



November 5<sup>th</sup>, 2014

## St. Martin's Cloak

### A New Enculturational Approach for Immigration

**International Conference Görlitz November 11<sup>th</sup>, 2014, 14:00 – 19:00**

supported by the State Chancellery of Saxony in the framework of  
*Förderung von Maßnahmen für die Bewältigung des demografischen Wandels*

Organisation: Prof. Dr. phil. Dr. habil. Prof. h.c. Matthias Theodor Vogt, director Institut für kulturelle Infrastruktur Sachsen, and Hochschule Zittau/Görlitz, Fakultät Management- und Kulturwissenschaften; Ass. Prof. dr. iur. Luigi Ferrara, Administrative Law [Verwaltungsrecht], Dipartimento di Giurisprudenza, Università degli Studi di Napoli Federico II; Dr. iur. Florinda Monacò, Lawyer Naples Bar [Rechtsanwältin, Rechtsanwaltskammer Neapel]; Dr. iur. Michela Riminucci, Associate Lecturer European Law, University of Kobe

Human beings are led by their imagined worlds<sup>1</sup> (in German language: Vorstellungswelten). They define what we desire, and what we will reject. The icon of the *Full Plate* encouraged Europeans in the 11<sup>th</sup> century to cross seas and mountains in order to reach the Orient; the icon of the *Full Plate* leads African and Oriental people in the 21<sup>st</sup> century to cross deserts and seas in order to reach Europe.

Biopolitics in our times must go much further than military or police action, it must start from shaping imagined worlds. Traditional politics is incapable of bringing imagined worlds closer to reality – e.g. to replace the extra-European icon of the *Full Plate* with evidence-based information about migrant centres, thus exsiccating the stream at its origin.

However, also the imagined worlds of Europeans have to change – the immigrants' offer is a chance for us. European Biopolitics should start from the simple fact that we need development aid now, within Europe and for Europe. Without immigration we can not overcome (1) the demographic changes of declining birth rates combined with (2) growing cohorts of elder people quite naturally needing more care, and (3) the academisation ideology which makes manual work more and more unattractive.

There is an important difference between immigration and integration. The latter only works on the base of enculturation – the immigrant becoming positively aware of the rules on which European communities are based. Where should people from African rural communities learn about these rules when they run ashore in the suburbs of European agglomerations? Europe is based on its civic society which can do what a state's organizations are unable to do.

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<sup>1</sup> Cf. Nelson Goodman: *Ways of Worldmaking* (1978). "His approach encompassed a broad spectrum of worldmaking across all art forms, sciences and cultural discourses and emphasized the idea that we create worlds on the basis of already existing ones. Worlds are built from the world(s) of our experience and cultural models or from already existing imagined worlds through various types of transformations." (See *Imagined Worlds, Worldmaking in Arts and Literature*. International Conference, University of Helsinki, 21-23 August 2013. <http://blogs.helsinki.fi/imagined-worlds/>)

**Please register at: [institut@kultur.org](mailto:institut@kultur.org)**

<http://kultur.org/migrantenculturation>

Venue: Institut für kulturelle Infrastruktur Sachsen and Hochschule Zittau/Görlitz  
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## The Conference

Therefore we would like to discuss outlines of a new enculturational approach for immigration during an international conference at Görlitz, November 11<sup>th</sup>, 2014.

We want to speak about the challenges and obstacles of an approach which we call "St. Martin's Cloak" (Il mantello di Martino – Der Martinsmantel – Le manteau du Martin), since the legend tells us that the poor did not just receive the cloak but he reciprocally pathed the bishop's way.

The conference aims to bring together decision makers and citizens concerned from Germany with academics both from Italy (Law Faculty, Naples University Federico II) and Germany (Hochschule Zittau/Görlitz, Managerial, Economic and Social Faculties). We do not want that much to deliver academic speeches, but rather to discuss items of the Martin's Cloak project in order to understand where there is future research and communication needed.

## Outlines of the Martin's Cloak Project

Enculturation is at the core of the project, but it can only be the third step.

Step 1.1 is changing the image of the European Union in the countries immigrants come from. Which can be due instruments? Possible instruments are mass media, information dissemination, and the arts.

Step 1.2 is changing the image of the countries immigrants come from. Ho to overcome the stereoptypes, mostly born from ignorance id est lack of knowledge? Moreover it seems appropriate to verify if, from this point of view, immigration is not as much a question of safety, but a question of security and of rules certainty, and, consequently, a question of social integration and inclusion.

Step 2.1 is the preparation of the future migrant – basics of language, culture and mores (in the sense of knowing about duties not necessarily codified in law) of the receiving community; possibly before departure. The pluralistic dimension of contemporary societies, even for the massive migration to the European countries of populations with their own believes and religions meant as something different from the western values and costumes, needs tools for managing the problems related to the potential contrast between reasons that the individual can ground on legal order and different ones that he can find on cultural order.

Step 2.2 foresees vice versa the preparation of the receiving community about culture, habits and costumes of the migrants' origins, in order to reduce possible misunderstandings.

