

A stylized world map background composed of a network of blue dots and lines, representing global connectivity.

**ICES** <sup>'20</sup> | **7<sup>th</sup> INTERNATIONAL CONFERENCE ON EUROPEAN STUDIES**  
"The Power and Politics of Transitional Justice", Tirana, Albania

**BOOK OF ABSTRACTS**

TIRANA, November 2020





## **7<sup>th</sup> International Conference on European Studies**

“The Power and Politics of Transitional Justice”,  
Tirana, Albania

18-19 November 2020

### **Book of Abstracts**



**7<sup>th</sup> International Conference on European Studies (ICES'20)**

**18-19 November 2020, Tirana, Albania**

## **Book of Abstracts**

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## **Welcome to ICES 2020**

Within these 2 decades, transitional justice has become a key pillar on transforming politics, societies and scope of international intervention. As a transitional mechanism, this international norm has covered post-conflict countries, deeply divided societies, post-authoritarian regimes and post-communist countries. Due to the importance in dealing with the past in order to seek truth and justice, transitional justice comes in front of us as an emerging tool to build trusting institutions, embrace the rule of law and approach towards higher levels of democratization. This conference aims to bring together scholars, graduate students and practitioners to provide different perspectives and methodologies on theoretical and empirical models, as well as to enrich the public discourse on transitional justice in international and local levels.

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## INTERNATIONAL CONFERENCE ON EUROPEAN STUDIES THE POWER AND POLITICS OF TRANSITIONAL JUSTICE

Date: 18-19 November 2020  
Venue: HOTEL ROGNER, TIRANA

# PROGRAM

**DAY 1:**  
18 November 2020

**Keynote Addresses:**  
**TRANSITIONAL JUSTICE IN AN INTERNATIONAL PERSPECTIVE**

### ONLINE WEBINAR

	<p><b>Prof. Dr. Ralf Wuestenberg</b> Europa-Universität Flensburg / Germany</p>
	<p><b>Prof. Dr. Udo Steinbach</b> Maecenata Stiftung Berlin/ Germany</p>
16:00 – 17:20	<p><b>Prof. Dr. John Klassen</b> University of the Western Cape/ South Africa</p>
	<p><b>Dr. Zeina Barakat</b> Europa-Universität Flensburg / Germany</p>
17:20 – 17:50	<p>Session for Questions</p>

## TRANSITIONAL JUSTICE AND PEACEBUILDING: CONTEXT, TIMING AND DYNAMICS

### ONLINE WEBINAR

18:00 – 19:20

Postcommunist Romania: An Unfinished Transitional Justice

**Claudia-FlorentinaDobre**

Implications of the decisions of the European Court of Human Rights and the Court of Justice of the European Union in the Jurisprudence of the Courts of Rumania

**Negrea Emilia Nicoleta**

Albania's transitional justice discourse: Healing wounds from the past

**Islam Jusufi, Ralf K. Wüstenberg, Alban Nako, Niuton Mulleti, Ines Stasa, Salih Özcan, Zeina Barakat, Gelanda Shkurtaj**

EU`s approach to transitional justice in the Balkans: case study Macedonia

**Enver Abdullahi**

Recognition of victims of conflict-related sexual violence in B&H as civil victims of war

**Amila Husić**

Transitional Justice in Afghanistan: A Hegemonic Power Discourse

**Huma Saeed**

Reflections on the Transitional Justice Process: Case of Religious Community Properties in Albania

**Salih Özcan, Gazmend Aga, Ines Stasa**

The peace agenda in the Western Balkans: An analysis of European Union Perspective

**Onder Canveren**

19:20 – 19:40

Questions & Answers

**DAY 2:**  
19 November 2020

## Welcome Speeches

Opening Remarks

Venue: HOTEL ROGNER, TIRANA

09:00-09:30

**Assoc. Prof. Dr. Lisen Bashkurti**

Dean, Faculty of Law and Social Sciences  
Epoka University/Albania

**Dr. Tobias Rüttershoff**

KAS Director\_Albania

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## TRANSITIONAL JUSTICE AND PUBLIC DISCOURSE NEXUS IN ALBANIA

09:30-10:45

**Prof. Dr. Nevila Nika**

Historian- Activist

**Nebil Çika**

Journalist/ Head of the Association of the Formerly Politically Persecuted

**Gentiana Mara Sula**

Director/ Authority for Information on Communist Former Police Secret Files

**Jonila Godole**

Journalist/ Institute for Democracy, Media and Culture

**Basir Collaku**

Journalist/ Head of the Albanian Telegraphic Agency in Albania

**Enkelejda Olldash**

Lecturer/ Faculty of Law, University of Tirana

10:45-11:10

Session for Questions & Answers

11:10-11:30

Coffee Break

## TRANSITIONAL JUSTICE IN ALBANIA AND BEYOND

	<p>“The communist prisons and camps as evidence of Dictatorial System. The opening’ files process as a preamble to the Transitional Justice”.</p> <p><b>Gelanda Shkurtaj</b></p>
	<p>The inefficient public apology in post-dictatorial Albania</p> <p><b>Alban Nako</b></p>
	<p>Regional approach in Western Balkans for reparations as a tool of Transitional Justice</p> <p><b>Olta Qejvani</b> <b>Dr. Dorina Ndreka (Asllani)</b></p>
<b>11:30 - 13:00</b>	<p>The Art of Transitional Justice without Artists: Case of Albania</p> <p><b>Ines Stasa</b></p>
	<p>Restorative Justice approach as part of transitional Justice</p> <p><b>Bela Gega</b> <b>Prof. Asoc. Dr. Irida Agolli</b></p>
	<p>The Unfinished Business of Transitional Justice: Reparation of Former Political Prisoners in Post-Communist Albania</p> <p><b>Mandrit Kamolli</b></p>
<b>13:00 -13:30</b>	<p>Questions &amp; Answers</p>

