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# THE CONCEPT OF “INSTRUMENTALISATION” IN MIGRATION MANAGEMENT AND DEROGATIONS FROM ASYLUM RULES AND STANDARDS:

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## FUNDAMENTAL RIGHTS AND RULE OF LAW CONSIDERATIONS

3 FEBRUARY 2023

ATHENS

Greece

The concept of “Instrumentalisation” in Migration Management and derogations from asylum rules and standards: fundamental rights and rule of law considerations

**Time and Date:** 3 February 2023, 16:00-20:00

**Venue:** Ionic Center, [11 Lysiou str., 105 56 Athens](#)

**Languages:** Greek & English (parallel interpretation will be available)

**Registration:** at +30 210 3800990 (int. 101) or at [gcr1@gcr.gr](mailto:gcr1@gcr.gr)

**Online attendance:** registration for online attendance [here](#)

\*Please note that questions and interventions from the floor will be prioritised during the Q&A sessions

**Context**

On 14 December 2021, the European Commission presented a proposal for a Regulation addressing situations of instrumentalisation in the field of migration and asylum (“Instrumentalisation Regulation”). In tandem with the introduction of a broad definition of “instrumentalisation” in a proposal for a Regulation amending the “Schengen Borders Code”, the Instrumentalisation Regulation can be viewed as part of a mini-package, which expands and further builds on derogations to EU asylum standards proposed under the Pact on Migration and Asylum. It thus continues the trend for proposals that seek to contain people at the EU’s external border, while increasing the likelihood of EU Member States denying access to asylum to those in need.

A case in point can be found in Greece, when in March 2020, following the Turkish government’s decision to “open” its borders towards the EU, the Greek government decided to unilaterally suspend application of the 1951 Geneva Refugee Convention for a period of one month, by invoking a situation of “instrumentalisation” from the side of Türkiye. Since then, amidst increasingly contentious political relations between Greece and Türkiye, the concept has figured prominently in the vocabulary of decision makers and public media, and has been systematically employed in Greece to legitimise an increasingly securitised approach towards border management and the right to seek asylum.

Can the actions or inactions of third country governments justify such an approach and with what risks for the EU asylum acquis and the rights of people seeking asylum on European Union territory?

What is the role of the EU and what type of balance can be found between the right to seek asylum and member states concerns, in this dynamically developing context?

Join us on 3 February 2023, in Athens, Greece, to discuss these developments and their significance for fundamental rights and the Rule of Law in the EU.

## Program

### 16:00–16:30 Opening

Welcome remarks: **Vasileios Papadopoulos**, President of the Board of Directors of the Greek Council for Refugees (GCR)

- **Maria Gavouneli**, Professor of International Law, President of the Greek National Commission for Human Rights (GNCHR)
  - **Andreas Pottakis**, Greek Ombudsman
  - **Panagiotis Danias**, President of the Union of Administrative Judges
  - **Maria Clara Martin**, UNHCR Representative in Greece
  - **Konstantinos Dimopoulos**, Senior Legal Assistant, IOM Office in Greece
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### 16:30-16:50 Keynote speech

#### ***Fundamental Rights of refugees and migrants in an Era of ‘Externalisation’ and ‘Instrumentalisation’***

- **Iris Golder Lang**, Jean Monnet Professor of EU Law, UNESCO Chair on Free Movement of People, Migration and Inter-Cultural Dialogue, University of Zagreb, Faculty of Law

### 16:50-17:40 Panel Session I

#### ***CEAS reform and derogations from asylum rules: impact on refugee rights and on countries of first arrival at Europe’s borders***

Moderator: **Mariana Gkliati**, Assistant Professor of Migration and Asylum Law, Tilburg University

- **Antonia Psyrra**, Policy Officer, European Commission, Directorate-General Migration & Home Affairs
- **Vassiliki Kakossimou**, Head of Directorate of Administration Support, Ministry of Migration and Asylum, Hellenic Republic
- **Kalliopi Stefanaki**, Senior Protection Officer, UN High Commissioner for Refugees in Greece

- **Catherine Woollard**, Director of the European Council on Refugees and Exiles

#### 17:40-18:00 Q&A

Questions to be addressed during the discussion:

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- Where does 'instrumentalisation' and derogations from asylum rules feature in recent legislative proposals discussed at the EU level and what is the state of play regarding the negotiations on these?
  - What is the Greek government's position on these elements of the proposals?
  - What is the impact of the discussions of 'instrumentalisation' and derogations on access to asylum in Greece?
  - What may be the impact if the related proposals are adopted?
  - Can the introduction of derogations be reconciled with objectives related to reform of CEAS, including mandatory solidarity and compliance with standards and commitments?
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#### 18:00-18:20 Coffee & Snacks Break

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#### 18:20-19:00 Panel Session II

***State of play regarding refugee protection in Greece and Türkiye: discussing "instrumentalisation" and the "safe third country" concept" under International Refugee Law***

Moderator: **Dr. Angeliki Dimitriadi**, Head of Migration Policy Unit, ENA Institute for Alternative Policies

- **Stelios Perrakis**, Prof. Emer. International & European Institutions, former Vice-Rector Panteion University, *Former Ambassador - Permanent Representative of Greece to the Council of Europe, Vice-President, Hellenic Society of International Law and International Relations*
- **Ayşe Dicle Ergin**, Assistant Professor of International Law, Bilkent University, Ankara

#### 19:00-19:30 Q&A

Questions to be addressed during the discussion:

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- What has been the impact of informal migration control arrangements by the EU with third countries, and specifically the EU-Turkey Statement on those seeking international protection and on Greece and Türkiye as countries of arrival of refugees and migrants?
- How has 'instrumentalisation' in the field of migration and asylum been framed in Greece and Türkiye? How can the use of the concept be understood under

International (Refugee) Law and how can its impact be assessed under the two countries' international obligations?

- What are the implications of the 'safe third country' concept in this context?
  - How effective is the framing of 'instrumentalisation' of migration and related derogations in addressing the migration related elements of the tension between the current Greek and Turkish government?
  - What alternatives are there?
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