

The European institutional actors in handling migration

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Abstract

International migration is one of the most defining phenomena for modern societies, and it has been, for the past couple of years, one of the main challenges the European Union has had to confront. Despite the fact that the positive effects of this phenomenon are not to be denied, and they are the topic of numerous researches, one cannot disregard the negative consequences, which are more and more frequently becoming a reason for concern for the public opinion and the policymakers. Therefore, creating an institutional and policy architecture aimed at responding these types of concerns has become one of the European priorities. The aim of this paper is to approach, in an interdisciplinary manner, the instruments of the European Union's institutions in building mechanisms enabled to handle this flows. The hereby study identifies the tasks of each of the main European institutions, as well as the part they have in the decision-making process regarding the establishment and application of effective policies in the field of migration. Therefore, the paper starts by briefly presenting migration in Europe and the regulations in the field of the freedom of circulation. The core of the article is focused on the tools and tasks of the main European institutions in the matters of migration, as described in the Treaties and developed in the European agenda on Migration issued in 2015. A distinctive part is dedicated to presenting the main provisions of this document and the results of the latest reports issued regarding its implementation.

Keywords: *Migration, European Union, institutions, policy, institutional tools.*

1. Migration in Europe. The freedom of circulation

Migration is most often influenced by a combination of economic, political, social and environmental factors, either in the migrant's country of origin (usually considered to be push factors), or in the country of destination (the so called pull factors). Historically speaking, it is often considered that the political stability and economic prosperity that defined the European Union's common space for the past decades exercised an important attraction effect upon the possible immigrants. In the destination countries, international migration can be used as a tool for improving specific deficits of the labor market, which usually lead to economic deficiencies. Despite its great potential, immigration, by its self, will not manage to change the current ageing pattern of the population registered in many areas across the European Union.

Migration is an important factor in the evolution of contemporary European

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societies, with positive effects such as: facilitation of economic integration and intercultural dialogue both regionally and globally, ensuring the necessary work force in the developed countries and better use of the work force in the countries of origin, generating financial flows transfers towards the less developed economies, facilitation of knowledge and technology transfers towards migrants` countries of origin, after they return home. However, these population movements often come at a cost, and the European Union invests great amount of effort in order to integrate migrants, prevent and fight illegal immigration and ensure better control at the external borders.

Considering these specifications involved in the influences and effects of international migration, the European Union, with the use of policies and institutions, seeks to build a functional system that regards both the rights and protection of immigrants, and the beneficial integration of these new members arriving in their societies.

Since the end of the Second World War, the economically developed democracies of Western Europe have had a long standing tradition of welcoming immigrants from less developed countries, in order to occupy vacant positions in the industry or service sectors. "The reconstruction of the European countries after the war imposed the need to increase the workforce, thus producing exchanges of workers between the countries that had unemployed workers" (Porumbescu 2015: p. 165). However, securing the frontiers of the territory is one of the main prerogatives of sovereign modern states. With the founding of the European Union, nation-states have passed part of this responsibility to the common institutions, as a form of deeper political integration, but the policies and tasks enforced by this process have lead, in certain situations, to severe "changes to national boundaries and rising concerns about immigration", thus accelerating the creation of new mechanisms as well as "ethically dubious border practices" (Stokholm 2015: p. 13).

International migration has a serious impact upon the European Union and its member states (Beldiman and Stepan 2017: p. 59). The globalization phenomenon, as well as different other events that occurred in the international arena, have significantly contributed to the growth of migratory flows, especially during the last couple of years. Therefore, the common European space spreads its multi-ethnic character and enriches in terms of cultural diversity. Being given this context, the European Union aims to create a global policy meant to face the current challenges of migration. The European policy is built on the European traditions regarding asylum and migration, considering both the respect of the human rights and the humanitarian aspects, and the benefit of the European Union, of the migrants and their countries of origin.

Integrating migrants in the European society is not a simple action, but rather a process, aimed to create equilibrium between their rights and the culture of the countries they come from. This is beneficial both for the migrant`s country of origin, and for the society they live and work in.