## THE INTERDISCIPLINARITY OF TRANSITIONAL JUSTICE (Parallel Session)

	<p>The Political Economy of Transitional Justice in Post-Communist Balkan Countries <b>Dea Elmasllari, Jonida Gjyli</b></p>
	<p>Transitional Justice in Albania: The Mental Health System in the focus of reconciliation and accountability <b>Rikela Fusha</b></p>
	<p>The Impact of Economic Crime and Corruption on Albanian Economy <b>Armanda Xhani (Baça)</b></p>
<b>11:30 – 13:00</b>	<p>Property Rights and Transitional Justice: the Case of Albania <b>Niuton Mulleti</b></p>
	<p>Judicial reform in relation to the new institutions of justice 2019 – 2020 <b>Lisian Roseni</b></p>
	<p>Addressing the right to education in Albania before and after the communist regime <b>Heliona Mico</b></p>
	<p>Justice Reform from a Comparative Perspective <b>Reald Keta</b></p>
<b>13:00 - 13:30</b>	<p>Questions &amp; Answers</p>

# INTERNATIONAL CONFERENCE ON EUROPEAN STUDIES: THE POWER AND POLITICS OF TRANSITIONAL JUSTICE

## Keynote Addresses



### **Prof. Dr. Ralf K. Wüstenberg**

Professor and Chair for Systematic and Historic Theology  
Europa-University Flensburg, Germany

#### **Short Bio**

Ralf K. Wüstenberg, born 1965, is Chair for Systematic and Historic Theology at Europa-University Flensburg. After studying Theology in Berlin, Cambridge (England) and Heidelberg, Dr. Wüstenberg graduated from Humboldt-University Berlin (Dr. theol.) and Ruprecht-Karls-University Heidelberg (Habilitation). In 2013/2014, he was a Visiting Fellow in the Faculty of Divinity, Cambridge University and St. Edmund's College, in 2002/2003 he taught as Dietrich-Bonhoeffer-Lecturer at Union Theological Seminary, New York, and in 1999 he was a Visiting research fellow in the University of Cape Town. As ordained minister (Pfarrer), he served in the Lutheran Church at Berlin Cathedral (Berliner Dom) in the years 2003-2005. His publications include the English titles *Christology. How do we talk about Jesus Christ today?* (Cascade Books 2014), *The Political Dimension of Reconciliation in South Africa and Germany* (Wm. B. Eerdmans 2009), *Theology in Dialogue. The impact of Arts, Humanities and Science on contemporary religious discourse* (Wm. B. Eerdmans 2002), *A Theology of Life. Dietrich Bonhoeffer's Religionless Christianity* (Wm. B. Eerdmans, 1998).



### **Prof. Dr. Udo Steinbach**

Co-founder and shareholder of the HUMBOLDT-VIADRINA Governance Platform.

Head of MENA Study Centre at the Maecenata Foundation.

#### **Short Bio**

Prof. Dr. Udo Steinbach is co-founder and shareholder of the HUMBOLDT-VIADRINA Governance Platform. Prof. Steinbach heads the MENA Study Centre at the Maecenata Foundation. Since 1971, Dr. Udo Steinbach has worked scientifically with the contemporary Middle East, the Caucasus and Central Asia. He has also advised Parliament and the government on current political, economic, cultural and religious issues in these regions. In the years of his work as Director of the German Orient Institute in Hamburg (1976-2007) he was actively involved in political dialogue projects of the German Federal Government, including the Euro-Arab Dialogue and the Human Rights Dialogue with political, academic and religious representatives of the Islamic Republic of Iran. He was also a founding member of the Deutsche Arbeitsgemeinschaft Vorderer Orient (DAVO). Since 1991 he is honorary professor at the University of Hamburg.

He is also the author and editor of numerous publications on the politics, society and culture of the Middle Eastern, Caucasian and Central Asian countries. These include standard works such as the book "Der Islam in der Gegenwart" ("Islam in the Present", edited in five editions by Werner Ende) and "The Arab World in the 20th Century. Departure – upheaval–perspectives"(2016).

After retirement, he worked on the establishment of the Center for Middle and Middle Eastern Studies at the University of Marburg between 2007 and 2010. He is still a member of numerous committees of science, science policy and science promotion with a focus on the regions mentioned.



## **Prof John Klaasen**

### **Short Bio**

Prof John Klaasen studied at The University of the Western Cape; The College of Transfiguration; The University of Kent in Canterbury and Stellenbosch University. He currently is a Minister of Religion in The Anglican Church in Southern Africa and Lecturer in Department of Religion and Theology 2009-2015. He was appointed to the position of Senior Lecturer in

2016 and later became the Head of the Department of Religion and Theology in the same year. In 2019 he was promoted to Associate Professor Status and is continuing his term as both lecturer and HoD.

His field of research is in Narrative Theology, Theology and Development and he lectures in Practical Theology (Homiletics, Pastoral Care, Christian Education, Narrative Theology, Theology and Development) and Ethics (Worldviews and Morality)



## **Dr Zeina M. Barakat**

### **Short Bio**

Dr Zeina M. Barakat is a Jerusalem-born Palestinian scholar who holds a doctorate in reconciliation, peace, and conflict resolution studies from Friedrich-Schiller University in Jena, Germany. She received her B. A. from Bethlehem University and her M. A. from al-Quds University in Palestine. She taught at al-Quds University in Jerusalem, Al-Istiqlal University

in Jericho, Friedrich-Schiller University in Jena, and Europa-University in Flensburg, Germany. She is the author of several academic books and articles including, *Sexual Harassment* (2012), one of the few books in Arabic dealing with this taboo topic in Arab society. Her book, *From Heart of Stone to Heart of Flesh: Evolutionary Journey from Extremism to Moderation*, published in 2017, has been well-received in the academic community.

