UNIVERSITY OF PÉCS FACULTY OF LAW

Student Handbook

Freedom, Security and Justice – Crossing Borders

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I. Introduction to topic ’ Freedom, Security and Justice – Crossing Borders

Until the last decade of the former century attention in European political and legal discourse was primarily paid to the so called economic community, the achievement of a common integrated market for workers, goods, services and capital. With the ratification of the Treaty on European Union the realm of community policies gradually expanded to foreign and security policy and to cooperation in the field of justice and home affairs. After the ratification of the Lisbon Treaty in December 2009, the policy areas concerning justice, freedom and security receive even more attention.

The main rationale for the Freedom, Security and Justice programme is to make students aware that EU law and policy is dealing with just as many justice and home affairs related problems in the 21st century as those related to economic integration. By concentrating on the area of justice, freedom and security, this programme concerns – by the nature of its central theme almost automatically – cross-border phenomena.

The further development and the eventual implementation of these policies is a challenging enterprise because of the following

- The possible tensions with national sovereignty in these areas, the relationship between intergovernmental and supranational arrangements; the extent of participation in the Schengen agreement.
- The differences in judicial backgrounds and traditions of the member states, for instance those of common law and civil law jurisdictions.
- The effects on citizenship, citizen’s rights. More than the common foreign policy (external security) the policies of internal security touch upon the relationship between governing bodies (European and national) and (rights of) private persons and/or organizations.

These challenges appear in a few specific judicial and security areas of EU legislation and policy:

- terrorism,
- organized crime,

- racism and xenophobia,
- freedom of movement, border regulation, conflict of laws,
- asylum and immigration policies,
- citizenship.

This creates an interesting and complicated, but important field of study that law students can hardly escape in the course of their future professional career. This means that law student should be trained to develop their competences to deal with these challenges, and their ability to decide whether or not European legislation has to be applied in the relevant national and/or European matters of justice, security and freedom. They also have to be able to take account of the perspectives of citizens, companies, national authorities, EU authorities (etc.), and to assess the legal and social characteristics of the problems area under study. It is the objective of this programme to assist students in developing these competences in a focussed and interactive way.

During the programme week, the focus is on in-depth study, comparison, application and presentation of results. In the in-depth study special lectures are provided on the relevant topics mentioned above.

Students are challenged with questions and dilemmas related to a complex case study which they will have to analyse from different points of view depending on which thematic group they have been assigned to. They will have to submit a group paper, and present their findings.

Participation in the programme involves the following activities of the students:

- attendance of lectures, according to the handbook and study materials, composed by and aligned between the partners;
- working individually and in teams, of national and international composition;
- using different types of information and resources (textbooks, official EU publications, national regulations, web, professional practice / Europol, Eurojust, etc.);
- presenting their findings, orally and in writing.

These activities are supported by an electronic web-based learning environment (Blackboard), that can be used as a resource and exchange medium of information, and as a platform for communication and discussion.

II. Introduction to topic 'Fundamental Rights'

II.1. Fundamental Rights in the EU

The European Union is committed to the protection of fundamental rights and freedoms. Even though a written legal basis was at first not provided for in the Treaties, the protection of fundamental rights began owing to the efforts of the Court of Justice, as it recognised fundamental rights as general principles of EU law, which require protection by the Court on a case-by-case basis. Nonetheless, EU primary law lacked a written, concise charter of rights, a situation that was only recently changed by the Treaty of Lisbon, which endowing the Charter of Fundamental Rights of the EU with legal binding force (Article 6 TEU). The Charter is binding primarily for the institutions and other bodies, offices and agencies of the EU. It is however also binding for the Member States when (and only when) they are implementing EU law.

The Court of Justice also frequently refers to international human rights treaties which Member States are party to, most notably the European Convention on Human Rights (ECHR, 1950) and the European Social Charter (1961), both created under the auspices of the Council of Europe. The CJEU also pays attention and refers to the case law of the ECtHR. The Treaty of Lisbon has introduced an express legal basis for the EU to accede to the ECHR – the actual accession will be regulated in a special international agreement, the finalisation of which is currently underway. To avoid incoherence of interpretation, Article 52 of the EU Charter of Fundamental Rights states that so far as rights in the EU Charter correspond to rights guaranteed by the ECHR, the meaning and scope of those rights shall be the same as those laid down by the said Convention (this does not prevent Union law from providing more extensive protection).

Mention also needs to be made of the national level of fundamental rights protection. Member States of the European Union are bound by national constitutional provisions guaranteeing fundamental rights.

There is a complex relationship between the various layers of fundamental rights regulation, as national law, EU law and international law all have fundamental rights standards, the

member states are bound by EU law and international law (most notably the ECHR) at the same time, and the European Union itself is aiming to accede to the ECHR.

II.2. Human Trafficking and Fundamental Rights

Human trafficking is s serious transnational organized crime and is often described as modern day slavery. The victims of human trafficking undergo serious infringements of various fundamental rights. Apart from human trafficking being criminalized, and slavery and torture being prohibited by international law, international human rights law, and even humanitarian law and international criminal law may be of relevance in a given case. Human trafficking severely infringes human dignity, which is at the core of national, European and international fundamental rights protection. States may be in breach of their human/fundamental rights obligations by not providing sufficient protection or by failing to adopt adequate prevention measures.

II.3. Suggested reading

- Groussot, Xavier – Pech, Laurent: Fundamental Rights Protection in the European Union post Lisbon Treaty, Fondation Robert Schuman, 2010 (http://www.robert-schuman.eu/doc/questions_europe/qe-173-en.pdf)
- Besselink, Leonard F.M.: The Interaction between the EU Charter of Fundamental Rights, the European Convention on Human Rights (ECHR) and National Constitutions, 2010 (http://www.fide2012.eu/index.php?doc_id=94)
- Guild, Elspeth: Fundamental Rights and EU Citizenship after the Treaty of Lisbon, CEPS, 2010 (http://www.ceps.eu/book/fundamental-rights-and-eu-citizenship-after-treaty-lisbon)
- UN Office of the High Commissioner for Human Rights: Recommended Principles and Guidelines on Human Rights and Human Trafficking, OHCHR, 2012 (http://www.ohchr.org/Documents/Publications/Traffickingen.pdf)

III. Introduction to topic ’Free Movement of Persons’

III.1. Free Movement of Persons

Title V of Part 3 of the TFEU is entitled ‘Area of Freedom, Security and Justice’. Article 67(1) TFEU (ex Article 61 TEC and ex Article 29 TEU) states: ‘The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States....’ This Area of FSJ masks a complicated matrix of rights.

Firstly there are the so-called ‘economic rights’ for free movement of persons and services that were granted originally as a function of the *internal market*. Title I of Part 3 TFEU is entitled ‘The Internal Market’: art 26 TFEU (ex art 14 EC) states it to be ‘an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties.’