The citizens of the European Union member states who wish to move to another country across the European territory benefit from the freedom of circulation in the European space, one of the fundamental freedoms of European citizens forming the foundation of the European project. The 2004/38/CE Directive brings together, in just one instrument, the entire legislation regarding the entry and settling of European citizens. It was meant to simplify and reduce the formalities that need to be fulfilled by the citizens of the European Union and their family members in order to exercise their freedom of circulation and settlement.

One of the main priorities of the European Union's policy in the matter of migration is preventing illegal migration, as well as returning illegal migrants to their countries of origin. The Directive regarding return sets clear, transparent and equitable rules for returning third country residents in an illegal situation. The European Union's readmission agreements are essential for the proper enforcement of the policy of returning. The European Union has also established a series of naval operations to ensure the security of the European borders, in order to save human lives at sea and to fight human trafficking networks and those who smuggle immigrants illegally.

The European Council plays an important role in this field, by establishing the strategic priorities that are to be set in action. Based on these priorities, The Council of the European Union confirms certain lines of action and mandates third countries to negotiate. It also adopts legislation and defines specific programs. During the past years, increased attention was paid both by the Council and the European Council to providing a strong answer in various matters regarding human immigration. Furthermore, the Presidency of the Council also activated the integrated mechanism for political response to crises (IPCR). This offers tools to intensify the support provided for the Council's response in case of crisis, both politically, and in action, along with the European Commission, the European External Action Service and all the relevant Agencies involved.

Therefore, we can conclude that, in terms of policy regarding migration, the priorities acknowledged by the European Union are: cooperating with the countries of origin and countries of transit, strengthening the external borders of the European Union, handling migration flows and fighting immigrant smuggling, reforming the common European asylum system, ensuring legal migration paths and favoring the integration of third country residents.

2. EU institutional actors

One of the main question that rise when assessing the European Migration Agenda and all the other instruments that are meant to deliver the external dimensions of the common European policies, is "how" can the main institutional actors involved be recognized. In addition, an important focus is set on the need to identify the pattern of inter-institutional relations built, the agendas in which each of them is involved, and how they contribute to creating a secure space of mobility. The aim of this section is to present the tasks of each of the main common European institutions with competences over the external dimension of common migration policies. By scrutinizing the European Migration Agenda, we intend to highlight the changes and innovations included in this document by the European Commission and the European External Action Service (EEAS), especially regarding the procedures and tasks concerning the external migration policies.

2.1. The European Commission

Among the actors involved in the implementation of the actions in the field of foreign affairs and in the design and delivery of policy related tools in the matters of external migration, the European Commission takes a central role. "The competences and mandates of the different bodies of the Commission active in this field are various and there is a great deal of overlap and competing interests between its different Services and Directorate-Generals (DGs) which have contributed to the creation of a fragmented, disparate landscape of actors, competences and roles" (Carrera, Radescu

and Reslow, 2015: pp. 45-46). A new position as Commissioner on Migration, Home Affairs and Citizenship was created, in order to contribute to the sharing of tasks in a proper delivery of EU's external dimension policies. This position is meant to offer assistance on issues regarding the consequences of migration, enhancing border control, fighting illegal immigration and several external situations such as terrorism or radicalization. Despite these innovations being introduced, it is asserted that "no relevant change in the actual work and approach of the DG could be really discerned, apart from losing a high degree of political leverage in favor of the First Vice-President" (Carrera, Radescu and Reslow 2015: p. 50).

The European Commission designs the common policy for migration and asylum that allows it to handle the refugee crisis better. By this policy, Europe will be able to take advantage of its opportunities, and, at the same time, provide solutions to the issues caused by the intensification and cross-border mobility. Among these, we can recall: protecting those who need shelter, stopping irregular migration, saving lives at sea and securing the external frontiers of the European Union, guaranteeing the freedom of circulation for people in the Schengen space, better regulations in the matters of legal migration, better integration of residents from third countries in the European Societies.

