEA**, UNHCR in the Republic of North Macedonia: *Fundamentals of Refugee Protection and UNHCR*

**Abstract:** The presentation will refer to the UNHCR work – worldwide and in N. Macedonia, as well as it will tackle the 1951 Geneva Convention, international protection of refugees and fundamental principles.

2. **IRENA ZDRAVKOVA**, Macedonian Young Lawyers Association: *Asylum and refugee protection in North Macedonia: Experiences and Challenges*

**Abstract:** The presentation will tackle the Macedonian asylum and refugee protection system focusing on reception facilities, access to territory, access to asylum procedure, immigration detention, and it will outline what are the current challenges and point out some recommendations.

3. **VANJA LAZARIDIS**, IOM – Skopje: *Addressing COVID-19 challenges within the Migrant and Refugee Response in the Western Balkans*

**Abstract:** The presentation will discuss the protection and adaptability of action in protection of migrants as conducted by IOM – Skopje, and about finding ways and possibilities to assist people on the move when there is no presence in the camp.

4. **MERSIHA SMAILOVIKJ**, NGO Legis: *The Challenges of the Balkan route during the Covid19 pandemic*

**Abstract:** The mixed migration that Macedonia faced, brings with it many challenges. Protecting the human rights of refugees is a challenge in times of peace, but in times of pandemic, it requires greater efforts from all stakeholders in our state system.