



European  
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ROBERT  
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CENTRE FOR  
ADVANCED  
STUDIES



## **MPC – MIGRATION POLICY CENTRE**

### ***THE MANAGEMENT OF THE EXTERNAL BORDERS OF THE EU AND ITS IMPACT ON THE HUMAN RIGHTS OF MIGRANTS: THE ITALIAN EXPERIENCE***

#### ***A CONSULTATION BETWEEN THE UN SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS, MR FRANÇOIS CRÉPEAU CIVIL SOCIETY, AND ACADEMIA***

**Organised with the support of the Open Society Foundations**

Theatre, Badia Fiesolana  
Via dei Roccettini, 9 - San Domenico di Fiesole

Florence, 3 October 2012

### **CONCEPT NOTE<sup>1</sup>**

While migration policies have traditionally been the domain of individual European Union (EU) Member States, the EU has in the past two decades engaged in a process of harmonisation of the rules of admission and residence of third country nationals and is establishing a common EU policy. In particular since the 1990s the EU has developed an important apparatus of legislation, institutions and programmes in the area of border control. The mandate of the Special Rapporteur on the human rights of migrants, most recently renewed by the Human Rights Council in 2011 (Resolution 17/12), requests the mandate holder to, inter alia, take into account the bilateral and regional initiatives that address issues relating to the effective protection of human rights of migrants, including return and reintegration of migrants who are undocumented or in an irregular situation. Conscious that efforts at the regional level are important to address some of the obstacles in the realization of the human rights of migrants, the Special Rapporteur on the human rights of migrants believes that the EU approach to border control and migration matters is highly significant regarding the treatment of migrants, not only within the borders of the EU, but globally.



<sup>1</sup> From the mission statement of the Special Rapporteur on human rights of migrants of the United Nations, Mr François Crépeau. <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/ConceptNote.aspx>

## OBJECTIVE

In this context, the Special Rapporteur will carry out a year long Regional Thematic Study on the Management of the External Borders of the EU and its Impact on the Human Rights of Migrants

The objective of this consultation is to assess the progress made as well as the obstacles and challenges which remain in protecting and promoting the rights of migrants in the Euro-Mediterranean region, in particular focusing on the management of the external borders of the EU, and paying particular attention to the human rights of migrants in an irregular situation.

This study will include an examination of the EU directives and national policies in place with respect to visa regimes and border control. It will also examine management policies and practices, interception practices including on land and at sea, detention regimes and conditions, returns and readmission. The Special Rapporteur will also examine the extent to which human rights are integrated into the mobility partnerships established between EU countries and non-EU countries, as this affects border management, and the implications of such partnerships for the human rights of migrants.

## SCOPE

Within the above framework of analysis, the Special Rapporteur will be dedicating his country visits of 2012 to examine the complex issues of border control and management within the EU, using real case examples from the national level.

The Special Rapporteur thus visited European Union (EU) institutions in Brussels in May 2012. In June 2012 he visited Tunisia<sup>2</sup> and Turkey<sup>3</sup>. In October and November 2012 he will be visiting Italy and Greece.

In each of the countries visited, the Special Rapporteur will request to visit reception centres, shelters and other accommodation for migrants, and border points. He will also meet with relevant national authorities responsible for border control and migration, as well as civil society actors focused on these matters.

## MISSION TO ITALY

Within the framework of this thematic study, the Special Rapporteur will be carrying out a mission to Italy from 1 – 8 October 2012. As one of the key points of entry of migrants to Europe, in particular by sea crossing, including not only boats from North Africa but increasingly also across the Ionian sea, the Special Rapporteur is interested in learning more about Italian border management policy in practice, and its impact on the human rights of migrants in Italy. He also will analyse the impact of EU policy on the development of Italian approaches to border management.

## REPORT AND FOLLOW-UP

The findings and recommendations emerging from the visits of the SR will be presented to the 23rd session of the Human Rights Council (June 2013) in the form of one thematic global mission report, with country specific attachments. He will also provide a set of recommendations to assist Member States of the EU and other relevant States in overcoming such challenges individually, bilaterally and regionally.

<sup>2</sup> For a summary of the Special Rapporteur's Preliminary findings on Tunisia see his end of mission statement: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12231&LangID=E>

<sup>3</sup> For a summary of the Special Rapporteur's Preliminary findings on Turkey see his end of mission statement: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12307&LangID=E>