Zeina's teaching courses included 'Gender in the Islam', 'Gender and Women's Rights in the Middle East and in the Western World', 'Meditation in Conflict, Contested Narratives', 'Prospects of Reconciliation and Peace in Israel /Palestine, and Reconciliation and Culture in Palestinian Society', 'Learning from South African Experience: Reconciliation between Israelis and Palestinians', 'Forced Migration and the Refugee Problem – Why people move?', 'Conflict Resolution, Game Theory and Negotiations'.

## Paper Abstracts

### **Transitional Justice in Albanian Democracy – A long Open-Ended Story**

Assoc. Prof. Dr. Lisen BASHKURTI

Referred to the United Nations definition, "the transitional justice is the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. Transitional justice processes and mechanisms are a critical component of the United Nations framework for strengthening the rule of law". 1) While in 2006 High Commissioner for Human Rights, Louise Arbour considered that "the transitional justice ... must reach to ... the crimes and abuses committed during the conflict that led to the transition, and it must address the human rights violations that predated the conflict and caused or contributed to it." 2) These definitions done by UN Secretary General and further explanation written by HC for Human Rights, Louise Arbour give us the aims and mechanisms of transitional justice and are very helpful to better understand that this category of justice has its specifics, it was born in certain circumstances and can be

implemented in very creative way taking always into consideration the harmonization between the universal principles of democracy, rule of law and human rights with historical bad legacy and its consequences in now a time.

One of the challenges of Albanian transition from dictatorship to liberal democracy was and remain the transitional justice. During almost fifty years communist dictatorship there were a lot of victims, ignored dignity and systematic violation of human rights. In the previous system the Country was like a prison, under repressive regime, economically very poor and internationally fully isolated.

The transformation that came after the fall of Berlin Wall, the collapse of communism in Eastern Europe, the dissolution of former Soviet Union and the end of Cold War paved way toward democracy, rule of law, respect for fundamental freedom and human rights, market economy and integration in European and Euro-Atlantic organizations. Albania was among the last countries anchored in this process.

Albanian communist leadership tried to survive itself by doing manipulative propaganda, adopting a few cosmetic legislations, using, misusing and abusing with

some economic changing and several steps to the opening to the outside world. All these so-called transitional measures taken by communist leadership delayed the real transformation of Albania toward democracy, maintaining in substance the same political philosophy covered with some pseudo-democratic camouflage.

This pseudo-democratic camouflage that characterized the first phase of Albanian transition toward democracy typically touched the category of peoples whose dignity and human rights were deeply ignored and seriously violated in the previous regime. Executed persons and their families and relatives, former political prisoners, persecuted and confiscated persons, displaced peoples from their birth places and residencies to concentration labor camps or discrimination on many different way – occurred very often in Albania society.

After the communism collapsed in Albania these categories of peoples needed to know the truth, the recognition of their individual and collective dignity, the redress and acknowledgement of their human rights violations as well as the insuring that these sufferings and discrimination will be prevented to happening again. Later-on the ex-convicted and persecuted needed the justice, compensation, rehabilitation and full integration in the society. At

the beginning of democracy these people's expectancy were very high. But as the time passed their disillusion were even higher in terms of discovering the truth, respecting the status, giving the justice and compensation, rehabilitation and integration in the society.

**Keywords:** transitional justice, ex-convicted, persecuted, truth, status, compensation, rehabilitation, integration

**“The communist prisons and camps as evidence of Dictatorial System. The opening’ files process as a preamble to the Transitional Justice”.**

Dr. Geland Shkurtaj

The essence of the Transitional Justice process is to heal the wounds of the past, from the atrocious and monstrous crimes committed by the totalitarian regime which governed Albania, as well as to set the preconditions for a public forgiveness. There were qualified as adversary of the regime, all the previous political class before World War II, the old administration, members and sympathizers of the “National Front” and “Legality” political organizations. To these categories, there were joined during the years, all those young and old opponents, who had the courage to

oppose the inhumane policies that the totalitarian system applied to its nationals, both in the international and national relations. The violence of the communist dictatorship was not restricted to the individual regarded as the adversary, but it was extended even to the line of inheritance to all their heirs, for generations. The origin of the political refractory divisions has the roots, since the National Liberation War, but after 1944-es the destiny of the political opponents, was an alternative to those forms of punishment such as: prison, labor camps, internment, or deportation. Dictatorship in Albania will not be recognized unless the secrets behind political camps and prisons, are not known. These facts will help anyone interested in getting a very clear idea of what happened, as everyone knows that this macabre fate was the destiny of only that part of the population who opposed the regime, the rest, who were ignorant and barely awoken from the mud of a never-developed medieval history, were isolated from the rest of the world and never able to compare where was Albania in confront with other countries. Albania was under isolation for 45 years. Recognition of the past is an urgent need today, as a preamble with the reconciliation with what has happened, but this, would never happen in terms of accepting that ideology, or in terms of forgetting the blood of murdered

relatives. Reconciliation should be considered in terms of making clearness with a past that has been military imposed. For that purpose, it is very important to be given the opportunity on facing the so-called file-opening process, which for sure will come up through a complicated and arduous procedure, but should aim only to reveal the truth, in order to make anybody aware of what happened, and to approach the past in order to accept it, as a way to forgive and step forward the future.

