

### Slide 1

Dear estimated Rector,

Dear estimated professors,

Dear estimated promoters,

I am Denard Veshi, a law and economics scholar who is going to defend the EDLE thesis in refugee law. My promoters are Prof. Eli Salzberger and Prof. Michael Faure.

### Slide 2

Since 2011, record numbers of migrants have been arriving irregularly at the EU's south-eastern external borders, publicly known as "Europe's refugee crisis."<sup>1</sup> This thesis aims to analytically study the protection of refugee rights by applying an economic analysis to international refugee law and to European asylum law, by also considering – only in the second plan – the human rights approach.

### Slide 3

The arrival of irregular migrants in the Mediterranean Sea remains a controversial political issue,<sup>2</sup> both at the national and EU levels. For instance, in the summer of 2019, the Italian Parliament voted for a "new," more restrictive, and controversial immigration policy. Moreover, in July 2019, Germany<sup>3</sup> and the Netherlands<sup>4</sup> suspended the application of the "Dublin transfer" (Dublin III Regulation 604/2013) to Greece due to the risk of chain refoulement to Turkey.<sup>5</sup> These events show that the refugee crisis is still a "hot" political and legal issue, not only because the number of asylum seekers during 2019 has increased,<sup>6</sup> but also due to the impact of Covid-19 on the economic growth in Europe.<sup>7</sup> In other words, Covid-19 will impact the unemployment rate in the EUMS, which might bring negative effects for asylum seekers or refugees already present in the EU.

### Slide 3

The central research question is the following: which policy can simultaneously consider the protection of refugee human rights without needlessly damaging the interests of national States? After

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<sup>1</sup> Koka, Enkelejda, and Denard Veshi. "Irregular Migration by Sea: Interception and Rescue Interventions in Light of International Law and the EU Sea Borders Regulation." *European Journal of Migration and Law* 21.1 (2019): 26-52.

<sup>2</sup> *Ibid.*

<sup>3</sup> Administrative Court of Munich, 17 July 2019, M 11 S 19.50722, M 11 S 19.50759.

<sup>4</sup> Dutch Council of State, 17 July 2019, 201902302/1/V3.

<sup>5</sup> Koka, Enkelejda, and Denard Veshi. "Illicit Return Practices of Irregular Migrants from Greece to Turkey." *International Journal of Law and Political Sciences* 14.1: 45-51.

<sup>6</sup> Eurostat, note 3.

<sup>7</sup> OECD. 2020. Interim Economic Assessment Coronavirus: The world economy at risk <https://www.oecd-ilibrary.org/docserver/7969896b-n.pdf?expires=1587161779&id=id&accname=guest&checksum=520E2A11ABFDEB27BA7CE084FAF38B8E> accessed on April 30th, 2020.

reviewing the historical events of the XX century, the central question is divided into the following sub-questions: First, why do national States ratify and comply with the 1951 Convention? Second, what are the main variables that affect refugees' decision-making processes? Third, under the hypothesis that national States strive to protect the interests of their own citizens, what are the most important "push" factors that influence lawmakers when enacting and modifying asylum laws? And, which authority shall govern over asylum law, national Parliaments or the EU institutions?

#### **Slide 4**

The methods applied here vary according to the questions to be answered. On the "demand" side, i.e. the "rationale" of refugees, after highlighting the human rights approach to positive law, one of the most important novelties of this study is in the incorporation of a L&E model based on the idea that refugees *might* also seek to maximize their net benefits.<sup>8</sup> This model shall also include the information costs. While some groups of refugees do make a clear choice (e.g. resettled refugees, anticipatory refugees, and bogus refugees), for others, speaking about "choice" is a contentious term<sup>9</sup> since persecution, sometimes prompt and unexpected, is the main factor that impacts their decision to flee. On the "supply" side, the protection of domestic interests by national parliaments, this study systematically reviews empirical data while also incorporating the new research conducted on the current "European Refugee Crisis".<sup>10</sup>

#### **Slide 5**

Climate change might bring a new flow of refugees. Therefore, the importance of this research goes beyond the current ongoing refugee crisis and could be helpful for different target groups, including academia and policymakers.

Chapter I showed that some historical events regarding the protection of refugee rights could also be explained by considering the economic burden of the protection of refugee rights and the interest of national States, which was also codified during the 1980s.

Chapter II included some potential positive economic effects of accepting refugees, which might become visible in the long run. This chapter's summary of the various interpretations of constitutions of countries in the EU-27 results in an original, innovative analysis. By taking into account the different critiques and economic side effects of the 1951 Convention, a possible solution that approaches Pareto optimality was suggested.

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<sup>8</sup> Neumayer, Eric. "Bogus refugees? The determinants of asylum migration to Western Europe." *International studies quarterly* 49.3 (2005): 389-410.

<sup>9</sup> Crawley, Heaven. *Chance or choice? Understanding why asylum seekers come to the UK*. Refugee Council, 2011.

