

### **ORIGINAL PAPER**

# Migration Policies in the European Union: Espoused Perspectives and Practices-In-Use

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#### Abstract

The importance of the migration phenomenon in the social and economic European space rose along with the eastern expansion, freedom of movement of citizens and labor force being part of the internal European Union market, along and correlated to the freedom of movement of financial capital, products and services. The issues generated by this uprising of the international migration phenomenon required policies able to manage the continuously growing amounts of people and resources movement, both on the European scale, as well as on the national one. The aim of this article is to present current and past European approaches on international migration, as well as to estimate the way in which European citizens are affected by this policies.

Keywords: policy, migration, mobility, nationality, citizenship

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The growing importance of migration in the socio-economic landscape of the European Union space increased with the expansion eastwards, the free movement of persons and labor force being a component of the internal market of the European Union, alongside and in conjunction with the free movement of capital, goods and services. The issues occured due to the phenomenon of international migration, which imposed at the European level, as well as within the Member States, the need to adopt uniform policies, capable of managing quantitatively significant flows of people and resources (Held et. al., 2007: 65). The human society, on a global analysis, is dynamic, and the history of the continents was marked by significant migratory movements. International migration is an extremely complex issue, which includes several types of movements of people conditioned by a number of reasons and forces with very different causes and consequences. This diversity leads to the conclusion that the determinants and consequences of international migration should be assessed in various contexts, depending on the countries and specific migration patterns involved (Zamfir, Vlăsceanu, 1993: 112).

Migration is often a result of economic and social development, being able to help develop and improve social and economic conditions, or, on the other hand, perpetuate stagnation and inequality (Rotariu, 2009: 52). These things depend on the nature of migration and the actions of governments and other stakeholders involved (Stark, 1991: 132).

Speaking of risks in the area of demography is somewhat inappropriate, because of inertia, stability and rigidity of demographic events and changes that occur and their effects are slow, displayed over time and largely predictable. The changes that have been experienced by population and demographic phenomena in economic and social transition are profound, with a strong economic and social impact, but more important is the size of prospective developments and implications (Porumbescu, 2012: 270).

The problem of national and racial minorities came out strongly in certain societies and historical periods, usually being generated by imperial governments and totalitarian regimes. In essence, the gap between minority and the dominant majority became apparent especially in the context of a struggle for power and that for promoting cultural values or acces to education in the mother tongue (Siddle, 2000: 37). Over the last few years governments and intergovernmental organisations have begun to match the rhetoric of the need to "manage" rather than "control" international migration with firm proposals for action. The first systematic attempt was that of the Council of Europe in 1998, followed by a series of Communications by the European Commission to the European Council and Parliament (Salt, 2005: 38).

The concept of *public policy* designates "interventions invested with public power authority and government legitimacy on a specific area of the society or of a territory; public policies convey content that translate into benefits and generate effects; they mobilize activities and work processes, being carried out through relationships with other social actors, wether they are individuals or communities" (Boussaguet, Jacquot and Ravinet, 2009: 197).

Proffesor and researcher Dumitru Sandu defines *migration* as "life strategy", representing "a perspective on the lasting coordination between claimed aimes and means to achieve them (...). They are rational action structures, relatively independent from the agent that adopts them" (Sandu, 1984: 29). On the other hand, Jan Szczepanski defines social mobility as "the series of phenomena that rezide in the movement of people or groups from one place to another" (Szczepanski, 1972: 215).

The world's population looks set to continue its rapid growth, rising to around 8,919 billion by 2050. Europe's share will be increasingly modest, almost halving between 2000 and 2050, while North America's will also fall. Only a small proportion of the world's population migrates in any one year, mostly within their own countries. There are no reliable statistics on the total numbers of people who move to another country during any given period, but UN estimates of numbers of people living outside their own country are around 170 million, although there is no concrete basis for this figure. What is striking about these numbers is not how many people choose (or are able to choose) to live in another country, but how few. Past Council of Europe reports have indicated that in recent years the importance of migration as an arbiter of population change has fluctuated (Salt, 2005: 6).