**Keywords:** dictatorship, political prisoners and prisons, camps of concentration of political prisoners, process of opening the files, transitional justice.

**“The art of Transitional Justice without artists”. The case of Albania**

Ines Stasa

Albania may be labeled as the unique case study in the framework of transitional justice modelling, due to its intentional ‘amnesia’ since from the start of the regime change in the 1990s, and to its political shadows of the present- past that continue to shape and design the present-future of the third post-communist generation. One of the outcomes that scholars highly underline when it comes to the application of any

transitional justice mechanism, is the rule of law. This chapter seeks to explain whether any causal relationship between the transitional efforts for the rule-of-law is to be established in Albania while no transitional justice mechanism has been put on the agenda. To what extent the legacies of the communist regime still frame the divisive national narrative, while no one asks 'what's the time for transitional justice' in Albania? Studies of this concept (transitional justice) are rare, so the chapter well deserves careful analysis on the importance, if any, of the whole political timeline from 1990-2020 in terms of 'fake' reforms or 'real' reforms for the sake of Europeanization.

**Keywords:** Transitional justice, Albania, rule of law, legalization of politics.

### **Post-communist Romania: An Unfinished Transitional Justice**

Claudia-Florentina Dobre

In the first two post-communist decades, lustration was not an option in Romania even if the civil society was making murmuring demands to this end as early as March 1990. The "Proclamation of Timisoara" asked for drastic restrictions of the right to run for public office in the case of members

of the former nomenklatura, the political police, the communist-era police, and the national army. It was only two decades later, in 2010, that the lower chamber of the Romanian Parliament voted in favour of this measure. Subsequently adopted by the upper chamber as well, the law was nevertheless struck down as unconstitutional by the Constitutional Court. In 2012, a different lustration law was adopted by the Romanian Parliament only to meet with the same fate from the Constitutional Court.

However, in 1999, a law meant to point out to those responsible for the communist repression was adopted by the Parliament. The actual text of the law, modified after intense debates in the Parliament, more than unmasking the communist political police, led to a process of sabotaging the reputations of many former political detainees and opponents of the communist regime by revealing their ties to the Securitate. Meanwhile, the Securitate officers enjoy huge pensions compared to the rest of the population, control segments of the economy, and have influence on the post-communist secret services.

My presentation aim is twofold: on the one hand, to analyse the debates concerning lustration, to pinpoint the actors involved in promoting or opposing lustration and their goals. On the other, I will focus on the law

unmasking the collaboration with the Securitate, which lead to the creation of an institution (CNSAS) playing an important role in the public and political life of today Romania. My goal is to underline the importance of this law for the transitional justice in post-communist Romania.

**Keywords:** lustration, transitional justice, post communist, Romania

**Judicial reform in relation to the  
new institutions of justice  
2019 – 2020**  
Lisian Roseni

**Hypothesis.** The development of justice reform in Albania is commensurate with the effective organic relationship between new justice institutions such as the KLGJ, KLP, KED, KKRD.

**Abstract.** This project proposes to study the activities of the new justice institutions, as well as the political and public discourse in Albania on justice reform. The study of the activities and legal framework of the KLGJ, KLP, KED, KKRD can bring important findings in the context of the development of the current topic of justice reform in Albania. Political and public discourse on justice reform remains current in debates between party exponents, national and international institutions as well

as at the media level among experts, civil society representatives, and others. Studying the system of interdependence between justice institutions can clarify the functional character of these institutions and the potential improvement of their aspects.

The Legal and Judicial Reform Project aims to provide required resources for technical assistance, training, goods, and works that are needed to implement important aspects of the Government of Albania institutional agenda for legal and justice system reforms, thereby contributing to the strengthening of the rule of law in Albania.

The study proposes to collect primary data at several institutional levels, such as the responsible institutional bodies of the vetting process, the Parliament of Albania in plenary sessions, statements by public institution officials implicated in the justice reform process. The first part of the study suggests a conceptual explanation and comparison, clarifying the possible debate in the field of legal and social sciences. Second, I suggest developing an explanation of the structure of the new justice institutions, observing the functional relationship between them.

**Methodology.** The method used in this paper will be both quantitative and qualitative. The first and second part of the paper will be oriented to

the qualitative data of the political discourses of the leaders of the main political parties' sources. The method used is also deductive, since in order to reach hypothesis and implications as a central idea, it will be necessary to find facts in a deductive manner in different forms from primary and secondary sources. The paper also carries in its analytical process the comparative method which is necessary for the analysis and interpretation of data, concepts and thoughts. An ideological approach will also use simultaneously since the first and second parts of the paper are focused on quality performance research. In this paper, the methodology used will be mainly based on primary data, which are used according to the specific purposes of the work.

**Keywords:** justice reform, Albania, institutions, public discourse.

### **Albania's transitional justice discourse: Healing wounds from the past**

Islam Jusufi, Ralf K. Wüstenberg,  
Alban Nako, Niuton Mulleti, Ines Stasa, Salih Özcan, Zeina Barakat,  
Gelanda Shkurta

Transitional justice is increasingly referenced as regards its impact on resolving the wounds of the past and it has become an area that

national authorities in many places have used as a means for a smooth transition from a conflictual past to reconciliation. This chapter analyzes transitional justice and how this has been understood and perceived in discourse in Albania. Albania is one of the countries that went through the harshest communism, with massive human rights violations and a huge number of victims. When the country moved from communism to democratization, it came as an obligation to politics to establish accountability and responsibility for the crimes committed during communist times.