**Step 3, enculturation, is the core of the project. The migrant (or rather a small group of migrants numbering at maximum ca. 3% of the respective community) passes a year in a local community, preferably of small or middle size dimensions. If possible, the migrant should be integrated in an environment he can relate to, be it agricultural or artisanry. During this year he works and learns about the language and the habits of the community.**

**The receiving community may be a local authority, a church community, or a greater civic organisation. In a perspective of *paideia*, it seems to be necessary to rethink and overtake the administrative confinements, through cultural policies by public authorities and NGOs.**

The basic idea is that there is no superiority of the receiving culture but that mutual understanding is necessary for integration, provided that it is beneficial to both parties. Also economic perspective shows that migration is closely connected to the inequality and public welfare benefits, both in the source and the host countries.

There is a good legal ground to operate during the enculturation year (Directive 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service / Direttiva 114 del 2004 norme comuni per l'ammissione di cittadini di paesi terzi in uno stato membro dell'UE per motivi di studio, scambio, tirocinio non retribuito o volontariato / Richtlinie 2004/114/EG des Rates vom 13. Dezember 2004 über die Bedingungen für die Zulassung von Drittstaatsangehörigen zur Absolvierung eines Studiums oder zur Teilnahme an einem Schüleraustausch, einer unbezahlten Ausbildungsmaßnahme oder einem Freiwilligendienst).

There are interesting examples which show the mutually positive effects of integration in smaller communities.<sup>2</sup>

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<sup>2</sup> *Die stillen Helfer von Crawinkel*, Thüringer Allgemeine, 31.05.2014

Der Hof ist blitzblank gefegt. Die zehnjährige Selma dreht auf einem lilafarbenen Fahrrad ihre Runden. Sie trägt einen Pferdeschwanz und lächelt. Selma kommt aus Mazedonien und ist seit dem 13. Mai im Heim für ausländische Flüchtlinge in Crawinkel untergebracht. Das weiße Haus in der Ohrdruffer Straße 1a steht mitten in Crawinkel, einem knapp 1500 Einwohner zählenden Ort im Landkreis Gotha. Derzeit leben hier 24 Menschen aus Syrien, Palästina, Mazedonien, Serbien und dem Kosovo. Alle haben Asyl in Deutschland beantragt. Im Erdschoss öffnet Hamid, ein kahlgeschorener Syrer um die 40, die Tür. Wie geht es? "Gut, gut", sagt er. Er lacht verlegen, weil er kaum Deutsch spricht. Aber das soll sich bald ändern. Auf dem Küchentisch Schulhefte, Brot und Joghurt. Im Wohnzimmer steht ein riesiger dunkelbrauner Schrank. An der Wand hängen Papiere, auf denen "Wer? Wie? Was?" steht oder "Ich male, du malst."

Der Raum sieht ein bisschen aus wie eine improvisierte Grundschule - und ist es wohl auch. "Zwei- bis dreimal pro Woche kommt eine pensionierte Deutschlehrerin und gibt den Flüchtlingen hier kostenlos Nachhilfe", unterstreicht Andreas Kunkel, der Eigentümer. Er hat mit seiner Frau das Haus mit vier Wohnungen an das Landratsamt Gotha vermietet.

Kunkel, ein studierter Wirtschaftsinformatiker, sitzt für die "Alternativen für Crawinkel" im Gemeinderat. Er trägt ein schwarz-rot-weiß-kariertes Hemd und eine runde Brille mit Metallrahmen. Er redet schnell wie ein Wasserfall. Und er ist ein Mann, der gerne anpackt. "Am 5. Februar hat Landrat Konrad Gießmann einen Brief an alle Bürgermeister seines Landkreises geschrieben - auch nach Crawinkel. Er habe Probleme, Unterkünfte für Flüchtlinge zu finden, legte der Landrat dar", erklärt Kunkel. Über den Brief sei im Crawinkeler Gemeinderat gesprochen worden. "Da aber niemand reagiert hat, habe ich dann mit meiner Frau beschlossen: Wir machen das."

Und dann kam das, was die Kunkels noch heute schockiert. Kurz vor der Europa- und Kommunalwahl am 25. Mai hatte die Thüringer Ausländerbeauftragte Petra Heß (SPD) die Unterbringung von 24 Flüchtlingen in ihrem Heimatort Crawinkel kritisiert.

In dem offenen Brief, der der SPD-Wahlwerbung beilag, schrieb Heß: "Hilft man 24 Flüchtlingen, wenn man sie aufs Land verfrachtet? Weder Schule noch Kindergarten, weder unsere kleinen Verkaufseinrichtungen noch unsere Vereine sind darauf eingestellt."

Petra Kunkel, eine Landärztin, sitzt in ihrer Praxis und kann es immer noch nicht fassen. "Wir haben mit Gegenwind gerechnet, aber nicht, dass er von der Ausländerbeauftragten kommt", klagt sie. Sie trägt einen dunklen Strickpullover, an der gelben Wand hängt ein Druck mit einem Bauernhaus aus der Toskana, das von Zypressen umrahmt ist.

"Wir wollen doch nur helfen", sagt Petra Kunkel. "Ich kann die medizinische Betreuung sicherstellen. Ein befreundeter Busfahrer besorgt den Transport der Flüchtlinge nach Gotha." Und wie unterhält sich die Ärztin mit den Ausländern? Petra Kunkel setzt sich an den Computer und klickt auf ein Übersetzungsprogramm Deutsch-Arabisch und Arabisch-Deutsch. "Wir können uns auf diese Weise blitzschnell verständigen", fügt sie hinzu.

