

Interest Group on Migration and Refugee Law



Newsletter No. 14 (January 2019)

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Flash report: Interest Group workshop on the UN Global Compacts on Refugees and Migration, Manchester (September 2018)

The [14th Annual Conference of the ESIL](#) took place in **Manchester (UK) on 13-15 September 2018**. The theme of the Conference was '*International Law and Universality*'. On **13 September 2018**, the IG on Migration and Refugee Law hosted a [Pre-Conference Workshop](#) titled '*The Shaping Up of the UN Global Compacts on Migration and Refugees: Progression towards or Retreat from a Universal Agenda?*' The Workshop intended to contribute to the academic debate on the universal and regional impact of the **2016 New York Declaration** and the (then draft) **Global Compacts**, including their legal transformative power. Among the topics explored by the participants,

selected by a [Call for Papers](#), there were: the dimension of safe pathways to international protection, the added value of the Global Compacts from the viewpoint of governance analysis, the fairness of the proposed system of burden and responsibility-sharing, and the ethical leadership of the masters of the Compacts.

Conference: The EU as a global actor in maritime security: competences—obligations—accountability

On **25-26 October 2018**, the Leiden Law School hosted a [Conference](#) organised in cooperation with the ESIL Interest Group on Migration and Refugee Law, along with other three IGs: the ESIL Interest Group on the 'EU as a Global Actor', the ESIL Interest Group on International Human Rights Law and the ESIL Interest Group on the Law of the Sea. The aim of the Conference was to explore the role of the EU in the global maritime domain by looking at its competences, obligations and accountability. Apart from the topicality of the theme, which gathered a large number of scholars and experts, the Conference proved to be a valuable format of cooperation among ESIL IGs, to be further implemented in the future.

Upcoming *EJIL: Talk!* blog symposium on the UN Global Compacts

Thrilled by the success and good spirit of our ESIL Pre-Conference Workshop in Manchester, the IG Coordinating Committee launched a [Call for Contributions to a Blog Symposium](#) titled '*The UN Global Compacts on Migration and Refugees: The Twin Peaks?*' The Blog Symposium will feature contributions by Members of the Interest Group, introduced by the IG Conveners. The goal of the Blog Symposium is twofold: first, foreseeing the potential impact of the Global Compacts on existing rules of international law; second, offering a comparative analysis of the potential complementarity of key aspects of both Compacts. Subject to the Editors' approval, the Blog Symposium will be published on [EJIL:Talk!](#) early 2019

Forthcoming: Interest Group workshop on migration and the rule of law, Göttingen (April 2019)

The next [ESIL Research Forum](#) will take place in Göttingen on 3-4 April 2019. On 3 April, the Interest Group is hosting a Workshop on '*Migration and the Rule of Law*'. The [Call for Papers](#) was drafted in collaboration with some of the participants in the **September Pre-Conference Workshop** (Giovanni Carlo Bruno, Adriana Di Stefano, Maria Varaki) as a fruitful follow-up to some of the issues touched upon in Manchester. The Organising Committee received a very high number of excellent abstracts, making the selection process extremely challenging. With a view to offer a true opportunity of a meaningful exchange on the selected topic, the Workshop will host two panels, respectively dealing with '*Migration and Asylum, the Rule of Law and Universal Values: A Multi-dimensional Analysis*' and '*Migration and Asylum, the Rule of Law and the Refugee Crisis: European Exceptionalism versus National Approaches*'.

News from around the world

Europe

On 11 December 2018, the **European Parliament** adopted a landmark resolution on **Humanitarian Visas** with recommendations to the Commission for a legislative proposal establishing a European Humanitarian Visa (2018/2271(INL)). The resolution was backed by more than 160 academics who sent an *Open Letter to MEPs on Humanitarian Visa*. The initiative was promoted by Prof Violeta Moreno-Lax. You can read on the initiative [here](#).

The adoption of the **UN Global Compact for Safe, Orderly and Regular Migration** at the Marrakech Intergovernmental Conference on 10-11 December, then endorsed by the UN General Assembly on 19 December 2018 ([Draft Resolution A/73/L.66](#)) triggered the formation of a coalition of EU Member States and associated countries that strongly opposed the consolidation of international cooperation in the governance of large flows of refugees and migrants. More precisely, Czech Republic, Hungary and Poland voted against the Global Compact, while Austria, Bulgaria, Italy, Latvia, Lichtenstein, Romania and Switzerland abstained. Other EU Member States that voted in favour of the adoption afforded political turmoil due to the internal opposition to the Compact. Emblematic is the case of Belgium, where the dispute over the UN Global Compact led to the fracture of the executive. You can read more [here](#).