<sup>10</sup> Koka, Enkelejda, and Denard Veshi. "Irregular Migration by Sea: Interception and Rescue Interventions in Light of International Law and the EU Sea Borders Regulation." *European Journal of Migration and Law* 21.1 (2019): 26-52.

Chapter III filled the gap in the current literature since no other scientific contribution has examined the main reasons for the ratification and for the compliance with the 1951 Convention through an innovative L&E approach as well as reviewing and organizing the different “push” factors. Given the beginning of this chapter, the last section investigated the possibility to build a WTO model concerning the free movement of refugees.

Chapter IV systematically organized all the different empirical studies dealing with the main variables that impact the refugee’s decision to leave and then reside in the final destination countries. Its main innovative part is the organization of these variables into different groups.

Chapter V focused on some of the most important empirical studies that demonstrate the impact that refugees have on the national security and job market by presenting the diversity of the impact according to the type of refugees. Based upon the literature review, Chapter V included the effect of Covid-19 on the asylum seekers already present in the EU.

Chapter VI studied the role of the EU in asylum law by applying economic methods to the principle of subsidiarity.

The thesis applied a L&E approach to refugee law by contributing to the literature in different aspects. Its results can also be used for future refugee flows.

## **Slide 6**

This investigation includes and discusses both dimensions of gender and sex. For instance, one of the protections of persecuted individuals is the “membership of a particular social group” (Article 1A(2) 1951 Convention), which has been interpreted to include the protection of the LGBT community<sup>11</sup> (ie. the gender dimension) as well as to protect women who are not treated equally in some countries with a totalitarian regime or patriarchal system (ie. the sex dimension). By applying a human rights approach and legal ontology, Chapter II discussed different case law dealing with the protection of vulnerable groups. Moreover, the effect that migrants have on national security does depend on an individual’s sex since there is a general belief that men are more criminally inclined than women,<sup>12</sup> which was highlighted during Chapter V.

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This research also suggests some policy recommendations. First, although some economic variables may have affected the refugee decision process, this does not *automatically* classify the

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<sup>11</sup> La Violette, Nicole. “‘UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity’: a Critical Commentary.” *International Journal of Refugee Law* 22.2 (2010): 173-208.

<sup>12</sup> Barber, Nigel. “The sex ratio as a predictor of cross-national variation in violent crime.” *Cross-Cultural Research* 34.3 (2000): 264-282.

applicant as an economic migrant or as a bogus refugee since economic motives are also part of a calculated consideration of different reasons. Second, some type of refugees has an impact on the labor market and national security. However, an increase in legal opportunities, as well as better integration in the host countries will positively affect reducing the negative effects of refugees on the national labor market and national security.

By taking into consideration Covid-19 and the emergency needs of the agricultural sector in the EU, asylum seekers, unemployed recognized refugees, bogus refugees, as well as persecuted individuals not recognized as refugees already present in the EU can be part of specific policy recommendations. Since March to June 2020 and again from November 2020 due to the pandemic situation, borders have been closed and free movement in the EU has been suspended. The data of the European refugee crisis shows that more than two-thirds are young low-skilled men.<sup>13</sup> Thus, persecuted persons already present in the EU can work as farmhands in the agricultural sector, which now is facing an extreme shortage of workers.

### **Slide 8**

This thesis has some limitations. However, the thesis also attempted to narrow some of these.

First, the thesis applied a L&E approach. It considered the significance of HRs literature, without going into a detailed analysis of it. The thesis acknowledged the importance of the HRs perspective and the case-law study by incorporating parts of it in Chapter II.

Second, the thesis took into account the different L&E views of rational choice theory. To avoid the doctrinal discussion about the rational choice model, Chapter IV discusses the different variables that affect refugee decision-making without implying that refugees are rational agents.

Third, the motives influencing the behavior of the persecuted individuals are personal as is the balance between the different variables. Evidently, the aggregated data is not able to reveal them. In addition, this data should not be viewed as representative.

The thesis has several limitations; their impact on the results of this thesis have been minimized through the application of a multidisciplinary approach.

### **Slide 9**

This thesis can be the background for future research. For instance, new empirical studies could be done with the current refugees to better understand the impact that economic variables have had on their decision to settle in the final destination countries, by also applying this study to the pandemic situation of 2020. Second, the quasi-stable outcome could be empirically tested in the EUMS by

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<sup>13</sup> OECD. International migration outlook. OECD publishing, 2018.

incorporating the EU quota refugee proposal. Third, this thesis can be applied to additionally understand the reasons why some EUMS receive a higher number of asylum seeker applications than the others. Fourth, the suspension of the Dublin Regulation to Greece by some of the EU Member States could be investigated with the background of this thesis by also considering the principle of subsidiarity as well as the principle of solidarity, which are both codified in the TEU.

**Slide 10**

Thank you for your attention!