Es ist nicht nur das Ehepaar Kunkel, das sich engagiert. In dem Dorf an den nördlichen Ausläufern des Thüringer Waldes hat sich ein Netzwerk der stillen Helfer organisiert.

Einer davon wohnt im Nachbarhaus neben dem Flüchtlingsheim. Hinter dem schwarzen Tor mit dem Schild "Hier wacht der Hund" steht Christine Groth, eine freundliche Rentnerin. "Kommen Sie herein", sagt die 72-Jährige, die an einem Krückstock geht. Sie trägt einen hellgrünen Pullover und schwarze Hosen. Im Wohnzimmer läuft gerade der Fernseher. Sie setzt sich auf ein Sofa mit Blumenmuster. "Ja, es stimmt", räumt Christine Groth ein. "Am Anfang habe ich schon rein bisschen Angst gehabt. Man liest ja so viel Negatives, Ausländer-Kriminalität und so weiter." Aber das habe sich schnell gelegt. "Das Heim für Flüchtlinge ist gar nicht schlimm. Das sind lauter nette Menschen. Sie haben sich ihr Schicksal nicht ausgesucht. Sie müssen ja irgendwohin."

Christine Groth ist bekannt bei den Leuten. Sie fährt mit einem elektrischen Rollstuhl durch die Winkel und Gassen von Crawinkel, einem ruhigen Ort, in dem es einen Lebensmittelladen, einen Bäcker und zwei Kneipen gibt. "Mittlerweile geben die Menschen fast jeden Tag Spenden bei mir ab: Bettwäsche, Geschirr, eine Kaffeemaschine."

Christa Reutermann gehört zu denen, die gern ein paar Betttücher abgeben würden. Die 66-jährige Hausfrau, die mit einer Einkaufstasche unterwegs ist, meint: "Die Ausländer können ja nichts für ihre miserable Lage." Die Bereitschaft zur Solidarität kann freilich nicht darüber hinwegtäuschen, dass Crawinkel auch eine andere Seite hat. Bei der Europawahl am vergangenen Sonntag holte die NPD 45 Stimmen, das sind 6,6 Prozent.

Und bis Ende vergangenen Jahres wohnten Neonazis in dem Gebäude in der Bahnhofstraße 25, in dessen Erdgeschoss sich die Gaststätte "Drei Linden" befindet. Die Rechtsextremen hatten den Kaufvertrag für das "Braune Haus" bereits unterschrieben, als die Gemeindeverwaltung intervenierte und von ihrem Vorkaufsrecht Gebrauch machte. Daraufhin zogen die Neonazis ab.

Bürgermeister Heinrich Josef Bley (CDU) ist stolz, dass Crawinkel nun nicht mehr so leicht in die ausländerfeindliche Ecke gestellt werden kann. "2011 und 2012 hat der Ort mit Anti-Neonazi-Demonstrationen Gesicht gezeigt, das neue Heim für Flüchtlinge ist der nächste, konsequente Schritt", sagt Bley, der sich in diesen Tagen in der französischen Partnergemeinde Juniville aufhält, per Mobiltelefon.

Im Restaurant "Drei Linden" ist Mittagszeit. An der Seite steht ein gelber Kachelofen, hinten eine elektronische Dart-Maschine. An einem Tisch sitzt ein Geschäftsmann, der seinen Namen nicht nennen will, und isst ein Jägerschnitzel mit Pommes. "Was die Ausländerbeauftragte über das Flüchtlingsheim gesagt hat, ist ein Skandal", schimpft er. "Das klingt wie NPD-Propaganda und schürt Ausländerhass." Die Wirtschaft von Crawinkel wolle ein Zeichen setzen, betont der Geschäftsmann. "Mehrere Unternehmen prüfen derzeit, ob sie Praktikumsplätze an die Ausländer vergeben können - wir sind nicht rechts!"

Es sind diese Reaktionen, die Andreas Kunkel optimistisch machen. "In einem Dorf funktionieren der soziale Zusammenhalt und die Integration viel besser", hebt Kunkel hervor. "In den Städten bilden sich leicht Ausländerghettos. Wenn jeder Ort in Deutschland 20 Flüchtlinge aufnehmen würde, hätten wir keine Probleme."

In der Karl-Marx-Straße steht Detlef Steingraber und schneidet die Büsche vor seinem Haus mit einer Gartenmaschine. Der stämmige Mann mit der Latzhose im grauen Military-Look hält kurz inne und erzählt: "Meine Familie und ich waren selbst Flüchtlinge. Wir sind kurz vor dem Mauerfall in den Westen gegangen. Wir lebten einen Monat in einem Heim in Nordrhein-Westfalen. Wir wissen, wie es ist, weg von Heimat, Familie und Freunden zu sein."

Step 4 is an option at the end of the enculturation year: the migrant is free either to stay in the respective community or neighbouring regions or to return to his home country. Even when returning, the migrant will be an important "bridge" between the two cultures.

Point No. 5 is not that much a step but a parallel program which aims to form an elite within the home countries of the migrants, knowing the European Union from the inside. A certain number of young migrants is chosen to study for five years at European universities at a broad range of disciplines including social sciences (law, economy...) and the humanities. University fees and a scholarship for costs of living are paid by the respective EU member state under the condition that the migrant accepts to return to his home country and to work there for another seven years, receiving a certain (gradually decreasing) stipend there, too.

