

II Seminar - 12 March 2021

Human mobility at the crossroads between "Fortress Europe" and the new pact for migration and asylum.

Giorgio Corso e Giulia Guagliardo.

The destiny of a continent at a crossroads: to be a fortress or a place of welcome

This discussion aims to carry out an analysis of the evolution of European and Italian legislation with respect to the migratory phenomenon, which has always been considered as an emergency to be remedied, rarely seen as a resource.

The idea of a globally shared approach to the phenomenon by domestic legislations developed starting from the UN Convention signed in Palermo in 2000, on the subject of the fight against transnational organized crime; here, for the first time, the issue of combating irregular immigration was affected through the adoption of a Protocol annexed to the basic text, containing provisions on the matter of combating the smuggling of migrants.

At the same time, in a strictly European context, the normative uncertainty of the reference *corpus* caused a vulnerability, in national and European jurisprudential practice, regarding the penal relevance of the conduct pertaining to those subjects who had to for the purpose of humanitarian assistance. Recourse to the criminal law has therefore demonstrated its total ineffectiveness in governing migratory flows, since its intense implementation has ended up debasing the principle of subsidiarity and *extrema ratio* which must govern its application.