

CONFERENCES AND REPORTS

REPORT FROM THE CONFERENCE TITLED “LEGAL DISCOURSES ON INTERNATIONAL AND EU MIGRATION AND REFUGEE LAW IN CENTRAL AND EASTERN EUROPE: EMERGING NEW NARRATIVES OR BUSINESS AS USUAL?”

Charles University Faculty of Law
Prague, 9 and 10 May 2024

On the occasion of the 20th anniversary of the Central and Eastern European countries' membership in the EU, i.e. the 2004 “Big bang” enlargement of EU, the International conference on “Legal discourses on international and EU migration and refugee law in Central and Eastern Europe: emerging new narratives or business as usual?” was held at the Faculty of Law of Charles University in Prague on 9 and 10 May 2024.¹ The conference organization committee comprised of **Dr. Věra Honusková** and **Dr.habil. Tamás Molnár** (with the respective faculties involved as organizing entities). They organized the conference as an in-person European Society of International Law (ESIL)-supported event with the support of the Institute for Legal Studies – Hungary (within the HUN-REN Centre for Social Sciences), the UN High Commissioner for Refugees (UNHCR), European Commission's Representation in the Czech Republic, the Czech Ministry of Education, Youth and Sports² and the Odysseus Academic Network.

The anniversary was a good opportunity to look back, assess and reassess the approaches of legal scholars in the sub-region to the ways in which they engage with EU and international law in the field of migration and refugee law, both in contributing to international legal discourse and in teaching these areas of law in their respective institutions. The issue at stake is not only about a small number of scholars. On the contrary, they come from a sizable group of countries, representing nearly a half of the EU Member States. Indeed, of the current 27 European Union (EU) Member States, a total of 13 CEE countries joined the EU club in 2004 and later. And these scholars also share a common history: after World War II, they or their predecessors spent long decades on the eastern side of the Iron Curtain due to their country's allegiance to the socialist / communist bloc. The organizers of the conference thought that all this might influence the current doctrine. Indeed, the possibility of a different doctrinal approach could be one of the reasons explaining a different approach of Central and Eastern European and Western European states in migration-related issues of today. During the first ten years, the CEE states were rather reactive in their approaches to the above-mentioned issues. They followed the main trends in asylum and migration policy and focused on the correct transposition of the ever-expanding EU migration and asylum *acquis* into their national law and practice, while adapting to existing universal and EU-wide legal frameworks (including the case law of international (regional) judicial and quasi-judicial bodies).

Following the European migration and refugee crisis of 2015–2016, the tacit compliance of the new Member States and their approach to migration and refugee issues as technical and “low politics” radically changed. A new (hard) political line has emerged:

(1) vocal opposition to EU measures aimed at responding to the 2015–2016 mass influx of protection seekers;

¹ The conference website can be found here: <https://www.migration.prf.cuni.cz/conference>.

² Reg. no. of the project: CZ.02.01.01/00/22_008/0004595, name of the project: Beyond Security: Role of Conflict in Resilience-Building.

- (2) blocking the achievement of European compromises;
- (3) building physical barriers at the borders;
- (4) adopting a largely restrictive, securitising stance; and
- (5) adopting national legislation that is in stark contradiction with EU and international law, disregards human rights guarantees and generally undermines the rule of law (including the authority of the relevant judicial and extra-judicial institutions).

Even at the universal level, a similar drift towards securitisation has been evident, particularly in the process of developing the UN Global Compact on Migration in 2016, leading to the explicit rejection of the Compact by some. Approaches to migration policy have been increasingly grounded in an expanded notion of state sovereignty and risks related to public order and national security at the expense of human rights and protection-focused narratives. All this has relegated migration and asylum issues to the realm of super-sensitive ‘high politics’.

The conference organizers thus asked themselves: to what extent have the afore-canvassed (reverse) developments and changes in policies, practices and priorities of many Central and Eastern European States impacted upon the framing, narratives and discourses in legal scholarship concerning EU and international migration/refugee law? Have the foundational doctrines, values and desired policy goals of the law that governs migration/asylum also been somewhat reconceptualised, transformed or even distorted in the (academic) legal discourse in the region? Is there a particular way lawyers of this sub-region in the “East of the Elbe” look at and grasp the grand design, key characteristics, and essential concepts of what we call “international and European migration/refugee law”?

The conference scientific advisory committee was composed of eminent scholars from the region: **Dr. Katarzyna Gałka**, Cardinal Stefan Wyszyński University in Warsaw (for Poland); **Professor Lyra Jakulevičienė**, Mykolas Romeris University (for Lithuania); **Professor David Jilek**, Palacký University (for Czechia); **Professor Iris Goldner Lang**, University of Zagreb, Faculty of Law (for Croatia); **Professor Madalina Moraru**, University of Bologna and European University Institute (for Romania); **Professor Vasilka Sancin**, University of Ljubljana, Faculty of Law (for Slovenia); **Professor Lehte Roots**, Tallinn University, School of Governance, Law and Society (for Estonia) and **Professor Boldizsár Nagy**, Central European University (for Hungary). Almost all of them also participated at the conference as guests on one of the two roundtables and both organizers: **Dr. Věra Honusková** and **Dr.habil. Tamás Molnár**.