The countries can be classified according to the relative importance of migration and natural change in their overall growth rate for the period (Salt, 2005: 7): 1. *population loss owing to both natural decrease and net emigration*: Estonia, Georgia, Latvia, Lithuania, Moldova, Poland, Romania, Ukraine; 2. *population loss owing to natural decrease more than offsetting migration gain*: Belarus, Bulgaria, Croatia, Hungary, Serbia and Montenegro; 3. *population loss owing to net emigration offsetting natural increase*: Armenia, Armenia, FYROM; 4. *population gain owing to both natural increase and net immigration*: Andorra, Austria, Belgium, Cyprus, Denmark, Finland, France, Greece, Ireland, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey and the UK; 5. *population gain owing to natural increase more than offsetting migration loss*: Albania, Azerbaijan, Iceland; 6. *population gain owing to net immigration more than offsetting natural decrease*: Czech Republic, Germany, Italy, Russia, Slovakia, Slovenia.

Migration policies have always been a national prerogative, while flows of capital, information and goods have taken on an unprecedented dimension (globalisation). There is a major contradiction between free movement of capital, goods and services and nationals of the developed countries and the obstacles placed in the way of the movement of nationals of the less developed countries which can be seen at European, Mexican-US and Australian borders. There is also a major contradiction with the ideals of European integration, whether we are talking about the "fifteen + ten" or the "forty-four". The question of a European migration policy thus arises in the same terms as that of a "European foreign policy" or "European defence" (European Committee on Migration, 2002: 53). Since the process has been set in motion with respect to narrower but related themes (Schengen Information System, Europol, Eurodac, Eurojust, etc.), is it not time to think about establishing a European international migration agency with sufficient resources to set standards, priorities and procedures common to its members and define a genuine migration policy for an economic and demographic grouping with similar weight to the American NAFTA?

In the effort of ensuring coherence to the European Union's migration policy, the European Comission edited, in november 2011, a document called *Global aproach on migration and mobility* (European Comission, 2011: 22). This concept integrates migration, foreign affairs and development policy, aproacing the migration agenda in a coherent manner, thus creating a direct partnership relation between the European Union and third countries. The Global aproach on migration is the most consistent and solid manifestation of the tight relationship between the Justice and Internal Affairs and the Foreign Affairs fields of the European Union, defining specific means and tools by which

the Union is capable to respond to current challenges in the international environment, from the migratory perspective.

Throughout recent history, on the European level there was a constant preocupation towards identifying posible solutions to the integration problems generated by the continuously growing number of immigrants. Therefore, the Treaty on the European Union introduces for the first time in the Roma Treaty the term "citizen" along with the firm comitment, that "the Union is a Union along nations" (Duculescu, 2003: 73). The first paragraph of the 8<sup>th</sup> article of the Treaty provides for a citizenship of the Union, furthermore stating that any person who has the nationality of a member state is a citizen of the Union. According to the second paragraph of the same article, all the citizens of the Union enjoy the rights and are bound to the obligations stated in the Treaty.

One cannot know now how the external migration will affect the size of the population of working age. If the economy requires a workforce that offers superior digital declining demographic imbalances will reflect upon the entire economic and social system. The worst facet of imbalances will be the ratio of economically active population and the elderly, the funds required by the rapid growth of the latter population and financial resources that society can provide drastic reduction of the population under age work from which these resources (Toanchină, 2006: 78). The employment increase in economic activity will only be able to cover part of the potential labor shortage. The problem of attracting foreign labor should not be neglected only strategies will require decisions well weighed all aspects, to avoid negative effects. Sectors such as construction, textiles and medicine, already clear labor shortage due to migration. The citizenship represents the political and judicial relationship between a person and a state, relationship that creates mutual rights and obligations. The state exercises its sovereignity upon its own citizens even if they are on the teritory of different states (Coman et. al., 2005; 201). The concept of European citizenship originates in the documents of the European Council in Fontainbleau in 1984. In the first stage, only the freedom of movement was considered, but, later on, they considered that the European citizenship should also regard the granting of rights that can be exercised regardless of the frontieres or other national limitations.