2.2. The European External Action Service

The High Representative of the Union for Foreign Affairs and Security Policy, who is also Vice-President of the European Commission (HR/VP), was commissioned with the task to create a "coherent" and strategic position for the European Union on the international arena, by the use and enforcement of the provision of the European Treaties. In this context, it is the High Representative of the Union for Foreign Affairs and Security Policy who leads the European External Action Service, which is a diplomatic service meant to ensure the functioning and logistics for the role of the European Union as a global actor, thus providing the community of states with a single voice in international affairs. Among the issues in which the European External Action Service is called to provide consistency and coordination for the European Union the problem of international migration takes a central position (Carrera, Radescu and Reslow 2015: p. 49). The EEAS includes more than 130 Union Delegations in non-member countries and international organizations, which represent the rotating Presidency and the EU's common foreign and security policy (CFSP) abroad (Council of the European Union 2015).

The European Agenda on Migration also includes certain provisions regarding the 'external aspects', thus putting them together with the other aspects that form the European Union's migration policy agenda. For example, in the chapter dedicated to '*Reducing the Incentives for Irregular Immigration*', one of the key priorities is stated to be securing partnerships with countries of origin and transit and making migration a core issue of EU Delegations abroad: "Partnership with countries of origin and transit is crucial and there are a series of established bilateral and regional cooperation frameworks on migration in place. These will be enriched by stepping up the role on migration of EU Delegations in key countries. Delegations will in particular report on major migratory related developments in the host countries, contribute to mainstream migration issues into development cooperation and reach out to host countries to ensure coordinated action" (European Commission 2015: p. 8). Furthermore, the European Agenda on Migration also states that "Migration should be recognised as one of the primary areas where an active and engaged EU external policy is of direct importance

to EU citizens” (European Commission 2015: p. 7).

2.3. The Council

As representative of the European Union’s member states’ governments, the Council of the European Union occupies a central role as key actor in the designing and enforcement of legal and policy provisions in the matters of European Union’s external migration actions. Consequently, the High Level Working Group on Migration and Asylum (HLWG) as well as the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) have been created within the Council, being tasked to identify the key components for the European Union’s common migration policies. Due to the fact that national experts of the member states are also present in the High Level Working Group on Migration and Asylum and in the Strategic Committee on Immigration, Frontiers and Asylum, an important effect of the national policies and approaches upon the common decisions is noted. The recent meeting and documents issued by the Council of the European Union demonstrate on the influence of security upon the discussion regarding migration, usually motivated by the urgency to identify ‘solutions to migratory pressures’. Consequently, some of the Council Conclusions advocate for the need to ‘to further increase leverage in the fields of return and readmission, using where appropriate the "more-for-more" principle.’ (Council 2015b).

During the past couple of years, since the migration crisis has emerged, parts of the Council’s institutions with attributions in the field of external migration were subject to numerous discussions and reconfigurations. It was noted that, in order to make the Union’s actions more efficient, *further coherence and coordination are required between the EU institutional structures and working methods of the relevant committees and working parties* tasked with the strategic and operational implementation of the different actions in the field of home affairs and external affairs (Council 2015).

In this context, some authors even express their belief that “the exact ways in which these new institutional configurations will be implemented and how these will influence the Council outputs and instruments in the EU external migration policy call for careful examination. Their implications for the kind of policy outputs will need to be carefully monitored” (Carrera, Radescu and Reslow 2015: p. 53).

2.4. The European Parliament

Several specialists in the field of external migration stated that, in part, the external dimensions of EU migration policies are currently affected by a democratic deficit (Carrera, Sagrera, Hernandez, 2009: p. 15). One of the main innovations brought by the entry into force of the Treaty of Lisbon is the transformation of the European Parliament in a co-legislator (Carrera, Hernanz and Parkin 2013: p. 2; Ilie Goga 2013: p. 105), along with the Council of the European Union, somehow reducing the monopolistic position retained by the latter European institution in the process of legislative decision making. From this new position, the European Parliament has become more actively involved in the legislative process regarding international migration and all the other components regarded in the Treaties, as well as in concluding international agreements in this matter. Despite this new institutional settlement, it is not always very clear the position and involvement of the European Parliament in the negotiations between the European Union and third countries in the matters that regard the design and setting of priorities in international agreements, while

the part it plays in these arrangements continues to be mainly ad hoc (Carrera, Hernanz and Parkin 2013: p. 12). In addition to this, most of the situations and measures adopted so far by the European stakeholders prove that the instruments used in the development of the European Union external migration policy belong rather to the spectrum of “soft/policy instruments”, including the communications regarding the Common Agendas on Migration and Mobility or the Mobility Partnerships, thus reinforcing a possible conclusion that the European Parliament has a secondary role in the decision-making process and the democratic control and transparency it should bring to the table, as the most representative common institution, are of less importance in this highly disputed and increasingly dynamic matter.

