

THE ACQUIS IN THE FIELD OF MIGRATION

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Abstract

The International Organisation for Migration (IOM) considers migration to be a movement of a person or a group of persons across a border inside a state. Migration is a form of people mobility and includes any kind of population displacement regardless of duration, purpose or form. This category includes: refugees migration, economic migration and migration of people who move for other purposes and under the influence of other factors like family reunion.

International migration has an impact over the EU and its member states. Globalization and different international events have contributed to the increase of migration fluxes, especially during the past years. Therefore, the European states are developing their multi-ethnic character and cultural diversity. The EU proposes a global European policy meant to face the challenges of migration. The European policy is built upon European traditions regarding asylum and migration, taking into consideration human rights and humanity aspects, as well as benefits for the EU, migrants and their origin countries. Integrating migrants into the European society means an equilibrium between their rights and their native culture. This brings about benefits for both the migrants' origin country and the society they live and work in.

Key words: migration, European space, acquis communautaire, effects of migration

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1. Introduction

Every person has the right to movement, and this right has been acknowledged since 1948 when the Universal Declaration of Human Rights was adopted. Article 13 stipulates that “Everyone has the right to freedom of movement and residence within the borders of each state. Everyone has the right to leave any country, including his own, and to return to his country.”

The freedom of movement of the workers of the member states of the European Union was one of the first rights recognized within the community area (EEC Treaty – Rome Treaty, 1957, Regulations no. 1612/1968 regarding the freedom of movement of workers and the Directive no. 360/1968 regarding the right to residence of workers and their family members).

Within the Treaty for the establishment of the European Economic Community (EEC), the common market has at its core the “four liberties”:

- of persons;
- of services;
- of goods;
- of capital assets.

Currently, any citizen of the EU has the right to freedom of movement and residence in any member state. We cannot say the same for the citizens of the non-EU countries.

The acquis on migration is regulated by the Resolution of the Council of the European Union regarding the limitation on the admission of citizens from non-EU countries in the EU member states for employment or independent professional activities, as well as by the directives defining the illegal entry and its connecting offences, including sanctioning of the transporter. Also, the acquis regarding migration includes the obligations stipulated by the international conventions.

Given the different circumstances of migration (humanitarian reasons, economic reasons, etc.), the European Commission recommends the following:

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- Developing a national strategy for the control of migration in each member state.
- Promoting information services in the non-EU countries in view of promoting cooperation between consular services and local authorities.
- Increasing border control and sanctioning illegal migration, illegal transportation of migrants and human trafficking.
- Elaborating coherent and transparent policies to attract labour force from the non-EU countries that should be part of a European strategy. The needs of replacing the labour force in some European countries must be accompanied by simple transparent procedures of issuing work permits, but also fighting the black market labour and improving the conditions of migrant women.
- The relation with the migrants' origin countries must be developed towards the promotion of reintegration of returned persons.
- Promoting migrants' integration policies in the destination societies.

Procedures for the admission of persons in view of employment or carrying out independent activities must take into consideration some mandatory requirements.

Migrants who wish to carry out independent activities need:

- to provide documents regarding the nature, extent and duration of activity to be carried out;
- to provide documents regarding the number of employees needed for carrying out the activity;
- to describe the space the activity will take place in and to prove that this space is suitable for the activity;
- to prove that they have sufficient funds to begin and maintain the respective activity.

The permit for the migrants who wish to carry out independent activities (entrepreneurs) must be issued according to the law for foreigners in the respective country and must be included in written form, e.g. in the migrant's passport.

Exempted from these regulations are:

- persons having freedom of movement and the members of their families;
- migrants from outside the EU who have been accepted for family reunion;
- migrants from outside the EU who have been accepted according to bilateral agreements between the countries;
- migrants from outside the EU who have been accepted to follow studies.

The EU member states can exempt from such provisions those migrants who prove that they can invest appreciable amounts that are a real gain for the country's economy.

The admission criteria for the migrants who want to find a paid job are as follows:

- the job is offered by the employer to a person from a non-EU state considering the special requirements of that job;
- a vacant job is offered by the employer to a migrant from a non-EU state providing there is low demand for that job in the community and the employer's activity can be terminated if the vacant job is not filled up.

The convenience marriage of a person from a EU member state with a person from a non-EU state.

Possible indicators of this type of marriage are:

- partners do not live together;
- one of the partners does not respect the responsibilities of that ensue from the marriage;
- partners have never met before marriage;
- partners do not know important details about each other before marriage;
- partners do not speak a common language;
- money was paid for the marriage to take place;
- one of the partners' past proves other convenience marriages or residence problems.

Unaccompanied minors – each member state must give special attention to unaccompanied minors from non-EU states. Authorities must rapidly establish the identity of the minor and its statute as a person unaccompanied by parents or relatives. Minors have the right to asylum in the destination country. Returning minors is done only when the authorities of the member state are sure about the return in good conditions of the minor and the necessary conditions for care in his origin country. These liabilities must be proven by the parents or other adult relatives or by the competent authorities in the origin country.

The restrictive policy of some EU member states towards migrants takes into consideration:

- supporting internal labour force;
- diminution of illegal migration, especially from Eastern Europe and Africa
- the pressure exerted by NGOs and unions in the EU regarding the access of migrants to available jobs;
- the financial crisis;
- destabilising labour force markets.