- 10.00 *Arrival of participants and welcome coffee*
- 10.30 Welcome address  
Marise Cremona  
*Introduction*  
Migration Policy Centre (Philippe Fargues) and  
Open Society Foundations (Costanza Hermanin)  
*Introductory Remarks from the UN Special Rapporteur on the Human Rights of Migrants*  
François Crépeau
- Part I** *External Borders and the Control of Migratory Inflows:  
Fortress Italy, after Fortress Europe?*
- Chairs Martin Scheinin and Delphine Perrin
- 11.00 *Toward an Externalization of Border Control: A Discussion of Recent Trends*
- Closed Sea: A video-introduction to the discussion on the Hirsi case  
Stefano Liberti
  - The politics of migration control and international protection in the  
Central Mediterranean: the case of Italy-Libya relations  
Ferruccio Pastore
  - Externalisation through Cooperation: The political and legal implications of  
multi-state deterrence  
Thomas Gammeltoft-Hansen
- 12.15 *Rescuing Responsibility and Coordination*
- Border control policies: the Greek experience  
Thanos Maroukis
  - International Human Rights Law and the Law of the Sea in the context of rescuing  
coordination  
Seline Trevisanut
- 13.30 *Lunch*
- Part II** *The Human Rights of Detained and Expulsed Migrants: Theory and Practice*
- Chairs Costanza Hermanin and Miriam Anati
- 14.30 *The Detention and Criminalization of Migrants*
- A video-introduction to the discussion on detention of migrants in Italy  
Raffaella Cosentino
  - The International Human Rights Legitimacy of the Italian criminalization and  
detention system  
Alberto di Martino
  - Shifting the criminalization of migration to the Southern side of the Mediterranean  
Delphine Perrin
- 15.45 *Coffee break*
- 16.00 *Voluntary and Coercive Return in Theory and Practice and Readmission  
Agreements*
- The Italian expulsion system in light of the return directive  
Ulrich Stege
  - Transparency, control and implementation of readmission agreements  
Nils Coleman
- 17.15 *Concluding Observations*  
Philippe de Bruycker
- 18.00 End of the consultation

## Participants

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|-----------------------------------|---|
| <b>Stefano Anastasia</b>          | Researcher, University of Perugia, Italy  |
| <b>Miriam Anati</b>               | Programme Manager, Open Society Foundations, Israel   |
| <b>Alberto Barbieri</b>           | General Coordinator, Medicines for Human Rights (MEDU), Rome, Italy   |
| <b>Nehal Bhuta</b>                | Professor, Law Dept, European University Institute, Florence, Italy   |
| <b>Imco Brouwer</b>               | Director, Training Institute - Robert F. Kennedy Center for Justice and Human Rights, Florence, Italy           |
| <b>Nils Coleman</b>               | International Relations Officer, European Commission, DG HOME, Brussels, Belgium                                |
| <b>Asher Daniel Colombo (tbc)</b> | Associate Professor, University of Bologna, Bologna, Italy  |
| <b>Raffaella Cosentino</b>        | Freelance Reporter and LaciatiCIEEntrare Network Member, Rome, Italy  |
| <b>François Crépeau</b>           | UN Special Rapporteur on the Human Rights of Migrants   |
| <b>Marise Cremona</b>             | President, European University Institute, Florence, Italy   |
| <b>Philippe de Bruycker</b>       | Deputy Director, Migration Policy Centre, European University Institute, Florence, Italy                        |
| <b>Alberto di Martino</b>         | Professor of Criminal Law, Scuola Superiore Sant'Anna, Pisa, Italy  |
| <b>Iva Dobichina (tbc)</b>        | Open Science Foundations, London, UK  |
| <b>Salvatore Fachile</b>          | Lawyer, Association for the Juridical Study of Immigration (ASGI), Rome, Italy                                  |
| <b>Philippe Fargues</b>           | Director, Migration Policy Centre, European University Institute, Florence, Italy                               |
| <b>Micaela Frulli</b>             | Professor of Law, University of Florence, Italy   |
| <b>Thomas Gammeltoft-Hansen</b>   | Senior Research Fellow, Danish Institute for International Studies, Copenhagen, Denmark                         |
| <b>Costanza Hermanin</b>          | Programme Officer, Open Society Justice Initiative-Open Society Brussels, Belgium                               |
| <b>Giulia Laganà</b>              | Freelance migration and asylum expert, former UNHCR and UNDP officer, Italy                                     |
| <b>Loredana Leo</b>               | Lawyer, Association for the Juridical Study of Immigration (ASGI), Rome, Italy                                  |
| <b>Stefano Liberti</b>            | Director, ZaLab, Rome, Italy  |
| <b>Thanos Maroukis</b>            | Marie Curie Research Fellow, Bath University, UK  |
| <b>Luca Masera</b>                | Researcher, Lawyer, University of Brescia, ARCI, Italy  |
| <b>Grazia Naletto</b>             | President, Lunaria, Rome, Italy   |
| <b>Ferruccio Pastore</b>          | Director, International and European Forum for Migration Research (FIERI), Turin, Italy                         |
| <b>Delphine Perrin</b>            | Research Fellow, Migration Policy Centre, European University Institute, Florence, Italy                        |
| <b>Ruth Rubio</b>                 | Professor, Law Dept, European University Institute, Florence, Italy   |
| <b>Guido Savio</b>                | Lawyer, Association for the Juridical Study of Immigration, Turin, Italy  |
| <b>Martin Scheinin</b>            | Professor of Public International Law, European University Institute, Florence, Italy                           |
| <b>Ulrich Stege</b>               | Lecturer and Clinical Programme Coordinator, International University College, Turin, Italy                     |
| <b>Seline Trevisanut</b>          | Marie Curie fellow, Netherlands Institute for the Law of the Sea (NILOS), Utrecht, The Netherlands              |
| <b>Maurizio Veglio</b>            | Lawyer, Lecturer on Italian Migration Law, International University College of Turin, Turin, Italy              |
| <b>Jacqui Zalberg</b>             | Human Rights Officer, Office of the Special Rapporteur for Human Rights of Migrants, OHCHR, Geneva, Switzerland |