After prolonged discussions and expressing various points of view regarding this matter, the European Council in Maastricht in 9-10 december 1991 stated two essential conclusions: the recongnition of double citizenship and granting equal rights to all european citizens, regardless of their national origins. Regarding the recognition of double citizenship, the Council decided that, despite the fact that every person normally has the citizenship of his state of origin, that gives him certain rights and obligations, this does not exclude the existance of a european citizenship as a complement and not a substitution of the national one. The european citizen is still a citizen of his country, citizenship settled according to the internal laws. This conclusion was also reinforced by the manner in which the first paragraph of the 8<sup>th</sup> article of the Maastricht Treaty was formulated, stating that: "the Union respects the national identity of the member stated whose governmental systems are based on democratic principles". By analysing The European Constitution (Duculescu, 2003: 43-59), we realize that it follows the principles of the Amsterdam Treaty regarding the European policy regarding legal migration in the context of the current attempts to manage migrant flows and to create a clear legal basis to integrate third country citizens. The role of the European Union is to ensure the necesary support to create this policy, the primary competence in this matter being given to the member states, while the Union only solves issues regarding admission and residence, matter in which the Union settles mandatory rules for all the member states. This way, the European

Constitution introduces a change in the way of using the codecision procedure in the case of the frame documents regarding migration. to be more specific, the Constitution brings together the provisions of the Amsterdam Treaty ragrding: cooperation in the aim of harmonisisng national legislation regarding entry and residence conditions for third country citizens; ensuring equal treatment for third country citizens residing on the teritory of one of the member states and initiationg stronger integration policies (Piore, 1972: 97).

The issue discussed at an european level is that there is no clearly expressed policy in the field of migration and asylum, despite the fact that most European states are currently facing the growth of migratory flows. In may 2011 there were initiated a couple of actions meant to achieve a coherent construction in this matter, brought to the public attention by the Comission's Communication on the 4<sup>th</sup> of May 2011. The initiatives were further discussed during the following Justice and Internal Affairs Council, and contributed to setting a common ground for a discussion regarding an European policy for asylum and migration, discussion that took place within the European Council in Brussells, between the chiefs of states and governs of the member countries.

The European Union decided to take the following steps in order to transform migration policies in a model for action (Rea, 1998: 124): a. creating platforms to facilitate de exchange of information, such as web-sites (e.g. the "Migration Policy" site, European Migration Information Network-EMIN, the European Network for information regarding migration, COMPAS-The Center regarding migration, policy and society, a British center organized by the Oxford Academia); b. creating and adopting, by the European Council, a set of principles to highlight the fact that the integration consists in respecting and mantaining the fundamental European values; c. considering this frame of action, the Union adopted a set of measures, among which we recall (European Commission, 2010: 32): 1. launching by the European Comision, in 2003, of a program for financing the projects that aim to help migrants integrate, having as a main purpose their education; 2. adopting legal acts that facilitate the integration of migrants' family members. This is the case of the directives that rule the reunification of families, independently granting the right of stay to a family member after five years of legal stay, which gives the subject the right to stay on the teritory of the member state, even if the solicitor's right to stay ends; 3. creating an institution able to observe the migration phenomenon from all points of view and to understand all its dimensions, such as the European Migration Network.

The end of the transition period that limit the freedom of movement from Bulgaria and Romania in January 2014 have turned Europe in a zone in which the citizens from 32 countries – the 28 member states, along with Island, Liechtenstein, Norway and Switzerland – can live, study and work wherever they wish. Due to the evolutions achieved in fields such as the political, technological or tourism, crossing borders in the European space was very much facilitated. This situation brings along a delicate issue for those who study european mobility: many forms of cross-border circulation in the zone remain unknown in the official statistics (Salt, 2005: 123). The european citizens cross the border without being registered, and, many times, they remain unnoticed in the destination countries; they are being taken into account differently, depending on the departure or destination country. In Great Britain, for instance, the total amount of imigrants is being discovered by calculating the number of inhabitants born abroad, while in other countries, such as Germany, it is being determined by the number of inhabitants that are not national citizens (Piore, 1972: 114).