2. Effects of migration in the European Union

Migration can be considered (Dobrescu, P., Bărgăoanu, Alina, 2001) „a faithful indicator of the well-being of the social organism and the result of cumulated phenomena, of which the most important is the continuous impoverishment of population”. Because of the unemployment rate increase some states have adopted a policy on the limitation of immigration, even though initially they would encourage it. We shall give only one example: Switzerland. Following the population census on the 8th of February 2009, the Swiss have adopted an agreement that facilitate Romanians and Bulgarians access to the labour market. They are issued work permits, limited as number until 2016, according to transitory measures. Still, the increased unemployment rate has determined Swiss authorities to examine the possibility to introduce some temporary restrictions for the community citizens on the labour market.

In order to avoid such reactions from other EU member state towards Romania, authorities promote an active policy of integration, without restrictions on the labour market, being able to give the Romanian migrant a credible image.

Within the context of Romania’s European integration and the possibilities offered on the labour markets in the EU member states, we highlight the preoccupation of Romanian authorities to find a safer and legal framework for emigration opportunities. Romanian legislation has been completed with a series of programmes, regulations and internal norms form specialty institutions that aim at the impact of migration on Romanian society.

Thus, we highlight the activity of the National Agency for Employment for the elaboration of useful preparatory, prevention and instruction materials for those who emigrate. These materials entitled *What I need to know to legally work in...*(respective country) contain pertinent data regarding the access and employment on the labour market, the regulation of work relations with the foreign employer, social security of Romanian workers, the recognition and equivalence of diplomas, etc.

We point out that those regulations are in accordance with the local specific of each country, so that the Romanian citizen can find a favourable framework for his evolution in the destination country.

Another aspect is the benefits migration has upon developing countries and destination countries. In the first case, it reduces poverty, unemployment, regulated unbalances existing on the labour market leading to salary increase and investment in human resources. The surplus in labour force does not only determine the increase and

rejuvenation of the labour market offer, but also the increase of consumption, thus of the general offer. As a result the GDP increases and the standard of living improves. The money sent by the migrants to their families back home contributes to the increase in their standard of living. Also, the money flux of immigrants decreases the pressure on the current account deficit and the balance of external payments. Saving emigrants incomes in the banking system also has a positive effect on economic development. A top on remittances issued by the World Bank places Romania 10th in the world, and 2nd in the EU. In the second case, migration is a challenge for the developed countries that want to attract migrants with high work qualifications in order to cover their economic needs.

It is currently very difficult to evaluate the foreign workers' contribution to the development of the destination countries' economies. Studies having as theme the evaluation of economic impact of immigrants do not treat them as a homogenous mass since a great percentage of the foreign workers is made of highly qualified specialists. They represent a viable alternative meant to cover the scarcity of highly qualified personnel in certain economic fields.

For the employers, the migrants' presence represents a great opportunity as it gives them the possibility to choose the adequate persons for these jobs, from the point of view of „qualifications and aptitudes”. Another advantage for the destination country economy is using the knowledge the emigrants acquired in their origin country. By setting up companies, jobs are created for co-nationals as well as for the citizens of the destination country.

In Andrei Banc's opinion, the presence of immigrants is beneficial for other reasons. In a study entitled *Migration of brains and arms*, he shows that despite a quite high unemployment rate Europeans „do not want to carry out unqualified or low qualified and consequently underpaid jobs.” The need to import, besides highly qualified specialists, millions of workers „of low or medium qualification” is critical and is due to the decrease and ageing of the population. The cited author arguments his ideas by appealing to prognosis studies that indicate the manifestation of these negative tendencies in the next decades. Under such conditions, there will be no one to fill up the vacant jobs or worse no one to pay taxes for the pensions.

A UN statistics shows that in order to keep the three active persons for a pensioner ratio and occupy vacant jobs, the European Union will have to annually „import”, for the period 2015 and 2040, roughly 6,1 million people. About 40% of Europe's population will be formed of immigrants and „their first generation descendants” in 2050. But this is not all there is to it, this modern migration will change the identity of the population. In 2050 Europe will have fewer inhabitants than today. That is why it has to choose: either to close its borders or „to accept the immigration of thousands of millions of people from Asia and north Africa”. Andrei Banc rhetorically asks his readers if they believe that in 50 years „millions of Romanians will be black or yellow, Muslim or Hindu, and our cities will have hundreds of Mosques”. He is the one to give the answer: „Everything repeats in history”. „Barbaric invasions” are waiting at Europe's gates, without weapons like two thousand years ago, without the desire to plunder or kill, but only with a wish for a better life”.

3. Conclusions

European democracies that wanted to keep illegal migration under control were forced to resort to international cooperation forms in order to stop this phenomenon because the measures taken by national governments did not have the expected success. International cooperation is sometimes faulty when providing refugees with decent living conditions. Although migration, especially „brains migration”, has positive effects on the

destination countries economy, it becomes a constant theme of election and press campaigns.

In the context of the present crisis, the reduction and stop of migration would only increase the economic deficit of countries dealing with labour market unbalance. The migration adversaries easily forget that in some countries half of the economic development is due to the foreign work force. Finally, the migration of highly qualified personnel represents a social risk factor both for the origin countries and for the destination countries.

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