**Keywords:** Discourse, transitional justice, communism, dictatorship, reconciliation, Albania.

### **The peace agenda in the Western Balkans: An analysis of European Union Perspective** Onder Canveren

Established as a peace and welfare project, the European Union (EU) has acted as a normative and transformative power for candidate countries. Its external incentives model and conditionality mechanism has enabled the Union to assist post-communist and post-conflict societies during their economic and political transitions. However, ongoing EU engagement with the

Western Balkans has considerably complicated the "peace agenda" in the aftermath of the bloody dissolution of Yugoslavia. This study problematizes how the EU frames peace agenda in the Western Balkans. More specifically, the study examines in detail how the Union defines the peace, what themes emerged in this context, and The study also examine what solutions the EU propose for a peaceful environment in the region? Adopting "frame analysis" as the research method, the study provides critical analyses on the Union's strategy papers and region-specific reports. The frame analysis of these documents leads to the following five conclusions: (i) by defining the EU as a soft and transformational power, enlargement is framed as an investment in building peace and stability in the European continent, including the Western Balkans, (ii) the EU perceives the peace agenda in the Western Balkans in terms of recovery and reconciliation; transformation and modernization; and stabilization, (iii) the EU interlinks the peace agenda with other membership conditions, such as democracy, rule of law, prosperity, social justice, economic progress etc., (iv) in this context, the Union has particular attention for two countries: Kosova (their request for Serbia to play a constructive role) and Bosnia and Herzegovina (call for consensus and a shared

vision among national leaders for the implementation of the Dayton Agreement), (v) the instruments the EU recommends to build peace in the region are improved neighbourly relations, regional cooperation, peaceful settlement of the disputes, and cooperation with outside actors (the EU mediation, UN decisions and principles, and cooperation with the ICTY).

**Keywords:** Western Balkans, EU, enlargement, peace, conflict transformation

**Implications of the decisions  
of the European Court of Human  
Rights and the Court of Justice  
of the European Union  
in the Jurisprudence of the  
Courts of Rumania**

Negrea Emilia Nicoleta

After the fall of the communist regime in Romania in December 1989, the Romanian society entered into a profound process of changing both the social values and the way of approaching the new realities, starting with an anxious transition to a modern European society.

This transition process was perhaps most the relevant in the field of justice, where the compulsory application of the European Convention on Human Rights as well as Community law and jurisprudence has hit outdated

perceptions and a wrong approach to the role of the national judge has in the new context.

Romania acceded to the Council of Europe on October 7, 1993 and ratified the European Convention on Human Rights on June 20, 1994. The first ECHR decision against Romania was in Vasilescu's case against Romania on May 22, 1998. In a statistics of all the cases from the beginning of its activity carried out by the European Court of Human Rights in 2019, Romania has 4th ranks with a number of 1496 judgments given in the applications addressed to the Court, after Turkey which has 3645 causes, Russia with 2699 causes and Italy with a number of 2410 causes. From 1329 of these causes judged, the Romanian State was convicted for violations brought to the Convention.

After the accession to the European Union on January 1, 2007, the Romanian State was involved in the Court of Justice of the European Union in 34 cases, of which 24 were finalized and 10 of them are still waiting on the Court's role.

The importance of these decisions lies in the fact that they have begun to change the Romanian jurisprudence but also the way of approaching of all the participants in this process of modernizing judges, prosecutors and lawyers.

**Keywords:** Justice, ECHR, EU, CJUE, Romania, judge, decisions

### **EU's approach in transitional justice in the Balkans: case study Macedonia**

Enver Abdullahi

This article discusses the transitional justice capacity of the EU's approach and demonstrates its Europeanization potential contrary to common assumptions of incompatibility between the (Western) Balkans and European integration. Using a case study of the EU-candidate state of the Republic of North Macedonia, the paper argues that EU membership aspiration can actually bring significant transformations and adaptations when it comes to transitional justice in the Balkan domestic polity. This, on the other hand creates new possible venues for the future regional role of the EU and allows for new strategy and consistency in EU's foreign policy. Transitional justice is analyzed as an EU oriented process, directly dependent upon specific mechanisms and intervening via norm diffusion (adopting and implementing *acquis Communautaire* and assessing implementation mechanisms in that process). Consequently, it can be concluded that European legal principles on human rights and

democracy represent crucial legal and political guidelines in accession of candidate countries into the EU. Finally, the new EU Strategy for the Western Balkans (February, 2018) as well as the new methodology for enlargement (February, 2020) confirms that the rule of law, fundamental rights and good governance must be strengthened significantly in those countries in order for EU to regain its credibility.

**Keywords:** transitional justice, EU`s approach, EU`s mechanisms, EU`s-legitimacy, legacy, efficiency

### **Restorative Justice approach as part of transitional Justice**

Msc. Bela Gega

Prof.Asoc.Dr. Irida Agolli

This article reviews that transitional justice can include a variety of strategies and methods, all of which complement each other and none of which are complete on their own. The paper offers, in a quick reference format, an overview of key considerations in the implementation of participatory responses to crime based on a restorative justice approach. Its focus is on a range of measures and programmes, inspired by restorative justice values, that are flexible in their adaptation to criminal justice systems and that complement them

while considering varying legal, social and cultural circumstances. Transitional justice is rooted in accountability and redress for victims (K. Clamp&J. Doak,2012). It recognizes their dignity as citizens and as human beings.