Secondly there are the rights attached to EU citizenship. Part 2 TFEU entitled ‘Non discrimination and Citizenship of the Union’ contains art 20 TFEU (ex 17 EC) which establishes ‘Citizenship’ of the EU which is bestowed on every person holding nationality of one of the member states (MSs). This status entails the right to free movement and residence throughout the EU, which is set out in detail in Directive 2004/38, the Citizens’ Dierective, but at the same time which is subject to limitations and restrictions permitted by EU law, art 20 TFEU (ex 18 EC).

Thirdly there are human and civil rights relating to free movement that have been recognized first and foremost in case law of the ECJ.

Fourthly there are the rights of non EU citizens – so called third-country nationals (TCNs). These have been under-developed, not as logic of the internal market, but because of MSs concerns relating to mass migration and security. Their free movement and associated rights have in most situations been dependent upon a family relationship with a (migrating) EU national.

Fifthly differences between MSs are reflected in the applicable law: notably the UK and Ireland have secured opt outs from the whole of title V of Part 3 TFEU with the possibility of opting into specific legislation and acts.

III.2. Border Regulation

The establishment of policies and laws relating to migration into the EU was seen as a necessary corollary to the creation of the internal market to protect it from mass and illegal migration from outside the EU and related to it illegal and undesirable activities. The border rules are complicated as there are distinct rules for:

- Intra-EU movement in the *Schengen* area: in principle there should be no border checks between MSs and there should be free movement for all people whatever the nationality: *Schengen* Convention.
- Intra-EU movement between the *Schengen* area and the non *Schengen* EU states notably UK and Ireland - UK and Ireland right to retain border checks under a protocol attached to the Treaties
- Entry into the EU Schengen area from outside the EU: TCNs are subject to *Schengen* rules on entry and visa requirements.
- Entry into UK and Ireland from outside the EU by a TCN from wherever: TCNs are subject to national law on entry (unless the TCN is a recognised family member of an EU migrant).
- All MSs retain discretion to derogate for reasons of public policy, security and health. Such derogations are interpreted restrictively and their application is subject to the principle of proportionality.

III.3. Issues

- Is free movement still an economic freedom as opposed to a fundamental freedom?
- Schengen is an attempt to achieve for persons what the common customs tariff achieves for goods yet it is not as simple: note the special arrangements for UK, Ireland and Denmark such as ‘opt outs’.
- Free movement and associated rights of TCNs has been problematic and action to improve these has been slow.

- A more general question arises: does the necessity to take into account the principle of free movement and European citizenship lead to a distinction between 'European' and 'non-European' family relations, and thus to a distinction between 'Europeans' and TCNs, both governed by different rules or even methods of regulation?
- To what extent does the requirement of cross border movement to activate rights under Directive 2004/38 remain? See the *Zambrano, McCarthy, Dereci* and *Iida* cases.
- Concern (particularly but not exclusively in the UK) about the impact of the legal migration of EU citizens from the newer Member States and from future Member States, rights they may have under national and EU law to social assistance benefits, and the extent to which such migrants integrate into their host society.
- There has been much concern recently about the porous nature of some of the EU's borders, particularly the south eastern border with Turkey, through which many refugees from the Syrian conflict have been escaping, and the southern sea borders, across which there are constant attempted sea crossings particularly to Italian territories and Malta. Many such attempts are organised by human trafficking gangs. As a result, there is renewed emphasis on matters to do with external borders, such as the strengthening of the role of Frontex and finalising the SIS II project.
- In terms of legal migration, the Visa Information System (VIS) is being rolled out and work is ongoing on simplifying visa policy. Liechtenstein has joined the Schengen area but Bulgaria and Romania remain outside, partly due to concerns elsewhere in the EU about the facilitation of movement of legal and illegal migrants which the removal of border controls with these two countries would be likely to initiate.

The complexity of this area has raised concerns about legitimacy, accountability, justifiability and the complexity of law making in this area. It goes to the heart of the principles on which the EU was founded but also threatens to inflame latent xenophobia, particularly in an age of austerity. Recent statements by the UK government about the possibility of applying limitations to free movement have met with an energetic defence of the centrality of the principle as one of the four fundamental freedoms of the EU.

III.4. Suggested reading:

- Barnard, The Substantive Law of the EU, 3rd ed, OUP, 2010
- Baubock (Ed) Migration and Citizenship, 2006, Amsterdam University Press
- Bellamy et al, Making European Citizens: Civic Inclusion in a Transnational Context, 2006, Palgrave
- Berezin and Schain, Europe without Borders, 2003, John Hopkins University Press
- Chalmers, European Union Law, 2nd ed, 2010, CUP
- Craig and De Burca, EU law, OUP, 2007
- Fairhurst J, Law of the European Union, Pearson, 2010
- Guild, Minderhoud, Groenendijk, In Search of Europe's Borders, Kluwer, 2003
- Kaczorowska, European Union Law, latest edition (2012?) Routledge Cavendish
- Peers, EU Justice and Home Affairs Law, OUP 2006
- Shaw et al, Economic and Social Law of the EU, Palgrave, 2007
- Statewatch briefings on topics related to this area (available online: there are many and they are very good)
- Consolidated versions of the EU treaties post Lisbon: http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2008:115:SOM:EN:HTML
- Freedom, Security and Justice: http://ec.europa.eu/justice_home/fsj/intro/fsj_intro_en.htm
- Stockholm programme: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0262:FIN:EN:PDF

IV. Introduction to topic 'Migration and Asylum'

The phenomenon of voluntary and involuntary migration is now firmly at the top of the European Union's political agenda. According to the United Nations assessment in 2011, there were 214 million international migrants worldwide and another 740 million internal migrants. In the same year, 44 million people were forcibly displaced. An estimated 50 million people lived and worked abroad with irregular residence status.

Since the Tampere European Council of 1999 the EU has sought to develop a comprehensive immigration policy towards third-country nationals that would address the phenomenon in all its main dimensions, i.e. legal and undocumented immigration, integration and cooperation with the countries of origin of immigrants. The EU has early recognized that legal migration will play an important role in enhancing the knowledge-based economy in Europe, in advancing economic development, and thus contributing to the implementation of the Lisbon strategy which aims at making the EU the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion. Achieving the Lisbon objectives required a skilled and adaptable labor force and a more open and accessible European labor market, so the EU has engaged in adoption of common migration policy directives. The aim of directives was to provide comprehensive immigration policy that would guarantee a common set of rights to third-country nationals and which would address a "rights gap." Another aim of the common migration policy was to enhance non-discrimination of third-country nationals in economic, social and cultural life and develop measures against racism and xenophobia.