3. The implementation of the European Agenda on Migration

In May, 2015, the European Commission issued a communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions regarding a European Agenda on Migration (European Commission 2015). This Agenda was drafted in the context of intensive arrivals of immigrants on the European Union borders, seeking for a safer environment and better protection from the states. According to this document, the Europeans “need to restore confidence in the ability to bring together European and national efforts to address migration, to meet our international and ethical obligations and to work together in an effective way, in accordance with the principles of solidarity and shared responsibility” (European Commission 2015: p. 2). Throughout its reading, this document reinforces widely accepted liberalist principles as a common ground for the European nations in their approach to the massive amounts of immigrants arriving on their territories. They are most often regarded and referred to as persons in need of assistance, seeking help and safety.

At first glance, the European Agenda on Migration seems to bring back a humanitarian emphasis on the priority given to the respect of human rights and integration of the immigrants in the host societies. Also, it is often noted that “because immigrants are at the intersection of different nation-state societies, one is inclined to interpret repressive policies toward them in ‘nationalist’ or ‘racist’ terms. However, this has the smell of yesteryear –liberal constitutionalism rules out these possibilities” (Joppke 2007: p. 17).

The current Agenda on Migration is, without doubt, a step forward from the previous European documents trying to handle the migratory flows, often thought to over highlight the “equality of treatment, irrespective of one’s ethnic origin or any other descriptive marker”, thus creating a “stock-in-trade of all liberal societies, and guaranteed by their constitutions”. However, at the moment when this Agenda was issued, a different normative framework had already been designed, in what had been, at that time regarded as: “to enforce this by explicit antidiscrimination laws, which lowers the hurdle of claims-making for the victims of discrimination and – above all – expands the reach of the nondiscrimination principle from the public to the private sector, is a novelty” (Joppke 2007: p. 6).

The latest reports on the implementation of the European Agenda on Migration show that significant progress has been made. In November, 2017, it was declared that the joint efforts that aim at creating a better protection system for the European frontiers, cooperation with partner countries in order to eliminate the deep causes of irregular migration, improving the protection of migrants and fighting smugglers show

real results, such as the decrease, in 2017, by 63% in the total number of illegal border crossing along the main migration routes (according to a press release issued by the European Commission in November, 2017). However, the internal and external agreements in the matter of migration are interconnected and depend on the degree of international cooperation, so the European Union, the member states and their external partners should continue to work together in order to maintain the intensity of the European Union's efforts in all directions and thus better handle migration together.

The report issued in May, 2018, states that the common efforts of the European Union continued to pay off, but the situation remains risky due to the pressure exercised by migration, as shown by the rapid growth in the number of people arriving on the Eastern and Western Mediterranean routes. In this context, the entire European Union should demonstrate vigilance and the necessary degree of preparation to respond to possible seasonally peaks and route changes. Among the aspects identified as needing a better response by this report were: eliminating the persisting deficiencies in the activities of frontier police and coast guard, improving the return system, creating a better relocation system and improving the protection offered to immigrants along their routes.

4. Conclusions

Without doubt, international human migration is one of the greatest challenges that the European Union is called to provide answers to. Along with the social challenges, issues of security are also involved in this process, and finding a common way between national sovereignty and common European interests has not been easy. As some authors assert, "the nation-state model seeks to simplify a world that was always more complex. If the organizational idea fails to provide people with some measure of human safety and livelihood, migratory movements are no doubt set in motion" (Stokholm 2015: p. 10). By

A thorough analysis of the European institutional framework designed to enforce the common policies regarding immigration leads to the conclusion that "the proliferation of anti-discrimination laws and policies reflects Europe's structural transformation into a multiethnic society, as well as a general willingness to tackle the specific inequalities that go along with it" (Geddes and Guiraudon 2004).