This research reports a review of literature concerning how the emergence of restorative justice as an alternative to the traditional retributive criminal justice system can have positive implications upon the reintegration of offenders and meeting the needs of victim and community. Researchers in the field of research methods have found that reviewing the literature as the main method for conducting a study can result in a historical analysis of development within a research field (Carlborg, Kindström, &Kowalkowski, 2014). Literature review can be considered the basis of any research method chosen as it helps to develop knowledge by presenting proven knowledge and presenting new ideas and guidelines for further research. As such, they serve as the basis for research and theory.

This article reviews a large body of research-based literature, in order to explore the main concepts involved, as well as the values and objectives of participatory and restorative justice, the use of restorative programmes, the implementation of a successful restorative programme the

mobilization of community assets  
etc.

After analyzing the results of various research studies, it was found that restorative justice has a positive effect in reducing the frequency and the severity of re-offending, there are high levels of support among crime victims and in communities for offender reparation, many crime victims would like the opportunity to meet with their offender, many crime victims and offenders will participate in a restorative process if given the opportunity to do so.

**Keywords:** Transitional Justice, Restorative justice, reparation, reintegration, community, human rights.

### **Recognition of victims of conflict-related sexual violence in B&H as civil victims of war**

**Running title:** War victim status of CRSV victims in B&H  
Amila Husić,

In light of the armed conflict that took place in Bosnia and Herzegovina during the 1990s, most research focuses on the high-level war crimes committed in this period such as the genocide in Srebrenica and siege of Sarajevo and there is a tendency to put the focus is put on the perpetrators. However, few concerns

themselves with the victims of the countless war crimes that took place across the county and the lives of the survivors in the post-conflict B&H. In this paper, we focus specifically on the issue of survivors of sexual violence in armed conflict since this a generally under researched category of war victims. Survivors of sexual violence were, up till recently, completely disregarded in public policy of B&H. Reparation of victims, both material and symbolic, together with the prosecution of war criminals, the search for truth, and institutional reforms with a focus on vetting candidates for public office and lustration, represent the contributions made by the authorities of B&H to transitional justice. In this regard, although the emphasis is on prosecuting war criminals, transitional justice requires the full reparation of victims, as much as possible, in order to be considered as such. This paper focuses on one aspect of reparations: the recognition of the status of civil victims of war and connected social rights. The recognition of victims of conflict-related sexual violence as civil victims of war entails them to certain rights under the laws of B&H on various levels, which are unharmonized and contradictory to each other. This makes the recognition of their civilian war victim status, along with their rights, considerably difficult. This poses the question: Does the

legal system of B&H enable victims of conflict-related sexual violence to adequately exercise social protection rights by recognizing their status as civilian victims of war? Furthermore, this paper introduces the concepts of conflict-related sexual violence, treatment of survivors of conflict-related sexual violence under the domestic legislation of B&H and how they can exercise their rights as such. The paper used general methods, i.e. descriptive, historical-normative, explicit, comparative and analytical, but also some specific methods, namely induction, deduction, analysis, and synthesis. The conducted research implies many legal loopholes and discrepancies when it comes to defining the status of war victims, their rights, along with the procedure of recognition of this status and exercising these rights. Due to the unharmonized normative framework that leads to unequal treatment in the administrative procedure, both in the process of recognizing the status of civilian victims of war and in the exercise of legal rights. In summary, Bosnia and Herzegovina needs a reform of the transitional justice system, i.e. the adoption of an action plan or other type of policy that will regulate this area at the state level, including ensuring the status of civilian victims of the 90s-armed conflict.

**Keywords:** war victims, Bosnia and Herzegovina, transitional justice, legal rights, armed conflicts

### **The Unfinished Business of Transitional Justice: Reparation of Former Political Prisoners in Post-Communist Albania**

Mandrit Kamolli

After the fall of the communist regime, Albanian authorities have adopted fragmented transitional justice measures including trials, compensation of victims, and access to secret police file. It is argued that measures to deal with the communist past in Albania have produced limited results because the process has been politicized and a lack of will to deal with the past has persisted. On the contrary there is an apathy and indifference to address the legacies of communist past. No research has been undertaken to study the reparation of former political prisoners as one the key pillars of transitional justice.

This research focuses on the reparation of former political prisoners in post-communist Albania. Through interviews with former political prisoners, this research tries to explore the victims' needs, the measure taken until now to repair victims and the future implication to address the victim's needs. The paper analyses the role

that financial compensation, access to files, apology and forgiveness, justice and socio-political empowerment plays heal former political prisoners.

**Keywords:** Albania, transitional justice, former political prisoners, reparation, compensation, communism.

### **Transitional Justice in Afghanistan: A Hegemonic Power Discourse**

Huma Saeed

Transitional justice intrinsically is a political field of research and practice. This dimension gets further complicated when multiple political transitions occur without implementing transitional justice mechanisms. Afghanistan is one such complex case. Although the events of September 11th, 2001 lead to major changes in Afghanistan, i.e. the removal of the Taliban regime, and transition to "democracy," no practical step was taken to tackle crimes of the past regimes, starting with the Soviet backed coup of 1978. On the contrary, the power of many warlords, who had close contact with the previous regimes, became legitimized in the US backed Karzai interim administration and subsequently in the government and parliament elected in 2004-

5 and onward. Moreover, reconciliation with the same Taliban is currently ardently debated without any indication of demanding accountability for their past crimes or responding to war victims' needs. While in many post-authoritarian and post-conflict societies, transitional justice, once considered an exception, is increasingly becoming a norm (Teitel 2003), Afghanistan, despite the heavy presence and influence of the international community, falls out of this trend. The current presentation intends to examine this paradox. Afghanistan has a complex societal and political structure with several regime changes and complex political processes over the past four decades. This situation has further been complicated by direct or indirect foreign interventions, each seeking interests. The main issue to address here is a lack of interest, almost oblivion, by both national and international actors, to tackle past atrocities in a country where 70 % of the population identify themselves as victims of past abuses (AIHRC 2005), and where it has suffered some of the most horrendous, systematic and wide scale atrocities of our time.