Family reunification is currently the main reason of migration towards EU, so the first instrument adopted within the EU common migration *acquis communautaire* was Directive on right to family reunification of third-country nationals. In addition, in last decades, European Court on Human Rights has set high standards of rights to family life for migrants.

Voluntary migrations for family unity or employment often result in human rights violations, such as labor and sexual exploitation, trafficking in human beings, etc. This vulnerability to abuse is further fueled by undocumented residence status and gender of the migrant i.e. female migrants are more susceptible to such exploitation. Council of Europe has acknowledged human rights abuses of migrants and have adopted a set of legal instruments aimed at advancing legal protection of migrants. European Court of Human Rights has also

developed case law related to the obligation of states and individual employers to respect human rights of migrant workers, as stipulated in the European Convention on Human Rights, regardless of their residence status. In two landmark cases (Siliadin v. France and Rantsev v. Cyprus and Russia), European Court of Human Rights has set clear legal standards in relation to servitude in domestic work and obligation of state to prevent trafficking of migrant women.

Pushing the Boundaries of Refugee Law and the Common European Asylum System: EU steps in regulating asylum and moving towards the Common European Asylum System

IV.1. Charter of Fundamental Rights of the EU states:

Article 18. Right to asylum

The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community.

1997(1999) Amsterdam Treaty moved regulation of asylum from third to the first pillar (i.e., from Justice and Home Affairs to the EC competence), amending the Treaty establishing the European Community, and foresaw the main fields where measures on asylum have to be adopted:

Article 63

The Council, acting in accordance with the procedure referred to in Article 67, shall, within a period of five years after the entry into force of the Treaty of Amsterdam, adopt:

1. measures on asylum, in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and other relevant treaties, within the following areas:

a) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum submitted by a national of a third country in one of the Member States,
b) minimum standards on the reception of asylum seekers in Member States,
c) minimum standards with respect to the qualification of nationals of third countries as refugees,
d) minimum standards on procedures in Member States for granting or withdrawing refugee status; <…>

In the field (a) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum submitted by a national of a third country in one of the Member States - the following regulations were adopted:

IV.2. Dublin II Regulation -

Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national;

IV.3. Dublin III Regulation (recast) –

Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person;

IV.4. EURODAC Regulation -

Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention.

In the field (b) minimum standards on the reception of asylum seekers in Member States - the following directives were adopted:

IV.5. Reception Conditions Directive -

Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers;

The recast Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (transposition term – 20 July 2015).

In the field (c) minimum standards with respect to the qualification of nationals of third countries as refugees - the following directives were adopted:

IV.6. Qualification Directive -

Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted;

The recast Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (transposition term - 21 December 2013).

In the field (d) minimum standards on procedures in Member States for granting or withdrawing refugee Status – the following directives were adopted:

IV.7. Asylum Procedures Directive -

Council Directive 2005/85/EC of 1 December 2005 laying down minimum standards on procedures in Member States for granting and withdrawing refugee status;

The recast Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (transposition term – 20 July 2015 and 20 July 2018).

IV.8. Issues

- The failure to solve the problem of asylum lottery/asylum shopping before the EU harmonisation.
- The role of the ECJ interpretations.
- The introduction of the subsidiary protection and the ECJ Elgafagi (Netherlands) judgement (Case C-465/07).
- Harmonising the main concepts of refugee definition and the ECJ judgements in cases: Abdulla (Germany) judgement (Joined cases C-175/08, C-176/08, C-178/08 and C-179/08); B. and D. (Germany) judgement (Joined cases C-57/09 and C-101/09); Y. and Z. (Germany) judgement (Joined cases C-71/11 and C-99/11); X., Y. and Z. (Netherlands) judgement (Joined cases C-199/12 to C-201/12).

IV.9. Suggested reading:

- Boeles, P., Den Heijer, M., Lodder, G., Wouters, K., (2009), European Migration Law, Intersentia.
- Council of Europe Recommendation 1610 (2003), Migration connected with trafficking in women and prostitution: http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta03/EREC1610.htm
- Council of Europe Resolution 1811 (2011) and Recommendation 1970 (2011) Protecting migrant women in the labour market: http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=17990&lang=EN
- Reporton Precarious Women Workers" (2010/2018(INI))A7-0264/2010: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2010-0264+0+DOC+XML+V0//EN&language=hr
- European Commission (1999) Proposal for a Council Directive on the Right to Family Reunification, COM(1999) 638: http://www.refworld.org/docid/47fdfb400.html
- European Commission (2008), "Report from the commission to the European Parliament and the Council on the application of Directive 2003/86/EC on the right to family reunification", COM(2008) 610.
- Groenendijk, K., (2006) *"* Family Reunification as a Right under Community Law" *European Journal of Migration and Law* 8: 215–230.
- ILO (2008) „Forced labour and trafficking in Europe: how people are trapped in, live through and come out": http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_090548.pdf
- OSCE (2010) Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, "Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude", Vienna.
- Rantsev v Cyprus and Russia [2010] ECHR 25965/04 (7 January 2010): http://www.bailii.org/eu/cases/ECHR/2010/22.html
- UNFPA, (2006) „A Passage to Hope, Women and International Migration": http://www.unfpa.org/swp/2006/pdf/en_sowp06.pdf
- All asylum law documents and case law are available at: http://www.refugeelawreader.org

V. Introduction to topic 'Organized Crime and Terrorism'

The concept of organised crime emerged first in the United States in the 1920s. Not soon after the term was used internationally and it is used to describe serious crimes, which denotes a set of criminal actors as well as a set of criminal activities (Cohen 1977), that are difficult to research and even harder to control. It can be defined as: *'the ongoing activities of those collectively engaged in production, supply and financing for illegal markets in goods and services'* (Gill 2008:280). Organised crime is not a homogenous type of crime conducted by a specific more or less stereotype criminal, but rather a term used to explain a diversity of criminal actions with a transnational character which are conducted in specific circumstances (Fijnaut et. al. 1998). This involves the mutual provision of services and entrepreneurial promotion between legal and illegal enterprises, both on a material and symbolic level (Paoli, 2002).

Article 2. of the United Nations Transnational Organised Crime Convention states:

a) 'Organised criminal group' shall mean a structured group of three of three or more persons, existing for a longer period of time and acting in concert with the aim of committing one of more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit;

b) 'Serious crime' shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;

c) 'Structured group' shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its memberships or a developed structure.