A mechanism for equally distributing these costs within the EU member states is necessary; alternatively they might be taken directly by the EU. The total costs per student can be calculated at 100.000 EUR (five years of study at an average of 7.000 EUR = 35.000 EUR; 60 months at 600 EUR living costs = 36.000 EUR; seven years of stipend at home decreasing from 500 to 200 EUR = 25.000 EUR; four flights during the studies = 4.000 EUR).

Point No. 6 is not a step either, but a realistic calculation of the cost of clandestine immigration in comparison to the costs of the St. Martin's Cloak project.

## Background

The Görlitz conference is part of a greater Joint Research Project undertaken by the Law Faculty of Naples University Federico II in partnership with the Hochschule Zittau/Görlitz.<sup>3</sup> The conference topic was jointly developed during a lectio magistralis

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Vielleicht ist das Bewusstsein der Menschen von Crawinkel ja weiter als das der Ausländerbeauftragten von Thüringen.

<http://www.thueringer-allgemeine.de/web/zgt/leben/detail/-/specific/Die-stillen-Helfer-von-Crawinkel-334638294> [14.10.2014]

<sup>3</sup> *Luigi Ferrara: Biopolitica dell'immigrazione. Le competenze amministrative nelle grandi conurbazioni e nelle città medie in materia di multiculturalismo e integrazione culturale dei migranti.*

Negli ultimi anni, le aree urbane e le politiche di sicurezza sono diventate il punto focale degli indirizzi e delle strategie economiche dell'Unione Europea (UE), che di converso stenta a dare impulso significativo al riavvicinamento delle politiche di governo dei fenomeni migratori.

La rilevanza della "dimensione urbana" del *governo della sicurezza e dell'immigrazione, nel segno condiviso della coesione*, nell'agenda politica comunitaria discende sia dalla struttura policentrica che caratterizza vaste aree dell'UE, sia dai profondi mutamenti che stanno investendo tali aree, esponendole ai rischi di declino economico, sociale ed ambientale.

L'UE spinge le città, grandi e medie, verso l'elaborazione di modelli di pianificazione utili a recepire il più alto livello della politica sociale ed economica europea ed a contribuire all'affermazione della coesione sociale. È nelle conurbazioni e agglomerazioni urbane che si concentrano i fattori di competizione tra i sistemi economici e, nell'ambito della programmazione comunitaria, viene riconosciuto ad esse un ruolo di traino nello sviluppo regionale. Tuttavia, proprio le grandi conurbazioni e agglomerazioni da un lato, le città medie dall'altro, presentano problemi di *inclusione sociale* e di *integrazione culturale* con ripercussioni negative sulla *sicurezza*.

of prof. Matthias Theodor Vogt at Naples University, followed by a round table, on September 30<sup>th</sup>, 2014.

The Institut für kulturelle Infrastruktur Sachsen, and the Hochschule Zittau/Görlitz, on their side, since a number of years research on enculturation, resilience and agglomeropetal phenomena.<sup>4</sup>

The Görlitz conference is part of the project *Stärkung der Resilienz von Mittelstädten* (SRMS; Strengthening Resilience in Middle Size Cities), supported by the State Chancellery of Saxony in the framework of *Förderung von Maßnahmen für die Bewältigung des demografischen Wandels* (cf. <http://kultur.org/srms>).

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Un approccio sostenibile allo sviluppo di queste aree è necessariamente collegato al governo inclusivo e coeso dell'immigrazione e del multiculturalismo, per tracciare dei percorsi di crescita sostenibile, puntando su politiche di inclusione, di coinvolgimento emotivo e partecipazione che aiutino la riscoperta delle radici storico-culturali del territorio e l'acquisizione della consapevolezza delle potenzialità innovative di una nuova rete territoriale di relazioni sociali interculturali.

La valorizzazione delle risorse endogene, del patrimonio storico, artistico e culturale dei centri urbani costituiscono una concreta strategia di sviluppo e sostenibilità, contribuendo ad affrontare i problemi posti dalle esigenze di integrazione culturale e sociale originate dalle nuove povertà e dai flussi migratori.

Le politiche di integrazione culturale dei migranti e la promozione del multiculturalismo sono indispensabili nella prospettiva delle *infrastrutture sociali* (capitale intellettuale e capitale sociale). Il quadro attuale della *distribuzione delle competenze in materia di immigrazione* genera concreti rischi di *differenziazione* della qualità dell'integrazione a livello territoriale, distorcendo il portato costituzionale della sussidiarietà orizzontale e verticale ed il suo precipitato nel segno dei principi di differenziazione, adeguatezza, leale collaborazione e partenariato sociale.