The obvious advantages of immigration, even in the destination countries, are well documented by numerous recent studies. However, it is undeniable that taking advantages of immigration can only be possible if the immigrants manage to conduct a proper process of integration in the host communities. Obviously, this is a bi-directional process: the immigrants need to respect the values and rules of the societies that welcome them, while the latter must provide them with all the opportunities they need to take part in the life of the community. According to this principle, the immigrants should have the possibility to learn the language used in the destination country, to work and study, thus enjoying the plenitude of rights provided for the European citizens. The current institutional and normative architecture of the European Union in the field of migration represents a model of successful advance in this matter, being built around the consecrated principles and ideas of equality, freedom, and respect, characteristic for the democratic regimes.

References

- Beldiman, D. and Stepan, O.M. (2017) "The cohesion policy of the European Union: alternative funding mechanisms of the Romanian economy", *Sociology and Social Work Review*, (1), 58-67.
- Carrera, S. and Hernandez I Sgrera, R. (2009) *The Externalisation of EU's Labour*, Document 321/2009. Brussels: Centre for European Policy Studies.
- Carrera, S., Hernanz, N., Parkin, J., (2013) *The 'Lisbonisation' of the European Parliament: Assessing progress, shortcomings and challenges for democratic accountability in the area of freedom, security and justice*, Brussels: Centre for European Policy Studies.
- Carrera, S., Radescu, R. and Reslow, N., (2015) *EU External Migration Policies. A Preliminary Mapping of the Instruments, the Actors and their Priorities*, Eura-net, [online] Available at: http://www.uta.fi/edu/en/research/projects/aura-net/publications/TASK%203.1%20REPORT_UM_CEPS_final_v4.pdf [accessed 29 February 2018].
- Centre for European Policy Studies. CEPS (2009) *Immigration Policy: Towards Mobility or Insecurity Partnerships*, CEPS Working Paper.
- Council of the European Union, (2015a) *Annual report from the High Representative of the European Union for Foreign Affairs and Security Policy to the European Parliament*, [online] Available at: https://eeas.europa.eu/sites/eeas/files/st_11083_2015_init_en.pdf [accessed 21 January 2018].
- Council of the European Union, (2015b) *European Council meeting – Conclusions*. EUCO 26/15. Brussels: Council of the European Union.
- Directive 2004/38/CE, [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=DD:05:07:32004L0038:RO:PDF> [accessed 10 May 2018].
- European Commission (2015) *A European Agenda on Migration*, Brussels, [online] Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0240&from=EN> [accessed 20 May 2018].
- European Commission (2017) *Raport cu privire la progresele înregistrate în contextul Agendei europene privind migrația*, Bruxelles, 15.11.2017.
- European Commission (2018) *Raport cu privire la progresele înregistrate în contextul Agendei europene privind migrația și al Fcii de parcurs a Comisiei din decembrie 2017*, Bruxelles, 16.05.2018.
- Geddes, A., Guiraudon, V., (2004) "Britain, France, and EU Anti-Discrimination Policy", *West European Politics*, 27:2, pp. 334–353.
- Ilie Goga, C. (2013) "European Union –Example of Good Practice in the Area of Regional Social Policy", *Revista de Științe Politice. Revue des Sciences Politiques*, 40, 100-111.
- Joppke, C., (2007) "Beyond national models: Civic integration policies for immigrants in Western Europe", *West European Politics*, 30:1, 1-22.
- Porumbescu, A. (2015) "Outlook on the history of migration in the XXth century's Europe", *Analele Universității din Craiova. Istorie*, Anul XX, Nr. 2(28)/2015, pp. 161-170.
- Stokholm, T. (2015) *The Mediterranean Migrant Crisis: A Critical Challenge to Global Nation-States*. London: University of East London, Centre for Social Justice and Change. Working Paper Series No. 3.