The conference was opened by **H. E. Ajmal Khybari**, Head of the UNHCR Office in Prague, and two keynote addresses, one by the Honorable Judge **Dr. Kateřina Šimáčková** (European Court of Human rights), and the other by the Advocate General **Laila Medina, LL.M.** (Court of Justice of the European Union). Both keynote speakers focused on issues of sovereignty, jurisdiction and human rights, referring also to the relevant case law of both courts. The high standard set for the debate was also met in the discussion of experts from the scientific committee, joined by **Professor Pavel Šturma** (Charles University) in the opening roundtable on the state sovereignty, jurisdiction and human rights of people on the move (chaired and moderated by Dr.habil. Tamás Molnár).

The first panel “Changing Trends of Migration Narratives in Central and Eastern Europe” welcomed **as. prof. Janja Simentić Popović** and **Dr. Goran Sandić** (University of Belgrade) with their focus on “Normative adaptation and political realities: Serbia’s refugee law discourse in the CEE Framework”, **Professor Barbara Mikołajczyk** (University of Silesia) with her contribution on the “Polish Janus-faced approach to migration: Between humanitarian enthusiasm and pushbacks”, **Dr. Nurbanu Hayir** (University of Copenhagen) with “Rationalization of anti-asylum policies through legal discourse: treatment of Syrian, Russian and Ukrainian asylum seekers in Europe and **as. prof. Lynn Hillary** (University of Amsterdam) with her reflections on “An exploration of the interaction between the Common European Asylum System and national law, policy and legal practice”.

The second panel “Patterns of non-compliance with international and European law in Central and Eastern Europe: reflections in academia and jurisprudence” welcomed **Dr. Atilla Szabó** (University of Szeged) who reflected upon the “NGOs’ role in framing the Hungarian legal discourse on

migration. What scholars can learn from activists?”, **Dr. Tatiana-Maria Cernicova-Dragomir** (West University of Timisoara / University of Udine) focusing on the “Shifting paradigms or standing ground? An empirical analysis of ECtHR jurisprudence on migrants and refugees in Central and Eastern Europe” and **Dr. Maja Łysienia** (University of Lausanne and HES-SO Valais-Wallis) with her contribution on “Crisis-related changes in asylum and migration laws and policies and the international and EU law violations: The case of Poland”.

Another panel was devoted to the “Central and Eastern Europe countries and shifts in national legislation towards more or less inclusive approach?” with **Dr. Alžběta Králová** (Masaryk University) focusing on “Vulnerability in refugee and migration law – Changing narratives before implementing?”, **Dr. Aleksandra Ancite-Jepifánova** (University of London/Cardiff University) presenting contribution about “Seven months in the freezing forest: Authorising inhuman and degrading treatment during the EU-Belarus border crisis”, **Mgr. Enes Zaimović** (Charles University) with “Administrative courts as promoters of public international law? Protection of stateless individuals and the emergence of the sovereignty narrative: the case of Czechia” and **Dr. Arina Lupu** (Invisible University for Ukraine) and **Dr. Aron Bosman** (Fenix Humanitarian Legal Aid) with their contribution on “The Europeanization of Ukrainian Refugee Law”.

The following roundtable with the title “What comes next for the Central and Eastern European Union Member States?” looked at what the future holds, including the new EU Migration and Asylum Pact’s transformative power and also what role European institutions, international and supranational courts can play in the field of migration and refugee law in the future. The experts from the scientific committee were joined by **Monika Ladmanová** (Head of Representation of the European Commission in Czechia) and professor **Philippe De Bruycker** (Université Libre de Bruxelles).

Finally, a closing panel of the conference delved into the equally important, yet paradoxically often overlooked issue within the academia: the issue of teaching refugee and migration law. The panel was composed of professor **Richard Grimes** (legal education and access to justice consultant), **Dr. Alžběta Králová** and **Dr. Hana Lupačová** (Masaryk University), **Dr. habil. Tamás Molnár** (EU Agency for Fundamental Rights / Corvinus University of Budapest), and **Sára Barčáková** and **Tomáš Svoboda** (Charles University).

The conference was quite exceptional both in its focus on the Central and Eastern European region and in the fact that the almost all current experts in refugee and migration law took part and many young emerging professionals from the region participated in it as speakers and guests. We were fascinated by the commitment, passion and intellectually inspiring work of the lawyers and scholars of the region. The rich and insightful discussions provided insights into how the core doctrines, key concepts and values of migration and refugee law are reconceptualised, transformed or even disrupted in the policy-making and the legal discourse in the region. They revisited the seemingly irreconcilable pairs of oppositions of “sovereignty and security versus the human rights of foreigners” or “enhanced control of people on the move versus offering freedom of movement and protection-sensitive entry channels”. In the course of the discussions, we gained insights into how lawyers from Central and Eastern Europe (and beyond) understand the structure, key characteristics and basic concepts of international and European migration and refugee law.

Věra Honusková,* Tamás Molnár**

* JUDr. Věra Honusková, Ph.D., Head of Centre for Migration and Refugee Law, Faculty of Law, Charles University in Prague, Czech Republic. ORCID: 000-0003-0180-0707.

** Dr.habil. Tamás Molnár, EU Agency for Fundamental Rights / Corvinus University of Budapest. The views expressed in this piece are solely those of the author and its content does not necessarily represent the views or position of the EU Agency for Fundamental Rights. ORCID: 0000-0002-1616-657X.