

## **Annual Report - 2017**

**Joint Project** between the Institute for International Legal Studies of the CNR and the Institute for Legal Studies of the HAS on:

### ***Human Rights of Asylum Seekers in Italy and Hungary***

### ***Influence of International and EU Law on Domestic Actions***

in the framework of the bilateral Agreement on Scientific Cooperation and Its Executive Protocol between the National Research Council of Italy (CNR) and the Hungarian Academy of Science (HAS)

Social Sciences and Humanities, Cultural Heritage (SAC) Department

Project Area: Research and Innovation

#### **1. Introduction**

This research on the legislation and praxis concerning human rights of asylum seekers in Italy and Hungary has already highlighted the fundamental trends and challenges in the two countries, in the light of the relatively detailed International and EU legal framework (principles and norm).

A first comparative assessment of the current issues of Italian and Hungarian sector legislation has been carried out as part of a broader assessment of, in particular, the effectiveness of the EU regulations. Two main sets of issues have been considered: the obligations of the states, in particular of the border states, and the implications on human rights.

#### **2. Activities carried out in 2017**

The main activities carried out in the context of the Joint Project in 2017 were the following:

- a) exchange of researchers;
- b) organization of two lectures;

c) realization of interviews with experts and representatives of national organizations, in Hungary;

d) further definition of individual research topics;

e) definition of the research themes of external voluntary collaborators;

e) collaboration with other research groups.

**a) *exchange of researchers***

The Italian Project Manager Gianfranco Tamburelli was in Budapest from 11<sup>th</sup> to 22<sup>nd</sup> October 2017, and the Italian researchers Andrea Crescenzi and Rosita Forastiero were in Budapest from 18<sup>th</sup> to 22<sup>nd</sup> September 2017.

All they very actively participated in work meetings with the Hungarian research team, held at the HAS and at the ELTE University. These meetings allowed an overall assessment of the first research results, and the planning of the subsequent steps for the full achievement of the Joint Project's aims. They also carried out their research at the library of the Central European University (CEU), focusing on their own individual themes.

Zsolt Körtvélyesi was on a short work trip in Rome from 16<sup>th</sup> to 22<sup>nd</sup> June. Dezső Tamás Ziegler was on a short work trip in Rome from 21<sup>st</sup> June to July 5<sup>th</sup> 2017.

Both Kortvelyesi and Ziegler participated in some work meetings with the Italian team, held at the ISGI. These meeting were very useful for an exchange of ideas and a discussion on the research themes.

**b) *lectures***

The presence of the Hungarian researchers allowed the Institute to organize two lectures.

Körtvélyesi held a lecture on: *A Conceptual Proposal: Dealing with Illiberal Regimes in the EU* () (CNR, Silvestri Room, 19<sup>th</sup> June 2017). Premised that the increasing flow of refugees and asylum seekers is one of the most relevant challenges the EU is facing, Körtvélyesi focused on the ways the EU is dealing with the Hungarian response to the increased demands for asylum. According to the Hungarian researcher, the limits of the European asylum regime are linked to the

emergence within the Union of what is often termed as *illiberal regimes*, with authoritarian tendencies; that is an important factor of the so called Eurocrisis and has a strong impact on the fundamental character of integration of the Union. With regard to illiberal challenge, Kortvelyesi observed that the Treaties do not give clear guidance, although they declare the core values of the EU (Art. 2 TEU) and establish the mechanisms to deal with systemic violations to these (Art. 7 TEU, a procedure easily blocked by the ‘illiberal coalition’ of Hungary and Poland). It is not clear, in fact, when the EU should react, what legitimizes its particular actions in concrete challenges, what violations of the core values should lead to what types of sanctions.

Dezső Tamás Ziegler held a lecture on: *The Hungary's Actions Regarding Refugees and Their Connection to European Human Rights Standards* (CNR, Silvestri Room, 23<sup>rd</sup> June 2017). Ziegler noted that several countries all over Europe amended their own asylum system in the last couple of years. Then he focused on the position and action of the Hungarian government, which built a fence on its southern border, introduced numerous repressive rules and started an action for annulment against the EU quota system at the Court of Justice of the EU.

Both the lectures were attended by researchers from various institutes of the CNR, University Professors and students of the Master in International Human Rights Protection at the Sapienza University of Rome.

### *c) interviews*

In Budapest, for a broader understanding of the Hungarian approaches, issues and legislation, Tamburelli met again the first counselor of the Italian Embassy, and had some talks with well-known lawyers, as Prof. Vanda Lamm (previous director of the Institute for Legal Studies of the HAS), and sociologists, as Prof. Csaba Prónai (who is developing a research on some aspects of the Italian Lampedusa case).