Migration is a phenomenon with implications for the community and has a strong effect upon family and community networks. One of the most important effects of

migration is felt in the community. Changes occur in the mentalities caused by contact with foreign countries, increased active social criticism and entrepreneurship (Anghel and Horvath, 2004: 88). These are positive effects to be included in local policies and promoted in the community. However, there are strong demographic changes, depopulated and aging communities living mainly from remittances. On the other hand, there appears the strict question about the impact of remittances on the need and production of public goods. According to the Eurobarometres, the freedom of movement is being regarded by the European citizens as the most important accomplishment of the European Union, ranking better than the Euro, reaching economic prosperity or even peace (European Commission, 2010: 32). Despite this, the European citizens have not benefited from this right as much as expected. When the freedom of movement regime was initiated 60 years ago, it was meant to encourage the workers to cross the borders in order to ensure the necessary temporary workforce so much needed in the industrial sector severely affected by the war (Preti, 1993: 29). Now, a considerable amount of europeans use this right. In 2009, 27,000 persons from the European Union were questioned regarding their experiences and intentions regarding mobility. The report, launched in 2010, indicates the fact that the european citizens coming from the states that became members more recently are more likely to be motivated to work abroad, and in the choice of the future destination country they are more likely to regard economical reasons, while the persons coming from older member states are more likely to regard aspects of the life style or culture in their decizions to migrate (European Commission, 2010: 32).

It seems that, at least for now, two different mobility patterns coexist in the current european space, and that these two groups are often being analyzed in somewhat different terms, depending on the resons on which the decision is based: when talking about the migrants with bigger incomes from the first 15 member states the expression "European mobility" is being used, while when reffering to those coming from the new member states, they are still being called "immigrants" (Porumbescu, 2010: 92). The social consequences of such difference in treatment are significant, because the letter ones are often being confronted with discrimination by the inhabitants of their host country. regardless of the fact that, at least from the legal point of view, they should benefit of the same status as european citizens. These names are only being used in the informal language, but despite this, creating and aplying different treatments among citizens continue in time and become even stronger, leading to the confirmation of the hypotesis of certain specialists, claiming that significant differences of treatment continue to exist inside the European space. If European democratic values are considered higher, inviolable values, they have to be maintained without creating sub-categories in the way Athenian democracy did with slaves and foreigners. While it may be accepted that foreigners have fewer civic rights - something that is a subject of debate in some EU member states and is in the process of disappearing with respect to nationals of member states – than the citizens of European countries, it is none the less essential that the core human rights considered inalienable be respected without reservation. It is also at this price that the model can be exported and transferred to the partners of the EU and the Council of Europe, or even firmly rooted in every European state.

The accession of Bulgaria and Romania increased the European Union's membership to 27 states and completed the fifth and largest enlargement of the European Union since France, West Germany, Italy, Luxembourg, the Netherlands and Belgium came together to form the European Coal and Steel Community in 1952. Following the declaration of the European Council in Copenhagen (1993), which allowed central and

eastern European states to apply for EU membership, Bulgaria and Romania applied in 1995. They formed part of a group of 12 European states with whom the Council started its negotiations and assessments in 1999. Unlike the other states – which formed the A10 – however, it was decided that Bulgaria and Romania would fail to meet the political and socio-economic joining criteria, the so-called "Copenhagen Criteria" in time for 2004 accession (Galgóczi, et al., 2009: 58). The Copenhagen Criteria included: democracy, the rule of law, human rights and respect for minorities; a functioning market economy and the capacity to cope with competitive pressures of the internal European market; the ability to take on the obligations of membership (in other words, to apply effectively the European Union's rules and policies).

The Commission has monitored these economic improvements along with the social and political situation of the two countries through regular reports. In April 2005 the Treaty of Accession with Bulgaria and Romania was signed in Luxembourg, membership being granted on January 1, 2007.