There still is a lot of discussion on the topic as shown by examining the differences between the legal orientations of at the one hand the UN and on the other the EU, as the latter in general uses an actor-centred logic with a focus on some specific key indicators as reinforced by the Serious Organised Crime Threat Assessment (SOCTA). These by the European Union wide applied key indicators are (Edwards & Levi, 2008: 379):

- A situation of international cooperation between non-indigenous groups or between an indigenous and non-indigenous group, or as international operations carried out directly by an organised crime group.
- Group structures which involves co-offending etc.
- Use of Legitimate Business Structures.
- Specialisation; organised crime groups recruit people with specific criminal skills.
- Influence and corruption in order to lower risks and costs.
- Violence; both deployed as an internal and external control mechanism.
- Counter measures to avoid detection.

In general these key indicators match the eleven European Union criterions to define organised crime. These eleven criteria of which the first four are mandatory but need to be supplemented by at least two criteria out of the optional criteria, to complete the conceptualisation of organised crime, are (Levi, 2002: 882 and Newburn, 2007: 406):

Mandatory

1. Collaboration of more than two people.
2. Taking place over a prolonged or indefinite period of time.
3. Suspected of the commission of serious criminal offences.
4. Having as its central goal, the pursuit of profit and/or power.

Optional

5. Having a specialised division of labour.
6. Utilizing a system of discipline and control
7. Using violence and other means of intimidation
8. Having a commercial or business like structure.
9. Involved in money-laundering.
10. Operating internationally, across National borders.
11. Exerting influence over politics, judicial bodies, media and the economy.

On the basis of these key indicators, Europol's OCTA (Organised Crime Threat Assessment) (2008:13) classifies all criminal crime groups. Focus here lies on their origins and it narrows them down to three categories (see also Kegö & Molcean 2011:22):

- Traditionally indigenous organised crime groups or EU-based groups.
- Traditionally non-indigenous or non-EU-based groups.
- Intermediary situations including both second generation organised crime groups and groups combine aspects of both non-EU and EU-based groups.

Within these three categories, four types of organised crime groups can be distinguished (Edwards & Levi, 2008: 379). These groups are:

- Principally territorially based, indigenous organised crime groups, with extensive transnational activities; especially with possibilities to shield their leadership and assets, even inside the European Union.
- Mainly ethnically homogenous groups with their leadership and main assets abroad.
- Dynamic networks of perpetrators, whose organizational setup is less viable to attack from a law enforcement perspective than their communications and finances.
- Organised crime groups based on strictly defined organizational principles without an ethnic component, coupled with a large international presence.

Another point of interest is the term transnational, which implicates the cooperation in or facilitation of these serious crimes, takes places over different territories and jurisdictions. Because of this the an international instrument is a must in order to effectively combat these types of serious crimes committed by these organised crime groups. The UN focuses on the need to regulate the form of crime as a global threat (Levi 2002). Article 3. Sub 2 of the United Nations Transnational Organised Crime Convention states that an offence is transnational in nature if:

- It is committed in more than one State;
- It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;
- It is committed in one State but involves an organised crime group that engages in criminal activities in more than one State; or
- It is committed in one State but has substantial effects in another State.

The issue of human trafficking, as a specific type of organised crime, has risen up the political agenda and is increasingly becoming more critical for countries to act upon (UNODC 2010). This concept, however, cannot be understood outside of the social, economic, historical and political conditions which are:

- Increasing globalisation and inequality within and between advanced industrial societies and those countries where poverty is epidemic;
- War and conflict in various regions of the world;
- The global subjugation of women;
- The growth of telecommunications and expansion of information technology;
- The trans nationalisation of the sex industry;
- The reconfiguration of Europe (Melrose & Barrett 2006:115).

It has been on the international agenda even since the beginning of the 20th century but after interest standstill due to the two great wars, interest was renewed in the early 60's-70's of the previous century and from that moment on it has been high on the political agenda and subject of continues debate. One of the key discussion focussed on formulating a workable and generally accepted definition of the trafficking of human beings (in most literature abbreviated as THB). In 2001 the definition for THB was formulated in the (Palermo) Protocol to Prevent, Supress and Punish Trafficking in Persons, Especially Women and Children and states: '*Transnational Human Trafficking is the recruitment, moving or reception, of a person under coercive or deceptive conditions for the purpose of exploitation*' (Rijken 2009). This now widely accepted definition of human trafficking has been supplemented by the elements of act, means and purpose which are as follows (Werson & Goutbeek 2005:4):

- recruitment, transportation, transferring, harbouring or receipt of a person (act);
- means of threat, use of force, coercion, abduction, fraud, deception (means);
- purpose or act of exploitation, including sexual exploitation, forced slavery and slavery like practices (purpose)

This addition, just like the Palermo definition uses the term exploitation which in itself is seen as an unclear concept. Exploitation, as defined in the council framework decision of 19 July 2002 on Combating Trafficking in Human Beings (:1) is, '*at a minimum, exploitation of*

the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs' and this equals article 3.§a of the UN protocol to Prevent, Supress and Punish trafficking in persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime except for including a general purpose of exploitation except for the trafficking in human beings for the purpose of the removal of organs. This narrowed down definition leaves room for further discussion. Especially within the conceptualisation of sexual exploitation. In 1991, Susan Edwards defined sexual exploitation as: '*a practise by which person(s) achieve sexual gratification or financial gain or advancement through the abuse of a person's sexuality by abrogating that person's human right to dignity, equality, autonomy and physical and mental well-being*' (Barry 2012). This more in-depth feministic definition makes it possible to directly link sexual exploitation with a breach of fundamental human rights (Rijke & de Volder 2010) knowingly, art. 3 ECHR, the prohibition on torture, inhuman or degrading treatment, art. 4 ECHR, the prohibition of slavery, servitude, forced or compulsory labour and art. 8 ECHR, the right to respect for private life (Stoyanova 2011). In the basics you have the same three key components, knowingly: The act (what is done), the means (how it is done) and the exploitative purpose (why it is done) (Aranowitz, Theuermann & Tyurykanova 2010:17).

The current European standard and definition on the trafficking of human beings has been set out in Directive 2011/36/EU and states:

'*The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation'* (article 2 §1).

The European commission feels the need to take a leading role in combating human trafficking, as there is a lack of harmonisation of legal frameworks to combat human trafficking (Hancilova & Massey 2009). The Stockholm program (2010C/ 115/01) entitled: The Eradication of Trafficking in Human Beings 2012-2016 is one of steps taken to ensure its leadership and guidance. For this an EU anti-trafficking coordinator has been appointed in the person of Myria Vassiliadou who's task it is to coordinate the implementation of the strategy laid out in the Stockholm program (European Commission 2012).

