

**The Migration Law Research Centre at the Institute of Law Studies Polish Academy of Sciences**

**and**

**Åbo Akademi University**

would like to invite you to a webinar

**“Deterrence of immigrants – the case of Poland”**

that will take place on **29<sup>th</sup> of April from 9.00 - 11.00 CET.**

Agenda:

**9.00-10.00 – Introductory presentations**

**Stephen Phillips, Åbo Akademi University**

***Deterrence of asylum seekers as a deliberate state policy***

A common response by states to those seeking access to their territories for the purpose of seeking asylum, access which is typically unwanted, is to find ways to prevent this access. It is well established that states mobilise significant resources to prevent access to their territories and to asylum, and that there are various measures that states employ to achieve this goal. Such practices are often described as ‘deterrence’. Deterrence measures can be broadly viewed as ‘direct’, those which prevent arrival or admission, and ‘indirect’ measures which do not explicitly restrict access to asylum, but may impede enjoyment of other rights so as to create an inhospitable environment designed to make seeking asylum as difficult as possible. Significantly, many of these deterrence measures exist within the limits, or at least around the perimeters, of international human rights law. Detention of asylum seekers, for example, is not per se illegal, nor is denying refugees and asylum seekers the opportunity to reunite with their families.

What emerges is a tension between a deterrence system that is intentionally constructed to impede access to asylum, and an international human rights law regime that allows, and in some instances even enables, states to deter asylum seekers. Deterrence is employed by various states in different ways, but the underlying goal is typically similar: we do not want you to come, and if you do, we will make access to our legal and social systems very difficult.

**Witold Klaus, Migration Law Research Centre at the Institute of Law Studies Polish Academy of Sciences**

***Chasing asylum seekers away: Governmental practices aimed at deterring people seeking international protection from coming to Poland***

For the last several years the Polish government has been using a number of practices designed to discourage asylum seekers from entering our country, and to encourage those who are present on Polish soil to leave it. In my paper I would like to expose those processes on three different levels and present them as a ‘package’ – a common and comprehensive tool targeting people seeking protection. Those practices consist of:

1. Sealing the border from asylum seekers (especially from Muslim countries) and pushing applicants back from the border point in Terespol to Belarus (which has been recently condemned by the European Court of Human Rights in the case of M.K. and Others v Poland).

2. Encouraging applicants who were lucky enough and were granted access to the Polish territory to leave and move further to other EU countries. This happens by not preventing smugglers' activities in the reception centres, by granting international protection to a very limited number of applicants, by keeping people in long-lasting asylum procedures (thus in uncertainty), and by poor assistance in integration processes for those who were fortunate to have received the right to stay in Poland.
3. Punishment of people who were sent back to Poland under the Dublin Regulation. Upon their returns, additional instruments are deployed against them that include: imposing detention or its alternatives, launching a return procedure to deport them to their country of origin, and limiting the possibility to have the asylum procedure resumed.

All practices mentioned above have the same purpose. They are the elements of a broadly understood deportation machine (Barak Kalir's idea of departheid fits perfectly here) but they also work as deterrence practices by creating a hostile environment for asylum seekers in Poland.

**Marcin Princ**, Adam Mickiewicz University in Poznań and Migration Law Research Centre ILS PAS

### **Deterrence as an example of modern methods of administrative actions towards foreigners**

Traditionally, the policy of deterrence has been used by public administration in international law mainly as part of defence policy and in national law primarily as part of criminal or administrative policies. The main purpose of these methods is to achieve a specific goal, for instance preventing crime or violations of administrative law provisions.

The activities and efforts mentioned above have been considered justified. However, there is a question whether such justification can be extended to actions of public administration that aim to deter, discourage and improperly treat foreigners as part of the migration policy. Is it possible to accept the purposeful postponing of decisions or prolonging of legalization procedures by public offices? Can deterrence be considered as one of the methods of public administration activity? Do foreigners have the right to good administration? Is a policy of deterrence consistent with the Constitution or EU primary law? What is the legal basis of a policy of deterrence? Can we consider the public administration control system as effective in this respect? What are the varieties of the policy of deterrence? This paper will discuss these questions in light of legal and factual situation of foreigners coming to Poland from so-called third countries.

### **10.00 – 11.00 – Open discussion**

The webinar will be chaired by **Magdalena Kmak**, Åbo Akademi University and Migration Law Research Centre ILS PAS.

To participate in the webinar click the link below:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_NDgxMTZiODgtNjdIYS00YjlmLWE3MWYtN2Q2Y2Q3ZmMwMzdk%40thread.v2/0?context=%7b%22id%22%3a%22da4c387e-777d-4123-b9dd-6fcb4fd24612%22%2c%22oid%22%3a%22a77d1a05-f234-4dac-bdb8-c5aacec4e47a%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NDgxMTZiODgtNjdIYS00YjlmLWE3MWYtN2Q2Y2Q3ZmMwMzdk%40thread.v2/0?context=%7b%22id%22%3a%22da4c387e-777d-4123-b9dd-6fcb4fd24612%22%2c%22oid%22%3a%22a77d1a05-f234-4dac-bdb8-c5aacec4e47a%22%7d)