The **Italian Government**, in turn, called on the Italian Parliament to decide upon the adoption of the Compact. In addition, a **new law** passed ([L. 132/2018](#)), further restricting access to protection for asylum seekers by eliminating the so-called 'humanitarian clause' in the Italian law on immigration and limiting access to reception facilities for refugees ([SPRAR](#)).

At the request of the European Parliament, the **EU Agency for Fundamental Rights** (FRA) published a [legal Opinion](#) on the revised European Border and Coast Guard Regulation and its fundamental rights implications. This Opinion aims to inform the European Parliament's position on this legislative proposal presented by the European Commission on 12 September 2018. The Opinion found that fundamental rights protection overall at the EU border agency needs strengthening as its mandate and tasks increase.

REMINDER: RENEWAL ESIL MEMBERSHIP

All the members of the Interest Group on Migration and Refugee Law are kindly reminded to pay their membership dues for the European Society of International Law for the year 2019. You have received reminder e-mails, and there is a 'renew' button on the [home page](#) of the ESIL website which makes it very easy to pay the 2019 fee. Membership fees remain the same as last year. More information can be found on the ESIL website.

Asia-Pacific

Over 1200 migrants and refugees being held on the islands of Manus and Nauru – as part of Australia’s policy of detaining ‘boat people’ at offshore facilities – are launching class action suits for torture and degrading treatment against the Australian Government. The **strategic litigation** before the High Court is promoted by the [National Justice Project](#). The legal team is being led by Julian Burnside QC. As argued by one of the lawyers involved, George Newhouse, the Australian Government is harming men, women and children in offshore detention and it is doing it knowingly, by using children as human shields for deterrence purposes. You can hear more [here](#).

Americas

On 21 December 2018, the **US Supreme Court** rejected the Trump administration’s temporary asylum ban, adopted on 9 November 2018. The ban aimed at limiting access to asylum at the Mexican border to people having entered at official ports of entry, while automatically denying asylum to people having entered elsewhere without authorisation. The decision – 5 to 4 – saw Chief Justice John Roberts siding with the Supreme Court’s liberals. The legal challenge to the ban was promoted by the American Civil Liberties Union (ACLU), see [here](#).

Africa

On 18 December 2018, the **UN Office of the High Commissioner for Human Rights** released a new [report](#) on the human rights situation of migrants and refugees in Libya. According to the report: ‘Migrants and refugees suffer unimaginable horrors during their transit through and stay in Libya.’ The report documents over 1300 events of ‘unlawful killings, torture and other ill-treatment, arbitrary detention and unlawful deprivation of liberty, rape and other forms of sexual and gender-based violence, slavery and forced

RECENT PUBLICATIONS IG MEMBERS

S. Carrera, L. den Hertog, M. Panizzon, and D. Kostakopoulou (eds.), [EU External Migration Policies in an Era of Global Mobilities: Intersecting Policy Universes](#), Leiden, Brill/Nijhoff, 2018

M. Gkliati, H. Rosenfeldt, [Accountability of the European Border and Coast Guard Agency: Recent Developments, Legal Standards and Existing Mechanisms](#), RLI Working Paper No. 30/2018

R. Likibi, [Les personnes déplacées internes en Afrique: repères juridiques et réalités, Contribution à l'étude de la Convention de Kampala](#), Paris, Publibook, 2018

D. Vitiello, [The Dublin System and Beyond: Which Way Out of the Stalemate?](#), in *Diritti umani e diritto internazionale*, 3/2018, pp. 463-480.

We encourage Interest Group members to share their (upcoming) publications with the coordinating committee via migreflaw@gmail.com so that we can spread the word!

REMINDER: IG WEBSITE

The website of the Interest Group is

<http://migreflaw.wordpress.com>

The twitter account is

https://twitter.com/ig_migreflaw

If you have interesting content (a call for papers, a blog or publication, an event), or any questions regarding this Newsletter, please send an e-mail to

migreflaw@gmail.com

labour, extortion and exploitation by both State and non-State actors.’ Following the report, UNHCR asked for an international ban on returns of refugees and migrants to Libya, as well as for countries to facilitate the evacuation of vulnerable refugees from Libya and to grant resettlement. You can read more [here](#).

Interest Group’s participation in the *call for panels* of the 15th ESIL Annual Conference, Athens Public International Law Center at the National and Kapodistrian University, on ‘Sovereignty: a concept in a state of flux?’ (Athens, 12-14 September 2019)

The Interest Group intends to participate in the [Call for Panels](#) of the [Athens Conference](#) by applying for an Agora slot. IG Members who intend to contribute are invited to send a manifestation of interest (Mol) to migreflaw@gmail.com. Since the deadline for submissions is 31 January 2019, the Mols are being collected until **22 January 2019**.