The council of Europe in turn has been active in adopting various anti-trafficking initiatives since the 1980's. Amongst them are the 1991 seminar on *Action Against Trafficking in Women, considered as a violation of human rights and human dignity,* the 2005 convention on *Action against Trafficking in Human Beings* (CETS NO. 197) which aims to Prevent trafficking, Protect the Human Rights of victims of trafficking and Prosecute the traffickers and is applicable to all forms of trafficking whoever the victim and whatever the form of exploitation (see on the three P's Mattard 2008). R*ecommendation NO. R (2000) 11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation*, the LARA project (2002-2003) and last but not least the 2011 (36/EU) Directive on preventing and combating trafficking in human beings and protecting its victims (which replaces Council Framework Decision 2002/629/JHA and which therefore is not mentioned in previous non-exhaustive list but affirms in art. 3 that trafficking in human beings comprises serious violations of fundamental human rights and human dignity of victims). Besides these initiatives the council also wants to raise awareness on the problem of human trafficking as such and on the recognition of victimisation. They urge for victim support in all effects and setting up a system of prevention by using the concept of responsabilisation (Factsheet Council of Europe) which means that this strategy of crime control aims to shift primary responsibility for crime prevention and public security away from the state and towards businesses, organisations, civil society, individuals, families and communities (Muncie 2008:357). In order to achieve these goals the European Commission's Decision of march 2003 set up a consultative group, known as the 'Experts Group on Trafficking in Human Beings' (2003/209/EC).

Beside these initiatives, the Parliamentary Assembly of the Council of Europe has adopted the following trafficking and forced prostitution relevant texts:

- Recommendation 1325 (1997) on traffic in women and forced prostitution in Council of Europe member States;
- Recommendation 1526 (2001): A campaign against trafficking in minors to put a stop to the east European route;
- Recommendation 1610 (2003): Migration connected with trafficking and prostitution.

Both the anti-trafficking coordinator and the commission have access to a Group of Experts on Action against the Trafficking of Human Beings (GRETA) which exists out of independent experts and members of the Committee of the Parties. GRETA will monitor,

evaluate and may give recommendations to member states who lack effort in the implementation of anti-trafficking legislation and by doing so endanger an effective fight against THB(Factsheet Council of Europe).

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VI. Introduction to topic 'State Surveillance'

States need information on individuals to function on behalf of its' citizens. At present most surveillance methods are hidden from the average citizen and hence go unnoticed. However the collection and processing of personal information (data) on a daily bases is routine and pervasive. Each of us perceives our personal privacy as a basic human right, which reflects our human dignity and personal autonomy it is therefore a sacred fundamental part of our identity and is essence is part of our makeup. It is a part of us that we treasure and guard. This programme, will investigate if there is a danger that we are living in a world that may fundamentally lack technological and importantly legal tools required to balance, stop or redress the ever increasing rising tide of surveillance where personal information is involved.

The individual in today's society faces an ever-increasing invasion of his/her personal space. States around the world are re-acting to the increased level of terrorism by implementing measures designed to enhance security. Catalyst for a quantum leap in the gathering of personal information has been the reaction to a number of events such as the 9/11, Madrid, London and Glasgow attacks. An example of this response at both European and National level is the European Data Retention Directive (Directive 2006/24/EC), which has been introduced as a major initiative to provide greater 'security' for European citizens.

The rationale behind this Directive is to provide a safer Europe. However, this piece of European legislation allows member states legal authority on an unprecedented scale to the collection and storage of personal information on all citizens, for what would appear to be unusual length of time. It also follows a trend in the 'new' direction for data collection, a trend from a more focused and targeted mode 'surveillance' to one of mass 'surveillance' on a scale never seen before. While it is known that 'surveillance' has a positive face, what is not known is, has there been a cost, a 'trade off' between privacy and citizens security. This programme will also address earlier legislation to find if they are fit for purpose.[1] The barometer for testing a citizen's rights to privacy will be Article 8 of the European Convention of Human Rights which as the fundamental building block which has led to all national and European legislation. A holistic question to be answered will be 'Quis custodiet

[1]Such as The Human Rights Act, Data Protection Act, Regulation of Investigatory Power Act.

ipsos custodis'? Who guards the guards, This programme will examine the law as it stands to confirm or otherwise that our personal information is safe in the hands of the state.

During the course of the I.P. the ways and means of how European States observe and track individuals when they cross borders will be studied. The interstate co-operation and the exchange of information will be examined as will the transnational and international police and security bodies. The full police and security apparatus of European states will be measured and checked against both national and European law.

VII. Introduction to topic 'Governance'

Multi-level Governance in the European Union

Some philosophy: is there such a thing as the 'public'?

When we do anything collectively and for which we plan can be referred to as 'policy', e.g. company policy, family policy, policy of selecting pubs and clubs in a group of friends. When talking about 'public' matters the term 'public policy' is far trickier to define. For one, many actions that we perceive as private (to eat or not to eat fast food) or club matters (which place to visit on a night out) very often have implications to the rest of society and as such may quickly become the subject of interest to the government.

At the outset of discussing governance we ought to hold the idea that the line separating public and private spheres is ever fluctuating and dependent on context. This belief is the fundamental belief of people who accept that 'governance' exists.

Opposed to this view is the view that there is some sort of 'order' social (as in case of e.g. Marxism), cosmic (as in case of religions) or biological (in history most notable was the case of Nazism, but racism and sexism was prevalent in many if not most political systems before that) which defines the social structure and determines the rulers and the ruled. Deviations from this order are seen as an unsustainable anomaly and usually as something that is needed to be combated. [2]

Somewhere in between lie theories/ideologies/beliefs that there are certain fundamental properties to human nature and human existence (hence the need for existence of fundamental human rights). Controversially, 'new biological sciences' such as neuroscience and genetics which speculate that many parts of our personalities are 'hardwired', e.g. the differences of between men and women or were selected in the process of evolution. Here ideas of mutual support, collective responsibility for children, and again, controversially, the need to organize our societies democratically to realize the ideal of participation find their place. In essence the 'middle ground' between extreme liberalism (in some cases this is equated with postmodern

[2] For a broader discussion about these issues (mostly in the context of democracy) read Denhardt, R. B. (2011). Theories of Public Organization, 5th ed. Belmont, CA : Thomson/Wadsworth.

thought) and totalitarianism (Marxist, Nazi or religious) is that we should have government in which the processes of decision making and implementation are 'set in stone' (constitutionalism), but they're flexible enough to accommodate the point of view and interests of every citizen (democracy)[3].

Some theory: what's the problem?