Il progetto di ricerca si pone l'obiettivo di una riflessione plurale sul *governo dell'immigrazione nelle politiche europee e nazionali* degli ultimi anni, in una prospettiva che mira a focalizzare il tema in tre successive direzioni di indagine, tutte accomunate dell'approccio multidisciplinare e comparatistico nella riflessione congiunta di studiosi italiani e stranieri:

<sup>4</sup> See [www.kultur.org](http://www.kultur.org). Some publications:

Matthias Theodor Vogt und Olaf Zimmermann (Hrsg.): *Verödung? Kulturpolitische Gegenstrategien*. Beiträge zur Tagung 22./23. November 2013 in Görlitz. Veranstalter: Deutscher Kulturrat und Institut für kulturelle Infrastruktur Sachsen. Edition kulturelle Infrastruktur, Görlitz und Berlin 2013. Cf. [www.kulturrat.de/dokumente/veroedung.pdf](http://www.kulturrat.de/dokumente/veroedung.pdf)

Matthias Theodor Vogt: *Entwicklungspfade der Sächsischen Kulturräume. Eine Vorstudie des Instituts für kulturelle Infrastruktur Sachsen*. Dresden und Görlitz, 8. Mai 2014. Here pp. 60-62 (Szenario III)

Vogt, Matthias Theodor, Katarzyna Plebańczyk, Massimo Squillante, Irena Alperyte (editors): *Brain Gain through Culture? Researching the Development of Middle Size Cities in Poland, Lithuania, Italy, Hungary, Germany, and France*. Proceedings of the International Study Week Görlitz 2012 and of the Students' Moot Court at the Landgericht Görlitz. Görlitz 2013. Cf. [http://kultur.org/images//brain\\_gain\\_2012\\_130226.pdf](http://kultur.org/images//brain_gain_2012_130226.pdf)

*Sächsisch-Japanischer Dialog zur Kulturpolitik* 4.-8. September 2014 <http://kultur.org/deutsch-japanischer-workshop-4-8-9-2014>, Proceedings in preparation.

**Participants of the International Conference  
Görlitz November 11<sup>th</sup>, 2014, 14:00 – 19:00,  
G VI, Haus Klingewalde, D-02828 Klingewalde 40**

*13:30 Coffee*

**14:00 Salutation, Introduction, Key notes**

Matthias Theodor Vogt, professor of cultural policy at Hochschule Zittau/Görlitz and director of Saxonian Institut of Cultural Infrastructures

Adam J Chmielewski, professor of philosophy in the Institute of Philosophy, University of Wrocław: *Uses of Art as Tool of Enculturation*

Hans-Wilhelm Pietz, former Regional Bishop of the Protestant Church in Silesian Upper Lusatia: *Sharing the European Cloak with Personalities from Africa. A Task in our own interest*

**14:30 Section I : A Systematic Legal Approach to the Project St. Martin's Coat**

Moderates: Michael Wolfgang Kaspar, professor of Labour Law, Economic Law and Civil Law at Hochschule Zittau/Görlitz.

Valeria Marzocco, Research Fellow in Philosophy of Law, University of Naples Federico II: *From 'race' to 'culture'. A legal-cultural approach to pluralism in contemporary societies*

Francesco Rota, Research Fellow in Administrative Law, University of Sannio: *Immigration between Public Order, Security and Integration in the Prospect of Citizenship*

Salvatore Villani, Research Fellow in Public Finance, University of Naples Federico II: *The Effects of Immigration on the Inequalities of Individual Incomes: Empirical Evidence and Policy Proposals*

Florinda Monacò, Lawyer Naples Bar: *Migration as a form of mutual enrichment for migrants, their country of origin and Host Member State. The EU Directive 2004/114/EC*

Luigi Ferrara, Research Fellow in Administrative Law, University of Naples Federico II: *Administrative confinements and Immigration. Positive Disciplines and Foundations for Administrative Powers*

Discussion

*16:00 Coffee*

### **16:30 Section II : A Civic Society Approach to the Project St. Martin's Coat**

Moderates: Matthias Theodor Vogt

Andreas Kunkel, Crawinkel Thuringia: *The Example of Crawinke. Sucessfully Integrating 24 Refugees in a Rural Community*

Andreas Hoff, professor of Social Gerontology at Hochschule Zittau/Görlitz: *Sharing the Coat: Intergenerational and Intercultural Dimensions of Benevolent Giving in an Ageing Society*

Keynotes: *What might the Arts do within an Enculturation Year to bring Migrants and the Receiving Community closer together?*

- Anja Carstensen, Görlitz: *Fine Arts. Reporting about Working with Migrants.*
- Philipp Bormann, Gerhart-Hauptmann-Theater Görlitz/Zittau: *Performing Arts*
- Marius Winzeler, director Museums Zittau: *Museums*
- Sven Rössel, director Public Music School Zittau County: *Music.Reporting about Some Successfull Experiences at Zittau.*

Discussion

### **18:15 Conclusion**

18:30 Coffee

19:06 Departure

### **Discussant**

Anett Bauer, Fehérgyarmat City Council and District Centre of Szatmár, Hungary

Monika Gortva-Konya, Dr. Janos Bajusz, Laszlo Z. Karvalics,  
DEAK Plc., Szeged, Hungary

Dr. Naja Marot, University of Ljubljana, Slovenia

Joachim Mühle, Secretary Cultural Affairs, Kulturraum Oberlausitz-Niederschlesien,  
Görlitz, Germany

Frau Tatjana Müller-Scholich, Saxon Police University, Rothenburg, Germany

Sara Levi Sacerdotti, Istituto Superiore sui Sistemi Territoriali per l'Innovazione,  
Torino, Italy