During the accession negotiations, a transitional period of seven years was established so that each old Member State could determine when it was ready to open its borders to workers from the new Member States. The transitional measures were based on a "2+3+2 model", where the restrictions on labor market entry of new citizens had to be reviewed after two years, and again three years later. A final two-year phase of restrictions was permitted only in cases of serious disturbances within the individual labor markets of the EU-15. Free movement between all Member States was thus to be guaranteed by May 2011 at the latest for the citizens of the countries that joined in 2004, and by January 2014 for citizens of Bulgaria and Romania.

However, the policy of the Member States regarding free access on the labour market for citizens coming from Romania and Bulgaria has been different from the one they had regarding the other central and eastern European states. The United Kingdom and Ireland reversed their initial open-door policies that made them attractive destinations for the citizens of the eight states in Central and Eastern Europe which joined the European Union in 2004, and declared that they would limit immigration from the two countries when they joined the bloc in 2007. Germany, Austria, the Netherlands, Spain, Denmark and Belgium have approved similar measures on restricting labor immigration from Bulgaria and Romania. France has agreed to the gradual opening of its labor market to workers from the two new member states. Italy considered different conditions for access to its labor market for Romanians and Bulgarians: The former were able to work there freely in exchange for Bucharest's willingness to cooperate on combating organized crime. Hungary also announced it would only partially open its labor market to Romanians.

The globalization process involved the transformation of modern societies in ones characterized by immigration, with a growing ethnic and cultural diversity, and also highlighted the need to integrate migrants in the social core. Nowadays, there are three defining patterns for the demographic evolution of Europe's strong economies: The decrease of the number of births, the increase of life expectancy and population ageing (Oezcan, 2004: 25).

During the past century both countries have been characterised more by *e*migration than immigration. However, even outward flows were tightly restricted during the Communist period. Immediately post 1989, both countries experienced a mass departure of ethnic migrants able to return home to Turkey from Bulgaria and to Hungary, Germany and Israel from Romania. Despite this initial exodus, emigration during the

nineties was slow due to restrictions imposed by EU member states and it was only after visa requirements for short term travel in the Schengen space were lifted in 2002 that a strong "culture of migration" began to take shape. In the latter half of the nineties, ethnic migration gave way to economic migration towards the more developed western European and North American countries. However, as the economic prospects of Bulgaria and Romania improve, the removal of this "push factor" will encourage more people to remain at home.

In an effort to ensure the coherence of European migration policy, the European Council adopted in December 2005, Global Approach to Migration. This concept integrates migration, external relations and development policy, addressing migration agenda a comprehensive and balanced manner in partnership relationship with the European Union member countries. The Global approach to migration is the most consistent and concrete manifestation of the close relationship between Justice and Home Affairs and the european external relations, defining the instruments through appropriate specific challenges which the Union may present the international environment in terms of migration.

In December 2006 the European Council endorsed the proposal to create, as instruments of the Global Approach to Migration, cooperation platforms on migration and development, bringing together third countries covered by this policy, the European Commission and Member States and organizations relevant to international migration. The communitarian instruments are designed to facilitate the exchange of information on migration and coordinate existing and future projects on migration and development (European Comission, 2011: 37). However, certain issues regarding the migration phenomenon still occur. For example, Member State governments continuously struggle with finding ways to manage public frustration related to the Roma population in a way that is compatible with European Union's legislation and universal human rights. Thousands of Roma, pushed from Romania, Bulgaria, and other countries of Eastern Europe by poverty and discrimination, live in illegal camps at the outskirts of large Western and Northern European cities (Sandu, 2010: 19). In the summer of 2010, France caused an international outcry by dismantling numerous Roma settlements and expelling those who occupied them, despite the fact these individuals were EU citizens with the protected right of free mobility.