Usually when trying to do something collectively we have to take 3 considerations to account: what to do?, how to do it? and who should do it? In cases collective or 'public' action at the level beyond our families and friends we will often find that the 'what' question is easy to answer (there is a category of people who 'talk to the T.V.' and they always have the right answer to the 'what' questions). But the 'how' and the 'who' answers are much harder to come by. Partly off course it's because we have governments, and democratically elected ones at that, which have come to power by promising to do the things we want. So obviously the statement that the 'government should do it' is valid from the point of view of our political setups. And if governments make wrong choices about what to do they ought to be voted out. In essence this is a view that sees public policy as a cycle. Where successes breed new policy aims, and failures breed rethinks of what the aims should be and how they should be attained.[4]

But what happens when we support governments' aims, but they aren't attained. If we vote the government out and get a new one with similar aims, odd are, that failure more than possible (consider the metaphor: "Changing the captain of the Titantic"). The explanation may lie in the fact that modern constitutions (based on enlightenment era ideas of philosophers such as Rousseau and Montesquieu) are organized to ensure a democracy in the decision making phase of policy making, but not the implementation phase.

The fact that democratization does not mean that we do away with state coercion is hardly surprising. However, by retaining the bureaucratic method of policy implementation we risk

[3] For a discussion of how democracy is an ideology (especially in the American context) read Waldo, D. (2007 [1948]). The administrative state : a study of the political theory of American public administration. New Brunswick, N.J. : Transaction Publishers.

[4] For a detailed discussion on what is 'public' in public policy and what are the advantages and disadvantages of viewing policy as cycle read Parsons, D. W. (1995). Public policy : an introduction to the theory and practice of policy analysis. Aldershot, UK ; Brookfield, Vt., US : Edward Elgar.

to perpetuate certain policy outcomes irrespective of who holds the democratically elected office and how they consult the citizens.[5]

That is, we can say that bureaucracy (which enforces the states coercive powers and implements policy) can be viewed as a tool. And if we use this metaphor, we will discover a dimension of government which is often overlooked by both the press and our constitutions: there are no universal tools and individual tools are good for some things and useless for others. So the theory goes that no matter how good a policy you design it is bound to failure if you choose the wrong tools (consider this metaphor: imagine you have a wedding ring with a diamond designed, but the person who will incrust it will use crowbar and by profession he is an surfer with no background in anything related to jewelry. What's the likely outcome of his work? And would you blame the design for a less-then-perfect result?)

Alternatives of collective action: four types of social coordination

Imagine that the whole human society are the two in the garden of Eden: Adam and Eve. Literature offers no more than 4 ways of how they could go about doing something together: i) one tells the other to do something at the threat of force or relying on arguments of his/her competence (if they try to achieve the position of authority using different arguments, the one with physical superiority will probably win); ii) the second is that they build a set of rules which allow them to identify authority: build a tradition, establish courtesy, etc. (e.g. such as 'ladies first', 'the older is the wiser', something that 'civilized people do'); iii) they find a medium which allows them to measure common benefit and thus removes the need for authority (i. e. currency); and iv) fourth is a tricky one. There is evidence, that people at a biological level are social and curious and literally go crazy or may even die of loneliness. Therefore, they are willing to engage in common activities just for the sake of doing something together or out of curiosity (of 'for fun').

We can call the four: hierarchy (which is how government is organized), community (where common action is based on a shared tradition, sense of belonging and pride to a community), market (which is driven by common interest measured in currency) and network (which just

[5] For a discussion on the power and policy outcomes of bureaucratically organized governments read Peters, B. G. (2010). The politics of bureaucracy: an introduction to comparative public administration, 6th ed. Abingdon ; New York : Routledge.

happens when the conditions are right, e.g. crowd-sourcing, crowd-funding or open source programming, etc.). [6]

Usually we see modern nation states as a mixture of hierarchies, markets and communities. The legitimacy of state, its borders, national language, laws and cultural practices is usually based on the communality of a nation (though this has plenty of exception). Government itself ultimately relies on hierarchy and coercion, i.e. once the political decision is taken the government goes on to implement it in a 'top-down' manner. Governments also institute markets and protect their rules of conduct. The distinction between something that is part of the market or government as something 'private' or 'public' is easier than between government and community. E. g. the practice in India and China to abort female fetuses is something that very directly harms the states' interests, but decision to go ahead with this practice is sanctioned by tradition and done in a family setting (usually what we do in our bedrooms is seen as a pinnacle of privacy, and only the Orwellian state may entertain the idea of regulating this sphere). Finally, networks are very effective when they work, but they're very hard to kick start and in public matters are rather tricky (historically a good example of networking is charity work and art patronage, but it isn't fool proof. Imagine a healthcare scheme where cancer treatment is financed exclusively by SMS donations on a Christmas T.V. charity shows).

Concidering the complexities: where does the EU come in?

The 'public' issues regarding 'who' and 'how' should do 'what' can be reduced to debates over sovereignty. However, the idea of sovereignty in the face of ever increasing international interdependence (besides EU one of the most obvious types of institutionalized international enforcement mechanisms is the UN Security council, which served as a tool to start Korean and Gulf wars; though its effectiveness is much debated and it does have similarities with the historical precedents of Concert of Europe after 1815 and League on Nations after 1919) means that though formally nation states are free to act as they choose the fear of international condemnation and sanctions (not only by organizations such as the UN, IMF, etc., but also by the dreaded 'markets') limits their choices dramatically.

EU is a unique bottom-up state-like formation which was built not by a hegemonic empire but by the willing participation of sovereign states. Thus if we personify the member states of the

[6] For more read Fiske, A. P. (1992). The four elementary forms of sociality: Framework for a unified theory of social relations. *Psychological Review, 99*(4), 689‑723.

EU, we find ourselves back in the archetypical 'garden of Eden' with 28 equals trying to agree upon 'what', 'how' and 'who' should do something (and all 4 types of coordination are on the table)[7]. The result is the entire body of EU treaties, regulation and institutions. But with a rather shaky fundament as there is no positive definition of why the club of 28 should be doing anything in this specific format. Christianity, peace in Europe and economic prosperity are all candidates for a justification and all are controversial.

EU breaks with the tradition where 'public' is defined by what the government determines it to be based on sovereign right legitimized by the citizens who form a nation (community that has a measure of solidarity). EU created an incredibly complex legal and organizational structure which cannot rely on coercion as a measure of last resort, only on good will (the principle seemed to apply in the wake of the failure of Constitution for Europe failure, but with the 'fiscal compact' and 'banking union' coercive powers of the EU seem to be back on the agenda much to the dislike of some member states, such as the U.K.).

Although it is unclear if EU is a result of increased loss of power of hierarchichal coercive and bureaucratic states or if it's the cause, but the 'Jinn is out of the bottle' and civil societies, regions and municipalities want a part not only in the decision-making side of public policy, but in the implementation as well.

Some issues in the multi-level governance debate:

Answer for yourself is there such a thing as government? Was there an era where government decided and acted and population complied? Or vice-versa is there such a thing as governance? Even if you're allowed to participate in policy setting and implementation who gets to say the final word?