RNDr. Miloslav Šašek, CSc, University Usti nad Labem

DI Eva Seebacher, SPES Zukunftsakademie, Schlierbach, Austria

Breda Kolar Sluga, UGM, Maribor, Slovenija



doc. Ing. Dr. Milada Šťastná, Mendel University Brno

Prof. Dr. Anton Sterbling, Saxon Police University, Rothenburg, Germany

doc. RNDr. Antonin Vaishar, CSc., Czech Academy of Sciences, Brno

Prof. Dr. Arsène Verny, University of West Bohemia in Pilsen, Czech Republic

Drs. Frank Feuerbach, Veronika Valvodová, Drs. Kai Kranich, project team,  
Institut für kulturelle Infrastruktur Sachsen, Görlitz, Germany

and others

### **Students participating:**

Studiengang Kultur und Management Görlitz (B.A. / M.A.)

and others

### **Italian Speakers Abstracts**

Valeria Marzocco, Research Fellow in Philosophy of Law, University of Naples

Federico II: *From 'race' to 'culture'. A legal-cultural approach to pluralism in contemporary societies*

The pluralistic dimension of contemporary societies, despite the massive migration to European countries of populations of people with their own beliefs and religions meant as different from the western values and costumes, needs tools for managing the problems related to the potential contrast between reasons that an individual can ground on legal order and different ones that he can find in cultural order. From this perspective, it is important to stress how culture plays a role closely related to that of race in our not so distant past. This is revealed, in both legal and anthropological approaches, when we try to investigate what concept of culture jurists adopt in their own field of research: culture is meant as cultural difference, able to give individuals reasons to act in conflict with the legal order, and even as something that can determine people's actions, in dispossessing them of their self-determination. This conflict between legal (freedom-based order) and cultural (deterministic-based order) needs to be thought of as what it is: both the historical and cultural representation of values and principles only capable of increasing conflicts and crashes between individuals. A legal approach to these problems that purports to be blind to the cultural grounding of its own object of investigation, will be doomed to fail in the main goal it means to achieve, especially in the pluralistic context redesigned by migrations: the recognition of the fundamental rights of individuals.

Francesco Rota, Research Fellow in Administrative Law, University of Sannio:  
*Immigration between Public Order, Security and Integration in the Prospect of  
Citizenship*

The relationship between immigration and public order is influenced by the meaning of public order which is generally adopted. The favor enjoyed in the Italian legal system by public order in the material meaning, related to the concrete realisation of safety conditions, facilitates the certainty that, also in relation to the relationship between safety and immigration, the police action should be limited to the adjustment of what disturbs the orderly unfolding of civil life, without prejudices towards migrants.

In the constitutional framework, public order and safety are closely related to the values of equality and justice. Otherwise public order and safety become, in contrast with Constitution, instruments to protect only strong subjects and to coerce weak subjects: definitively they become instruments to preserve social hierarchies.

However, based on the permanence in our legal system of the idea of ideal public order, migrants' liberties are seriously conditioned, with the recognition to the legislator of a wide margin of choice in the regulation of entry and stay conditions of the foreigner.

The research aims to verify if, at what conditions and within which limits the existence of rules which introduce a peculiar legislation of immigration, is compatible with the general constitutional framework, also in the light of the constitutional recognition of human dignity which already emerges from paragraph 2 and which can be related to paragraph 4, clause 2 (in several studies, this interpretation would represent the basis for the recognition of citizenship).

After all, human dignity emerges, as the Constitutional Court has affirmed (sentence n. 293/2000), as a constitutional value which permeates the statute law and as a limit to the legislator discretion (Const. Court sentence n. 354/2008 on the impossibility to suppress the right to health and public finance).

Moreover it seems appropriate to verify if, from this point of view, immigration is not a question of safety, but a question of security and rules certainty and, consequently, a question of social integration and inclusion.

Salvatore Villani, Research Fellow in Public Finance, University of Naples Federico II:  
*The Effects of Immigration on the Inequalities of Individual Incomes: Empirical  
Evidence and Policy Proposals*

The migration phenomenon has been studied intensively by economists, both from the theoretical point of view and from the empirical. Several studies, in particular, have analysed its effect on the labour market, public finances and the economic growth.

Economic literature has, in addition, examined the role of labour mobility in the reduction of regional disparities and the inequalities of individual incomes. In fact, migration is closely connected to the issues of taxation, inequality and public welfare benefits, both in the source and the host countries.

Studies that have been done so far, however, show a tendential contradiction between theory and empirical evidence. The evidence on the effects on inequality, for example, suggests that the remittances by immigrants are very often received by high-income families, who already have sufficient resources to emigrate, and this could produce an increase in the inequality. However, as globalization has led to the growth and the rootedness of the relational networks of migrants, as well as to a notable reduction in the transfer costs of individuals, migration may also constitute a useful tool to reduce the inequalities and to overcome poverty.

The results of these studies suggest, therefore, the need for ulterior research on the fiscal impact of international migrations and their effects on the inequalities, especially in the long run. The study that will be presented by Salvatore Villani aims at furnishing a contribution to this by offering an analysis of the empirical evidence about the redistributive effects of immigration and policy proposals for the Italian case.