What, then, explains this silence and lack of interest in the context of Afghanistan when many countries going through similar experiences came up with some form of accountability mechanism,

even if partial, biased and with other shortcomings? The current presentation contends that in order to answer this question, we need to put transitional justice, like any other political, social and legal phenomenon, in an international political context that include the interest of regional and international powers as well as reflect the domestic power dynamics. Hence, the lens through which this paper examines the question is a hegemonic power discourse in which "peace" and "stability" arguments took precedence over justice.

**Keywords:** transitional justice, Afghanistan, past crimes, accountability

### **The Political Economy of Transitional Justice in Post-Communist Balkan Countries**

Dea Elmasllari, Jonida Gjyli

Transitional justice has received important attention in the literature as a means of addressing human rights violations especially in countries dealing with their peaceful transition from a totalitarian regime to a democratic one. According to the International Centre for Transitional Justice, the term is widely used to describe the legitimate responses that countries emerging from conflict and repression adopt to

address violations of human rights and prevent them from reoccurring. This paper aims to identify and compare the impact that various factors have on the adoption and implementation of transitional justice mechanisms in post-communist Balkan countries. Through a comprehensive examination of such processes and mechanisms in these countries, this study analyses the interaction of different political and socio-economic factors that have determined either the success or failure of transitional justice. For comparison reasons, the countries that are analyzed in this study are those Balkan countries that have experienced a troubled transition period after the end of the communist regime and have faced similar challenges from a political and economic perspective. These countries include Albania, Serbia, Montenegro, North Macedonia, Bosnia & Herzegovina, Croatia, and Slovenia. To evaluate their performance and the transitional justice mechanisms that these countries applied, we explore the following key indicators: the political situation, the economic stability, the nature of the conflict, international support and intervention, and the social-psychological stance in the community.

We find out that the main factors that shape the processes of transitional justice are mostly of a

domestic nature, including here the nature of human rights violations as a crucial feature that directly devises the mechanisms that must be put into place. Another determinant component is the economic health and stability of each country, considering that the cost of implementation for various mechanisms is relatively high, as well as extremely significant, and often goes unmentioned in the literature. Lastly, international support, intervention and external conditionalities have a major influence on how countries deal with transitional justice.

**Keywords:** transitional justice, mechanisms, socio-economic factors, political situation, international intervention, human rights violations, Balkan countries.

### **Justice Reform from a Comparative Perspective**

Reald Keta

Justice Reforms have been key processes for the former communist countries in South East Europe for the last two decades. Beside their many characteristics, all of these Justice Reforms in their essence have aimed to enhance the rule of law and the integrity of the judiciary system in the countries that have been applied. Since 2016, Albania has undergone

a similar process, which is still going on and respective assessments are diametric regarding the progress. An indisputable fact is that in the vetting process of the magistrates, a very considerate part of them have been removed from the judiciary system. Even though there have been remarks on the fairness of the vetting process, what has become the biggest issue is the process of fulfilling the created vacancies in the judiciary system. The latter remarks in this regard even consider this as a potential circumstance for state capture. A dispute that has been even accompanied with critical institutional clashes. In principle, four years is a considerable period of time to evaluate the shortcomings of a major institutional process. In the given case, taking in consideration the nature of this reform and its implications, four years are not enough to mature and to make an integral evaluation. What can be of importance in the actual moment is a comparative approach with other former communist countries that have undergone the Justice Reform. This actual approach can serve as a prelude to a further integral evaluation of the process. The comparison with the other experiences can help to raise flags for the potential dangers that may rise in the near future for the Justice Reform. Also, on the other hand, the comparison may help to learn from the mistakes

in previous experiences. In this perspective, it is important to stress out, that the narrative of "Justice Reforms" applied in European South East countries in broad assessment are not always praised as successful stories. These reforms have achieved a lot of their given objectives, but still the instrumental interference in the judiciary system has shown not satisfying outputs. Artificial intervention in the Judiciary is an extreme intervention in critical social realities that in the same time justify the need for these measures. In the theoretical discussion, there is a great concern for the constitution of the Judicial Power, as it is far more delicate than the other two states. As a pre conclusion, the applied model of Justice Reforms still bears scepticism in enhancing the rule of law and the integrity of the judiciary system. The Albanian case study is another possibility for the success of the applied model or to reaffirm the theoretical concerns.

**Keywords:** justice reform, judicial power, rule of law, Albania, South-east Europe

### **Transitional Justice in Albania: The Mental Health System in focus of reconciliation and accountability**

Rikela Fusha

Reconciliation and transitional justice are closely linked to the (re) building of trust in the governmental institutions, in context of inclusive peace building after violent conflicts or authoritarian regimes. Application of traditional justice aims to redress legacies of human rights abuses. Measures of transitional justice are both judicial and non-judicial.

In this paper, I aim to evaluate the impact of political transition in the Albanian mental health system. The right of health is considered as a comprehensive approach of the health system towards of treatment, dignity and needs of the persecuted people. It addresses the use of punitive psychiatry in Albania during the communist regime, where the mental health system was used as a tool of repression against political dissidents. These indicators provide a measurement of transitional justice role in confronting the past.

The mixed methodology is applied in data collection process. Primary data collected in semi-structured interviews and secondary data from the archives are sources of data, in analogy with a detailed literature review, which is focused on similar studies and research conducted in

former communist countries.