Events and calls for papers

Forthcoming Conferences

- Beyond Smuggling: Tunisia’s on-the-ground responses and perspectives to EU’s counter-smuggling practices, 14 January 2019, Villa Schifanoia, EUI, Florence

- MPC Seminar: All that glitters is not gold: The limits of progressive refugee protection in Latin America, 15 January 2019, Villa Malafrasca, Migration Policy Centre, Florence

- Expert Workshop on the International Organization for Migration (2 February 2019, Oxford, UK), organised by the RefMig project

- Democratizing Displacement (18-19 March 2019, Oxford, UK), organised by the Refugee Studies Centre, University of Oxford

- 2nd Australia & New Zealand Refugee Trauma Recovery in Resettlement Conference (27-29 March 2019, Brisbane, Australia), organised by the Forum of Australian Services for Survivors of Torture and Trauma (FASSTT)

- Revisiting Refugee Protection in the 21st Century (3-5 April 2019, Leeds, UK), organised by the University of Leeds
- Executive Training Seminar: The Regional Governance of Migration and Mobility. Southeast Asian, African and South American Experiences (3-5 April 2019, EUI, Florence)
- 5th Workshop on the Economics of Migration (4-5 April 2019, Esch-Belval, Luxembourg), organised by the Luxembourg Institute of Socio-Economic Research (LISER) and the Centre for Population Change (CPC)
- Security, Borders and International Development: Intersections, Convergence and Challenges (25–26 April 2019, Warwick, UK), organised by the Criminal Justice Centre (CJC) and the Centre for Law, Regulation and Governance of the Global Economy (GLOBE), Warwick Law School
- CARFMS 2019 (14-16 May 2019, Toronto, Canada), organised by CARFMS and Centre for Refugee Studies
- Child marriage in forced migration: Social processes in-flux (16-17 May 2019, London, UK), organised by the British Academy
- The Migration Policy Centre Annual Conference, 23-24 May 2019, EUI, Florence
- 4th Annual Conference of the Refugee Law Initiative (3-5 June 2019, London, UK), organised by the Refugee Law Initiative
- The Migration Conference, 18-20 June 2019, Bari
- 15th Migration Summer School, 25th June – 5th July, EUI, Florence
- World Conference on Statelessness and Inclusion (26-28 June 2019, The Hague, Netherlands), organised by the Institute on Statelessness and Inclusion
- 16th Annual IMISCOE Conference (26-28 June 2019, Malmö, Sweden), organised by IMISCOE
- Migration and Poverty (19-20 September 2019, Salzburg, Austria), organised by the University of Salzburg
- Digital Fortress Europe: Exploring Boundaries between Media, Migration and Technology (30-31 October 2019, Brussels, Belgium), organised by ECREA DMM and Vrije Universiteit Brussels

Past Events

- Seminar: *The determinants of public attitudes to migration*, 11 December 2018, Villa Malafrasca, Migration Policy Centre

- EU-Africa Migration: The Role of Aid and Labour Migration, 3 December 2018, Brussels

- Conference: *Environmentally-Induced Migration and Human Rights' Protection. The Point of View of International and European Law*, Sapienza University of Rome, 5 November 2018

- Expert Meeting - *Beyond Encampment: Managing Mass Migration in an Age of Urbanization*, University of Oslo, 2 November 2018

- Conference: *The International Protection of Refugees in Europe and Elsewhere: A Critical Appraisal on Achievements and Perspectives*, University of Pisa, 19 October 2018

- Summer School: *The External Dimension of EU Migration And Asylum Policies: Human Rights, Development and Neighbourhood Policies in the Mediterranean Area*, University of Barcelona, 17-21 September 2018

Call for papers

Migration and Poverty (University of Salzburg, 19-20 September 2019, deadline: 31 January 2019)

2019 ILA Regional Conference on "*Migration / international legal regulation*", Portorož (Slovenia), 27-30 June 2019 – deadline: 11 January 2019

The [Interest Group on Migration and Refugee Law](#) (MigRefLaw) is one of the interest groups of the [European Society of International Law](#). The IG focuses on the law and policy of states and international organisations with regard to people who seek entry to their communities. The movement of people across borders is a defining reality of our time. This IG aims to provide a forum for discussion on the legal principles and processes governing the movement of people as well as their reception in host communities. By doing so, the group hopes to build a shared knowledge base among ESIL members interested in migration and refugee law.