Florinda Monacò, Lawyer Naples Bar: *Migration as a form of mutual enrichment for migrants, their country of origin and Host Member State. The EU Directive 2004/114/EC*

One of the objectives of Community action in the field of education is to promote Europe as a world centre of excellence for studies and vocational training. Promoting the mobility of third-country nationals to the Community for the purpose of studies is a key factor in that strategy. The approximation of the Member States' national legislation on conditions of entry and residence is part of this. Migration for the purposes set out in the Directive 2004/114/EC, which is by definition temporary and does not depend on the labour-market situation in the host country, constitutes a form of mutual enrichment for the migrants concerned, their country of origin and the host Member State and helps to promote better familiarity among cultures.

The Directive determines the rules and the principal criteria concerning the procedures for admitting third country nationals to the territory of Member States, for a period exceeding three months for the purposes of studies, pupil exchange, unremunerated training or voluntary service. On this point of view it would be interesting to analyse how national judicial authorities, in Italy and in Germany, decide in relation to the conditions required by the directive (see for example the German case Ben Alaya, which has recently been debated before the European Court of Justice).

Another important remark is that the European Union's working age population has practically stopped growing and over the next couple of years it will start shrinking. The EU is also facing a situation of 'innovation emergency'. Europe is spending less

and less every year on Research & Development (R&D). In addition, thousands of the best researchers and innovators have moved to countries where conditions are more favorable. To counterbalance this lack of manpower, immigration from outside the EU is one source of highly skilled people, and third-country national students and researchers in particular are groups which are increasingly sought after and which the EU needs to actively attract. Allowing third-country nationals to acquire skills and knowledge through a period of training in Europe encourages "brain circulation" and supports cooperation with third countries. However, in the absence of a clear legal framework, there is also a risk of exploitation to which trainees and au-pairs are particularly exposed, with the subsequent risk of unfair competition on the labour market. With a view to better optimising those benefits and properly tackling those risks, and taking account of the similarities of the challenges faced by these categories of migrants, on 25th March 2013 the Commission launched a proposal for a directive, recasting the current Council Directive 2004/114/EC ("Students' Directive") on the conditions of admission of third country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, extending its scope to remunerated trainees and au-pairs and making mandatory provisions on unremunerated trainees that are currently discretionary, as well as Council Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research ("Researchers' Directive"). The current directives show many weaknesses regarding admission procedures, clarity, coherence and binding force. Also, policy contexts and circumstances have changed and therefore a recast is justified. With the proposal, the Commission wishes to implement the Europe 2020 Strategy, aiming at making Europe a more attractive region for research and innovation.

Luigi Ferrara, Research Fellow in Administrative Law, University of Naples Federico II: *Administrative confinements and Immigration. Positive Disciplines and Foundations for Administrative Powers*

Under EU law, the Reception Conditions Directive (2013/33/EU) defines "detention" as "confinement of an applicant by [a EU] Member State within a particular place, where the applicant is deprived of his or her freedom of movement" (Article 2 (h)). The Return Directive (2008/115/EC) does not define detention. EU and ECHR laws both contain the principles that Member State must exercise when detaining individuals subject to removal or asylum: necessity and proportionality, due diligence, good faith, protecting from arbitrariness, procedural safeguards, right to be given reasons, right to review of detention, compensation for unlawful detention. Immigrant detention is generally administrative in nature and at the discretion of public security officials and border police, without the need to formalize a criminal charge. Immigration detention centres are enclosed spaces where guests undergo a restriction of their personal freedom 'for reasons that are directly linked to the administration of immigration policies'. In academic literature the legal framework of detention structures in Italy (and in other European countries) develops according to the theory of the "state of exception". The history of immigrant detention in Italy can

be said to have started in the mid 1990s, when the government enacted two decrees that were crucial for the genesis of the current system of detention centres. It can now analytically distinguish three types of detention centres, according to the different functions they are called to play in the Italian immigration and asylum policy: the reception centres (Centri di accoglienza in Italian, hereinafter: CDA); secondly, the reception centres for asylum seekers (Centri di accoglienza per richiedenti asilo in Italian, hereinafter: CARA); finally, the identification and removal centres (Centri di identificazione ed espulsione in Italian, hereinafter: CIE) created in 1998 by the Turco-Napolitano Law and originally referred to as temporary stay centres (Centri di permanenza temporanea).

These facilities play the role of pre-removal detention centres. Our new approach starts from the constitutional duties. Constitutional positive deontology in the post Second War European Constitutions shows that the fundamental human rights protection requires that public powers let that all individuals in the Republic, like citizens, must be able to fulfill "the fundamental duties of political, economic and social solidarity" (art. 2 Italian Constitution) and that "every citizen has the duty, according to personal potential and individual choice, to perform an activity or a function that contributes to the material or spiritual progress of society" (art. 4, par. 2). We want demonstrate that it is possible a theory of biopolitics of migration, according to the Foucault studies on social market economy, refusing the theory of the "state of exception". All manners that public discretionary powers show then, must contribute to help the migrants to rebuild their resilient personality according to art. 2 and 4.2 Italian Constitution. Then, all politics and administrative powers in this matter must be rebuild not in the sense of public order and safety, but in ancient greek sense of *παιδεία*, rebuilding this idea in perspective of multiculturalism, communicative rationality, participatory democracy. From the other hand, rebuilding political and discretionary administrative powers/proceedings/decisions in this perspectives can help to ride out the Nimby Sindrome that the State public powers meet when they localize the detention structures in territories. These remarks can be also made about German legal framework on administrative confinements: two recent cases of abuses by private organizations workers in the confinement structures at Lampedusa in Italy (2013) and at Burbach, Essen and Bad Berleburg in Westfalia, Germany (2014) show that the "outsourcing" of public functions in this matter is really critic, if public authorities make this in a "governance without government" perspective and forget the due use of their political (and administrative discretionary) public powers.