Furthermore, Crescenzi and Forastiero had a very useful meeting with Attila Szabó, an Hungarian expert of asylum regulations, legal counselor of the Hungarian Association for Migrants.

### *d) research themes*

The Italian and the Hungarian researchers involved in the Joint Project exchanged ideas and defined the individual research topics as follows:

■ *A Possible Negative Spillover and the EU's Refugee Crisis* (ZIEGLER)

■ *Solidarity as a Guiding Principle of EU Asylum Policy* (CRESCENZI)

■ *The Role and the Effectiveness of the Charter of Fundamental Rights in Protecting the Right to Asylum and its Impact on Italian and Hungarian Legal Order* (FORASTIERO)

■ *Views on EU Law from the Aspects of Domestic Actions: A Comparison of the Hungarian and Italian Case* (MAJTÉNYI, TAMBURELLI)

■ *Responses to Migration in the EU vs. Member State Dynamics: The Case of Hungary* (KÖRTVÉLYESI)

Prof. Giuseppe PALMISANO, director of the CNR's Institute for International Legal Studies, will contribute to the full achievement of the research objectives with a contribution on: *Social Rights and Social Inclusion of Refugees and "Irregular" Migrants: A Crucial Challenge for Europe*; while Attila SZABO, researcher at the Institute for Legal Studies of the HAS, will contribute with an article on: *The Solidarity Principle and the Relocation Quota: The Position of Hungary and Italy*

***e) research themes of external voluntary collaborators***

The activities carried out were welcomed with interest by various experts and researchers, in Italy and Hungary. After some informal talks and some work meetings of the Project Team, the following research themes of the external voluntary collaborators were defined:

*The Position of the VISEGRAD Group Countries on the Dublin Regulation* (GIULIA PERRI)

*Italy's Cooperation with Libya: Its Impact on Human Rights* (ANTONIO MARCHESI)

*Transformation of the Hungarian Refugee Law after 2009* (JUDITH TÓTH)

*The Innovations Introduced in the Italian legislation with the "Minniti - Orlando" Decree Containing Urgent Provisions for the Acceleration of Proceedings Concerning International Protection* (ANTON GIULIO LANA)

*Refugee Integration Policies: A Comparison between Hungary and Italy* (FRANCESCA ZAPPACOSTA)

*The Council of State of Italy on Hungary's Asylum System* (GLORIA ADONI)

### *f) collaboration with other institutions and research groups*

During the year, the research team has developed its cooperation with the Group on: “International and European Law of Migration and Asylum” of the Italian Society for International Law and European Union Law (SIDI). With this Group, the Italian team has been exchanging some information since June 2016. The Coordinator of the Group, Prof. Eugenio ZANIBONI, will contribute to the Joint Project’s final workshop and the final publication of the research findings with an analysis of: *The EU Reception Directive and the Italian Praxis*.

### **3. Activities planned for 2018**

The main activities planned for 2018 are:

- The exchange of researchers through short missions will continue. In the first semester of 2018, Crescenzi, Forastiero and Tamburelli will be in Budapest; Majtényi, Kortvelyesi and Ziegler will realize short work trips in Rome.

- A workshop will be organized in Budapest in April for the first presentation and discussion of the research findings. The Workshop will be attended by the researchers involved in the Joint Project, other researchers of the HAS, university professors (in particular, from the ELTE University), and experts from civil society.

- A workshop will be organized in Rome for the presentation and dissemination of the final research results. The Workshop will be attended by the researchers involved in the Joint Project, other researchers of the CNR, university professors, magistrates, and experts from civil society.

- The research results will be published in a collective book on: *Human Rights of Asylum Seekers in Italy and Hungary. Influence of International and EU Law on Domestic Actions*

- A broader reflection on important and extremely topical issues concerning asylum will be promoted within the international network created in relation to the development of the Joint Project activities. The research findings will be used also to strengthen the cooperation and launch possible new projects, in particular with the Eötvös Loránd (ELTE) University of Budapest (Hungary), the Institut für Ostrecht (Regensburg, Germany), the ‘Taras Shevchenko’ National University of Kyiv (Ukraine), the Adamas University of Kolkata (India), the SIDI Group on “International and

European Law of Migration and Asylum” (Italy), the EURISPES - Institute of Political, Economic and Social Studies (Italy), and the *Unione forense per la tutela dei diritti umani* - UFTDU (Italy).

Rome, 27.01.2018

A handwritten signature in black ink, reading "Gianfranco Tamburelli". The signature is written in a cursive style with a prominent initial 'G' and a long, sweeping tail.

Gianfranco Tamburelli

Project Manager Joint Project

*Human Rights of Asylum Seekers in Italy and Hungary*

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