The right of health is as a national obligation of the democratic Albania to ensure an accessible health care for its citizens, but also protection of their dignity and freedom, as a contribution from the past legacy and accountability.

**Keywords:** Transitional justice, mental health system, accountability, Albania

### **The inefficient public apology in post-dictatorial Albania**

Alban Nako

What makes a public apology for human rights abuses meaningful? How best can a public apology recognize the dignity of victims, while paving the way for a more just and peaceful future? Effective public apologies, take into consideration what victims feel and think about what is being said, and which address the future and not just the past. In post-dictatorship societies, what can apologies do? As a form of symbolic reparation, they mark as a factual and moral turning point in the acknowledgement that human right violations were systematically committed in the past.

Relying on a Critical Discourse Analysis methodology (CDA) I will evaluate different public apologies attempts in the past 29 years in

Albania to understand the social relations that are established and reinforced through language. It's important to understand why the social practice of reparation for the victim of communism differs from the language they practice, even when different political actors appeal to different languages but maintain the same social practice. In analyzing the attributes of the language practice we must take into consideration the clash of identities constructed during the period of communism that guide the social practice for most of society after 1990. Being politically correct to survive the pressure from the international community implies a challenge to analyze the relationship of language with practice.

Although many attempts, from different political actors, have been made in post-dictatorial Albania to address an inclusive public apology they fail to acknowledge the crimes committed by the communist system and are not inclusive for all victims that have suffered. In most cases, the process of reparation has been used to generate political support to obtain compensation. The living leaders of the communist regime have never asked for forgiveness.

**Keywords:** Albania, transitional justice, public apology, critical discourse analysis

## **Regional approach in Western Balkans for reparations as a tool of Transitional Justice**

Olta Qejvani

Dr. Dorina Ndreka (Asllani)

Since the fall of the communist regimes in the Balkan countries, Transitional Justice has been a present reality in all of them. Despite the common ground and historical past, the inherited challenges and the progress done has followed diverse paths, regarding transitional justice measures in the region. The common perspectives urge for improving rule of law, democracy, EU integration, learning from and surpassing the mistakes of the past. Transitional justice is a set of processes and mechanisms that countries with a legacy of large-scale past abuses, use in order to ensure accountability, serve justice and achieve reconciliation. The focus of this paper are reparations as one of the most widespread mechanisms, which are intended to 'promote justice by restoring victims' rights, through obligating the responsible party to redress the harm they caused.

The aim of this paper is to compare the transitional justice reparation processes between Western Balkan countries in order to evaluate best practices, assess the problematic and appraise possible ways of cooperation. Considering that

the UN Reports in the field of Transitional Justice, emphasize the need for national approach based on international law, the paper tries to elaborate if it is possible to find a regional approach, between Western Balkan countries, which are characterized by a similar past and a common perspective. This is the hypothesis that the paper tries to prove and elaborate, through the review of the existing law, literature and state practice in the field of reparations as a Transitional Justice measure.

**Keywords:** transitional justice, reparation, regional B.

## **Property Rights and Transitional Justice: the case of Albania**

Niuton Mulleti

Problems related to the restitution and compensation of property nationalised, expropriated, confiscated or seized through any other unjust means by the Communist regime constitute one of the most complicated and pressing issues in Albania following transition to multi-party rule in 1990.

This article sheds light into the problems which Albania currently faces in this area stemming from the total abolishment of private property during the Communist regime to be further aggravated by the laws adopted in the early 1990s in the area of property rights as well as their disorderly and patchy implementation on the ground. From the perspective of transitional justice, the perception of perpetual injustice from this segment of society is further exacerbated by the fact that the greatest majority of original owners and their families were also politically persecuted during the Communist regime as a result of the implementation of the "class struggle" doctrine.

The main argument of this article is that problems related to property rights have not only hindered economic development but have also negatively affected social peace and cohesion as well as the process

of democratic consolidation in the country.

**Keywords:** property rights, Communist regime, political persecution, transitional justice.

## **Reflections on the Transitional Justice Process; Case of Religious Community Properties in Albania**

Salih Ozcan, Gazmend Aga,  
Ines Stasa

Transitional Justice (TJ) has taken diverse paths and models of its understanding worldwide, as a contested concept aiming to balance the seeking of truth and power of justice. Scholars recently have raised debates on the contested connection of transitional justice and the rule of law and the liability of transitional justice to make corporates accountable from below. An under-researched sub-field on TJ literature is on religion's role in peace-building efforts after conflicts and violence and the debit of state institutions to retribute to the religious institutions what was confiscated during the communist regime in Albania. How did Albania's post-communist legal order respond to the faith-based organizations' relationship in terms of property restitution? The first part of the paper will be an introductory timeline of the property rights in TJ context in Albania focused on property ownership importance in religious community autonomy. Constitutional changes in Albania have also tackled religious communities 'property but with no a progressive agenda to deliver justice. After all, TJ in Albania is not to be taken in an isolated analysis,

since the property rights of former landowners are still a pending issue to deal with. In this context, in this first part we will provide the overall TJ context in Albania in relation to property rights. The second part will be focused on the Governmental initiatives and steps followed after the 1990s, to establish a proper relationship with religious communities. The main discussion here is to provide basis for the understanding on how the religious harmony and its spreadiness over the mass of population with the feature of intertwines, could imply for a more reconcile society. The third part will be on future possible scenarios of solutions as part of the whole TJ driver to further important processes of democratization and reconciliation. Possibly and arguably, this mechanism in place to be established would indicate a positive trend on other mechanisms of TJ to be brought forward in the Albanian context.

**Keywords:** transitional justice, rule of law religious communities, property restitution, Albania







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