# Il mantello di Martino

Progetto per l'integrazione dei migranti in sei punti

## 1. Immaginazione

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### 1.1. Cambiamento dell'immagine dell'Unione Europea nei paesi d'origine dei migranti

- L'Unione Europea non corrisponde al "mondo immaginato" dai migranti (metafora del "piatto pieno")
- È necessario fornire un'immagine veritiera, ma non scoraggiante (non soltanto "navi cariche di morte", ma grande opportunità)
- Strumenti:
  - Mass media come internet (es. portali multilingue), radio e televisione
  - Disseminazione di informazioni *in loco* tramite organizzazioni non governative, associazioni culturali, altre strutture preesistenti (es. istituti di cultura)
  - **Arte** (musica, cinema, pittura, scultura...)

### 1.2. Cambiamento dell'immagine dei paesi d'origine dei migranti nell'Unione Europea

- I migranti non fanno parte di un gruppo omogeneo, ma provengono da realtà anche molto diverse tra di loro di cui spesso il cittadino europeo sa poco o nulla
- È necessario abbattere gli stereotipi sensibilizzando la cittadinanza dei paesi riceventi e disseminando informazioni sui paesi d'origine e le loro culture
- Strumenti: vedi punto 1.1

## 2. Preparazione

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### 1.3. Preparazione dei futuri migranti

- È auspicabile che il futuro migrante acquisisca basi di lingua, cultura e diritto (nel senso di linee-guida su ciò che si deve fare, ciò che non si può fare, ecc.) della comunità ricevente, preferibilmente prima della partenza
- Strumenti: vedi punto 1.1

### 1.4. Preparazione della comunità ricevente

- È necessario che la comunità ricevente acquisisca informazioni di base sulla cultura, gli usi ed i costumi del migrante, per ridurre al minimo le incomprensioni, prima dell'arrivo dei migranti
- Strumenti: vedi punto 1.1

### 3. Inculturazione

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- Nucleo del progetto
- Il migrante trascorre un anno nella comunità ricevente durante il quale lavora e risiede presso di essa, apprendendone la lingua ed i costumi
  - La comunità ricevente sarà, preferibilmente, un comune di piccole o medie dimensioni
  - Contingentamento del numero di migranti al 3% della popolazione attiva
  - Idealmente il migrante va inserito in un ambito a lui familiare, per esempio agricoltura o artigianato
- Il presupposto non è che la cultura ricevente è superiore, ma che è necessaria la comprensione reciproca per favorire una più efficace integrazione, benefica per entrambe le comunità

### 4. Opzione

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- Al termine del periodo di “inculturazione”, il migrante è libero di scegliere se restare nella comunità ricevente o tornare nel proprio paese
- Anche qualora tornasse nel paese di provenienza, il migrante costituirebbe un “ponte” tra le due culture

### 5. Istruzione

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- Programma “élite” finalizzato alla formazione di una classe dirigente nel paese di provenienza che conosca l’Unione Europea
- Il migrante studia in un’Università del paese ospite per cinque anni (triennale e magistrale) una qualsiasi disciplina, specialmente con attinenza alle scienze sociali (giurisprudenza, economia...)
- Le tasse universitarie ed una borsa che copra visto e alloggio sono a carico dello Stato Membro ricevente, a patto che il migrante accetti di ritornare nel proprio paese, conclusi gli studi, per almeno sette anni, durante i quali gli verrà versato uno stipendio mensile decrescente
  - Sono necessari meccanismi di trasparenza ed equa suddivisione dei costi tra gli Stati Membri (fondo europeo?)
  - Stima dei costi: circa 10.000 € annui per tasse universitarie, vitto e alloggio, circa 100.000 € in totale incluso lo stipendio mensile decrescente al rientro.

### 6. Responsabilizzazione

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- I problemi connessi con il traffico di clandestini:
  - Emergenza umanitaria internazionale da un lato e difficoltà di gestione dei flussi migratori incontrollati da parte dei paesi riceventi dall'altro, in particolare in relazione ai costi (in termini di uomini e mezzi) ad essi connessi

- Incertezze normative (istituzione di una zona contigua, differenza tra tratta degli schiavi e traffico illegale di migranti, possibilità di intervento in alto mare, ipotesi di violazione della normativa internazionale) che spesso inibiscono o rendono difficoltosa l'azione
- Possibili soluzioni:
  - Accordi bilaterali o regionali tra paesi riceventi e paesi d'origine (spesso, tuttavia, difficoltosi)
  - Accordo tra Stati Membri dell'UE in tema di equa suddivisione delle spese e delle responsabilità
  - Controllo delle frontiere (spesso, tuttavia, con conseguenze negative dal punto di vista umanitario)
  - Monitoraggio e valutazione di ciò che è stato fatto finora anche in termini di efficacia (con riduzione degli sprechi)