Free mobility and the Schengen system are not static concepts, and the relationships upon which they are predicated will continue to evolve. While not likely to infringe on the overarching principle and practice of freedom of movement within Europe, it is possible that contemporary developments will continue to test solidarity and trust between Member States. But Europeans are not the only population that utilizes the right to free movement within Europe. Once within the borders of the European Union and the Schengen area, third-country nationals also benefit from free mobility in practice regardless of whether they have permission to legally reside or work in other countries – because of the lack of internal border checks. The implications of this reality, together with the contemporary challenges facing Europe's external borders, have placed significant stress on free movement. The zone operates like a single state for international travel purposes with border controls for travellers travelling in and out of the area, but with no internal border controls. It represents the globalized vision for community, security and freedom of movement, which makes its influence crucial to the European market economy and enlargement goals. Key rules adopted within the Schengen framework include the removal of checks on persons at the internal frontiers; a common

set of rules applying to people crossing the external borders of the EU Member States; harmonisation of the conditions of entry and of the rules on visas for short stays; enhanced police cooperation (including rights of cross-border surveillance and hot pursuit); stronger judicial cooperation through a faster extradition system and transfer of enforcement of criminal judgments; establishment and development of the Schengen Information System (SIS) (Coman, 2011: 97). These rules ensure the provision on common policy on the temporary entry of persons, the harmonisation of external border controls, and crossborder police and judicial co-operation. The Schengen zone is one of the most important achievements of the European Union, but in the current European context questions have been raised about the main gain of this concept, namely freedom of movement. Regarding the evolution of illegal migration in the past years, Romanian authorities have drawn two main conclusions. The first is that migration to the borders of Romania is insignificant compared to that of the European Union. Also, authorities have identified four major events with an impact at European level, which have raised concerns regarding Romania's and Bulgaria's accession to Schengen: the evolution of conflicts in North Africa, problems at the border between Greece and Turkey, the agreement on small border traffic between Romania and Moldavia and visa liberalization in the Western Balkans. However, none of these events had a major impact on migration to the Romanian borders, illegal migration to our country's borders in 2010 being estimated at about 3,800 people (Galgóczi et. al., 2009: 75).

The objective of a common European migration policy logically following on from economic integration - the Europe of the fifteen in the process of enlargement - and political integration – the Europe of the forty-four – might eventually be realistic. There are still numerous obstacles, all states considering immigration to be among their inherent prerogatives, but the realities on the ground are pushing them towards co-ordinated action in every field. SIS (Schengen Information System), Eurodac, Eurojust and Europol with respect to the subject under discussion, the Council of Europe, the Western European Union (WEU), the OSCE (Organisation for Security and Co-operation in Europe), the Euro-Atlantic Partnership Council (EAPC) with respect to political and security issues. the European Union, EEA (European Economic Area), OECD, EBRD (European Bank for Reconstruction and Development), and so forth, with respect to economic questions, are all bodies that address the issue of European integration in a broader framework, since the OSCE includes all the countries born of the break-up of the Soviet Union and the OECD all the western partners, plus Australia, New Zealand, South Korea and Japan. Directly or indirectly, each of these bodies has a division/directorate/ bureau for migration and mobility, whether economic or political (refugees with respect to the OSCE). The same is true of a large number of international organisations under the United Nations umbrella (such as UNHCR, ILO, Unesco, Unicef) (European Committee on Migration, 2002: 57). The question here is not mass movements - the Chinese diaspora, North African, Turkish or Mexican emigration, for example – or major incidents resulting from political crises – exodus of refugees, displacements of population – but the management of diffuse, continuous migration on the ground, the migration of individuals, some of them with their families, rather than emergencies.

Furthermore, from the legal point of view, one cannot mention an express migration policy on an European level as a common document, but a wide number of rules continue to apply in this field. At least for now, the regulations of every member state continue to apply in this field, being given the fact that the safety of the frontiers and the control of the population on the teritory of a state are being considered, from the

geopolitical point of view, some of the essential characteristics of national sovereignity, that the member states are not willing to give up (Sowell, 1996: 85; Marcu; Diaconu, 2002: 57). Anyway, notable evolutions have been recorded even in this field, more in the European case than in any other form of international organization. When considering the balance between the advantages of increased freedom in the matter of freedom of movement and the constrains of more demanding forms of control, one cannot neglect the fundamental aspect, which is the need to ensure national and individual safety. Therefore, the only way that the European citizens can really enjoy the freedom of movement and unrestricted acces to a free working labour, is imposing very strict controls regarding the way in which these policies are being applied in practice.

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