Involving the society in policy in ways other than elections raises the question of representation. I) usually those that pay tax work and in that age they have elderly parents and young children, they are busy as they are. So very often the civil society is either professionalized or represents 'disadvantaged' members of society. This means the demands on taxpayers are ever increasing. II) is society only the sum of its living members? How about those who fought in wars to defend the freedom of the country; don't we need to take to account the vision of our founding fathers? And how about those who aren't yet born? Don't

[7] Here we can define the difference between government and governance. Government relies exclusively on hierarchy to implement public policy, while governance mixes the various types of social co-ordination and seeks to include stakeholders into the process.

we have to protect the nature and it's recourses for them or to not leave a large public debt? Doesn't the state need to somehow more broadly define the 'public interest' and be the agent that defends it?

Tasks

Read the Stockholm Programme and see the provisions through the lense of governance: which levels (local, regional, national, EU) and which tools are employed (hierarchies, etc.) when dealing with the problems identified.

Identify a narrow policy issue that concerns you in the area of freedom security and justice. Try to map the regulations at all levels, institutions and types of their coordination. Do you see weak points of miscommunication, possible misconduct, etc? What needs to be changed? How? Draw your own map, how would you do it? What are the hurdles to be overcome? What regulation needs to be changed, who is likely to oppose, how long will it take to make changes and how much will it cost? Who's going to pay?

Also gain an understanding:

- The current **system of institutions** in the area of law enforcement governance: EU third pillar, EU agencies, model of home country law enforcement and co-operation in human trafficking, existing EU regulation, treaties and agreements (including bilateral and multilateral);
- **Types of law enforcement co-ordination/co-operation**:
  - top-down: EU (regulation, directives) – Member states' governments – law enforcement agencies
  - bottom-up: law enforcement agencies – member states governments – EU
  - peer to peer: law enforcement agencies, bilateral, multilateral co-operation
- **Instances of multilateral co-operation.** Answer questions such as: what events/factors tend to cause the adoption of new regulation ant the EU or multi-state level? Cases where multiple agencies were involved in investigation, how were actions organized? What were the outcomes, mistakes, inefficiencies, conflicts? What is the best practice in these cases, i.e. when does everything work and what the prerequisites?

- **Related issues** regarding governance of law enforcement at the EU level: democratic deficit, sovereignty, financing, jurisdiction, information sharing.

VIII. Case outline

Case study thematic workgroups

Anna is an 22-year old girl with the Hungarian nationality. She is from Szigetszentmiklós, a small town near the capital of the country, Budapest. She has no educational qualifications and up until six months ago she had been working as a waitress in a bar in Budapest. One day her boss and owner of the bar, called Anna to his office and demanded from her to take up the position of exotic dancer. Anna was reluctant to do so and tried to decline the involuntary offer. Because of her refusal, her boss informed her she was unable to continue working and as a result of this she has been unemployed for several months now.

Anna is a mother of a two year old baby girl, named Maria, whose father is an 41-year old immigrant from China, named Pou. Pou was extradited from Hungary immediately after Maria's birth because of petty theft and he moved just over the border, to Osijek, Croatia. Upon arrival to Osijek, Pou met Natasja, who soon became his wife. Natasja is a Russian native who holds the British nationality. Natasja gave birth to Pou's second child, a boy called Stalimao, who is now one year old. Six months ago, Pou had travelled to Dharamsala in India to work for the Dalai Lama. There he met Sheetal, a human rights activist, and soon after she got pregnant by Pou. Local customs did not legally recognize children born out-of-the wedlock, so Pou and Sheetal married in religious ceremony which allows men to marry up to four wives. Thus, Sheetal became Pou's second wife. Soon after the marriage, Pou disappeared because of an argument with Sheetal and her parents regarding the payment of bills. Pou returned to Osijek to Natasja who got disappointed when she heard about Pou's 2nd marriage, but he convinced her that he loves her and does not intend to live with Sheetal.

One day Anna got a text message from her cousin, Győzö, who has been living in Amsterdam, for seven years now, with an invitation to come over and visit him in The Netherlands. He promised her that all expenses will be paid for by him. Anna is very happy with this invitation because she always wanted to travel the world and she thinks this could be a good start for her. While planning the trip, she makes plans to continue traveling across Europe as a street artist, making use of her sublime dancing abilities. She leaves Maria with her mother and she starts making preparations for her journey to Amsterdam.

When Anna arrives in Amsterdam on a Tuesday after a 20 hour bus journey, taking across different European countries, Gyözö is already waiting for her and after a short but joyful reunion Anna is asked to hand over her passport. This is for safety reasons only, so Gyözö promises her. Gabor takes her round town in his brand new Audi 8th series and when they stop at a location in the city centre Anna is asked to go with two other Hungarian men. That evening Anna is raped several times by the two men and she is locked up in a small room on the top floor of a flat in the Bijlmermeer area. Over the next few days she is raped several more times by the same Hungarian men but also by two others who appear to speak a Gaelic orientated language. Anna can't be sure because she only heard this language once before during a Lord of the Dance show. These two men Padraig and Michéal are members of the Real IRA and wanted by the UK government for several terrorist activities committed in the Belfast and Derry area. It seem that both men were testing Anna before purchasing her. Anna is found satisfactory and not soon after she is taken by Padraig and Michéal to The Hague where she is forced to work as a prostitute in the Doubletstraat.

After a few weeks Anna's mother no longer accepts Gyözö's excuses why her daughter is unable to talk to her over the phone and she decides to go to the local police. Gyözö has a day job in the Netherlands baking pizza's at an Italian restaurant. The Hungarian police contact their Dutch colleagues to clarify the status of Gyözö in the Netherlands. The Dutch police questioned Gyözö about Anna. Gyözö says that Anna has informed him that she decided to continue onward to Paris where she found illegal work and also asked him not to tell this to her mother. Gyözö claims to have lost contact with Anna. Gyözö otherwise has a clean record. Meanwhile in Lithuania on a routine patrol police stopped a minivan driven by one Aurelijus. Aurelijus is a driver of a bus transfer company, the minivan also belongs to the company. In the car there were five women with Lithuanian identification documents who could only speak Russian. Aurelijus was detained and under questioning said that his boss occasionally tells him to take groups of Russian women to an address in the Netherlands a few blocks away from the pizzeria Gyözö is working in. In the meantime, Anna was able to get hold of a punters phone and she desperately tried to get in contact with her mother. Unfortunately her mother is unable to answer the call and in her desperation Anna calls Pou. He, despite his forced leave and new relationship, still cares for Anna and immediately decides to help her. Through his new brother in law he gets hold of a stolen passport and as Jacky Lee he tries, joined by Natasja and Stalimao, to travel over to London. The reason he travels to London is because Anna in her panic told him she was being held by two English

speaking men and Pou wrongfully interpreted this as that she was being held in the UK and the cheapest tickets available lead them to London.

While in London, Nastasja gets an offer to start to work for the NGO providing assistance for asylum seekers in the UK and in Malta, so Pou, Stalimao and herself accept to move to Malta. The NGO forwards her the request from an asylum seeker Vladimir (from Russia), who is detained at the Center for Illegal Migrants (in Malta). As Natasja speaks Russian and English fluently, Vladimir asks her to be a translator during his meetings with his advocate. His advocate speaks only English, and Vladimir‘s English is poor (state provides him free legal assistance and translation only for the court hearings, so if he wants to consult his advocate outside the court, he needs to arrange translation himself). Nastasja agrees to translate, and Vladimir is able to explain his advocate that he is the leader of LGBT organisation in Moscow and homosexual person himself, he has been several times attacked and severely beaten by the members of radical youth organisations in Moscow, and he is also afraid of criminal sanctions, because there are new criminal laws criminalising „propaganda of LGBT ideas“ in Russia. He had come with a valid visa to the LGBT rights conference in Malta, but he had not returned to Russia after the conference, and after his visa expired he had asked for asylum in Malta. Advocate explains him that the Maltese authorities regard his asylum application as manifestly unfounded and keeps him in detention, because: 1) it is questionable whether his homosexuality meets the requirement of „membership in particular social group“ according to refugee definition; 2) even if the requirement of „membership in particular social group“ were met, there are no evidence about the enforcement of imprisonment or any other criminal sanctions for LGBT people in Russia; 3) even if the enforcement of imprisonment or any other criminal sanctions were possible, there are many other cities in Russia where he could return and live without any danger of persecution if he does not declare his homosexuality publically; 4) even if some danger of persecution could exist, Vladimir cannot present any objective evidence that he is homosexual person himself and he has refused to take any medical tests for this purpose. Vladimir waits for the outcome of his asylum case and hopes that his advocate will find right arguments in order to release him from detention and to persuade the Maltese authorities to grant him refugee status.

In the meantime, Sheetal has committed a criminal offence and spent three months in prison. She also found out that Pou has moved to Malta with Natasja and Stalimao and got EU long-term resident’s status. Since she is about to be released from prison, she submitted request for a residence in Malta based on her marriage. Sheetal was raised in a big family, so the idea of

living together with Pou, his first wife and their son was not odd to her. She thinks that her child has a legal right to live with the father and she also wants to escape poverty and reputation of an ex-prisoner.

In the end, Anna is rescued by the Dutch authorities during a raid to combat illegal prostitution and trafficking of women based upon information gathered out of a JIT cooperation set up by Europol and she is flown back to Budapest where she's reunited with her family. Padraig and Michéal flee the country as they are now wanted by the Dutch authorities as well and both men travel over to Norway to avoid being arrested. Gyözö is charged in several countries, including Lithuania, Hungary and The Netherlands for his criminal activities.

IX. Information about Hungary, the city of Pécs, and the University of Pécs

IX.1. Hungary

Hungary is a small and beautiful country in Central Europe where Hungarians or Magyars (as we call ourselves) settled more than 1000 years ago. Visitors can enjoy the variety of the scenery, the mountains, plains, lakes, rivers, bustling towns and peaceful rural areas. Budapest, the capital of Hungary, lies on the banks of the River Danube, hilly on one side and flat on the other, and is internationally renowned as an exciting city to visit. Lake Balaton, in the middle of the region called Transdanubia, attracts holiday- makers from all over the world. Though the population is predominantly Hungarian, there are Croatian, German, Romanian, Slovak and Serbian ethnic minorities living here as well. The official language of the country is Hungarian, one of the languages of the Finno-Ugric family, which may explain why foreigners find it hard to master it. The culinary delights and the hospitality of the Hungarians have a great reputation all over the world, not to mention the excellent wines, champagnes and beers produced here. These features, together with the rich cultural heritage in arts, literature and music and the achievements in sciences and sports, make Hungary a very special place to visit.

IX.2. Pécs

Pécs is the fifth largest town in Hungary, with a population of about 180,000. Lying in the South of Transdanubia, close to the border with Croatia, it has a mild, almost Mediterranean climate. Its history dates back over 2,000 years, and the name of the old Roman town, “Sopianae” is still found in the names of institutions and products. Although its development suffered several setbacks throughout the centuries, such as during the Tartar invasions or the Ottoman-Turkish Rule, it has not only survived, but developed into a pleasant, modern town, rich in historical monuments, an administrative, cultural and educational centre with a lot to offer to those who wish to live or study here. The town is famous for its museums, galleries, the festivals and cultural events it hosts. The downtown of Pécs is a unique mixture of the relics of Early Christianity, the arrival of the Hungarians, the Turkish reign and the achievements of modern architecture and art. The National Theatre, the Philharmonic

Orchestra, and the internationally renowned Ballet Ensemble offer interesting programmes in addition to the Summer Festival, the International Culture Week in Pécs (ICWiP) and the Pécs Days. Pécs is also the seat of Baranya County, a region with many attractions for visitors: the Mecsek Hills, the Mecsek-Siklós-Villány wine region, the spa of Harkány, the Holiday Village of Hegyszentmárton, fascinating old villages and historic castles (Siklós, Szigetvár, Pécsvárad, etc…). Our European relations are supported by several programmes and institutions: Pécs is an active member of the Alps- Adriatic Working Community, the Healthy Cities movement supported by WHO and the Alliance of Medium-Size Towns (SESAME). Pécs is a centre of diplomacy as well: Austria, France, Germany, Finland and Italy have honorary consulates here. The General Consulate of Croatia is located near the University. The Turkish Consulate is in the nearby town of Szigetvár. Well-functioning twin-town partnerships have developed ever since 1956 with towns both in Europe and the USA.

IX.3. University of Pécs

At the time when several universities were founded in Central Europe, the Anjou king of Hungary, Louis the Great established the first Hungarian university in Pécs in 1367.Thus the history of Hungarian higher education goes back to this date. The University of Pécs is one of the largest higher educational institutions in Hungary with high-quality research and education. At present the number of students is around 35,000. The University has the traditional structure of European universities, headed by a rector and a team of six vice rectors, each responsible for a different area of university life. The faculties, headed by a dean and the institutes headed by a director, represent larger academic areas. They are subdivided into departments, which are in daily contact with the students and are responsible for the academic programmes. The ten faculties of the Univesity are: Faculty of Adult Education and Human Resources Development Faculty of Business and Economics Faculty of Health Sciences Faculty of Humanities Faculty of Law Medical School Faculty of Sciences Faculty of Music and Visual Arts Illyés Gyula Faculty of Education Pollack Mihály Faculty of Engineering.

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