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European Perspectives Approach to Asylum and Migration

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Abstract: Migration is a complex process, with a multinational character that can not be managed only unilaterally or bilaterally, but through effective management to take into account the benefit of all involved and changing characteristics of the migration process. Regarding the European Union, framed in the general context, it aims to promote a comprehensive migration policy, to provide a coherent and efficient manner to meet the challenges and opportunities that migration presents. Multilateral approach under consideration covers all phases of migration, aiming to seize them and present it at the same time, to implement effective policies and measures concerning illegal migration and human trafficking. It is based on generally accepted principles relating to subsidiary, proportionality, solidarity and respect for law and the economic and social. From this perspective, the present study examines the quantitative aspects of migration as well as qualitative aspects, with emphasis on the challenges that they face Romania, from the status of EU member country.

Keywords: control of migration; asylum procedures; integration of immigrants

Population decline associated with the decline of qualifications at European level will cause a decrease in the future working population in Europe. Appears the need of finding solutions to eliminate the negative effects of population decline. In this context the EU has opened to migrant workers from third countries. Thus, legal immigration is now seen as a way to balance the working age population decline in Europe. It is considered however that a controlled migration to the EU space policy is more beneficial than leaving it up to each Member State Migration. Consequently there was a common immigration policy at EU level, which shows openness to labour from third countries. Changing migration policy at EU level is marked by the Communication on Immigration, Integration and Work Commission in June 2003.

Simultaneously, EU migration policies have focused on four issues to effectively manage the migration process:

- policies for the regulation and control of migration flows;
- policies to combat illegal migration and employment of foreign workers;
- policies for integrating immigrants;
- policy on international cooperation in migration.

These policies are reflected in EU directives, as well as strategies and programs adopted in the field of migration. They are based on a coordinated approach to the problem of migration, both as to the legal and illegal, for the benefit of EU countries, but also of the supplying countries.

Policies and legislation on asylum is a distinct field of European regulations on migration. This should be first noted the distinction between asylum seeker and other categories of migrants. Thus, while migrant choose to leave their home country due to economic, social, cultural, family, etc., Asylum

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seeker / not received a form of protection (refugee status, subsidiary or temporary protection) is forced to leave their home country because his life or freedom are threatened.

International agreements set the obligation of signatory states to ensure free access to the asylum and the principle of non-refoulement (prohibition of measures of return, expulsion, extradition of the asylum seeker or the person is during the procedure to apply for asylum, accompanied by providing necessary assistance during the development of the asylum and then, when people receive some form of protection. (Constantin et al., 2004, p. 19)

The main programs of the European Union, that consider migration include:

- The Tampere (1999) introducing common policy on asylum;
- The Hague (2005) for strengthening freedom, security and justice in the European Union, followed by Solidarity Programmed and Management of Migration Flows for the period 2007-2013 (2006).
- The Hague (2005) has established ten priorities of the European Union to strengthen the area of freedom, security and justice in the next five years. Among them, more direct reference to the issue of migration:
 1. strengthening citizens' fundamental rights and
 2. fight against terrorism;
 3. defining a migration approach equilibrate;
 4. establishment of procedures for asylum communes;
 5. maximize the positive impact of migration;
 6. developing an integrated management of external borders of the union;
 7. achieving a balance in the exchange of information;
 8. develop a strategy for tackling organized crime;
 9. establishing a European area of justice original;
 10. shared responsibility.

Regarding legal migration, there are four main areas that are envisaged in the Plan on legal migration and integration of migrants:

- Legislative measures in the field of labour migration;
- Access and information exchange;
- Integration of migrants;
- Cooperation with countries of origin.

Legislative measures for labour migration in the European Union are considering proposals for directives, including a general direction and three specific directives (for highly skilled workers for seasonal workers, for employers who contract the illegal labour force):

1. Proposal for a Council Directive on application of a single procedure for a single permit to citizens of third countries to live and work within a Member State and on a common set of rights for workers from third countries legally resident in a Member State is a general directive proposal which was submitted to the Council in October 2007.

This suggests two important rules:

- a) existence of a single procedure for requesting the right of residence and the right to work, the only procedure to be followed by followed by the release of a single administrative document encompassing both a residence permit, as well as on the work. Single permit is issued by Member States in a unique format as a model provided by Regulation (EC) no. 1030/2002.
- b) that a number of workers rights in third countries by providing them equal treatment with national workers in relation to: working conditions, freedom of association, education and training, recognition of diplomas, certificates and professional qualifications, social security systems the payment of pensions, tax benefits and access to goods and services for individuals (including to obtain a home or to fill a job).

2. Proposal for a Council Directive on the conditions of entry and residence of citizens of third countries to high employment grade (Blue Card), is a proposal for a Council Directive specifies sent in October 2007. The proposal regulates the admission of highly skilled workers (university degree) in the employment of highly qualified job in an EU member. A highly qualified applicant from a third country who asks to be allowed for work in an EU country must prove the existence of a valid work contract or binding job offer and the conditions under national law. Those who have the European Blue Card accepts the application received for a period of two years (or duration of employment plus three months) based on which have the right to perform work for which they sought admission to the first state in the EU.

After two years they receive the same rights as nationals of third countries the right to stay and work in the long run, being able to move in a second Member State for family. Member States shall:

a) the volumes of admission of nationals based on his own labour markets. They can preference to EU citizens in relation to nationals of third countries;

b) who may apply for a European Blue Card, national or employer.

3. Proposal for a Directive of the European Parliament and the Council on conditions of entry and residence of seasonal workers was sent to Council in March 2002. The proposal establishes the general principle of non-discrimination as temporary workers about working conditions and employment, to those who held the same job, but are permanent employees.

4. Proposal for a directive providing for sanctions against employers of third country nationals illegally staying was sent to Council in May 2007. This proposal concerns the participation of employers to reduce illegal immigration and requires employers to check whether a third country national holds a residence permit valid for the employment and notify the competent authorities on hiring a new national of a third country (so they can check the veracity of documents). Employers that do not comply will be fined, will contribute to the costs of repatriation of illegal immigrants will pay all their arrears of wages, as well as taxes and contributions related to the state. Also, these sanctions are proposed and other employers, such as exclusion from the opportunity to benefit from aids and public subsidies, to participate in public procurement, etc..

In regard to access and exchange of information, is considering the creation, development and improvement of the media in migration: a portal of the European Union which will access the EU policies and acquis relevant EURES network etc. Integration of legal immigrants is another priority of the European Union's migration. Social and cultural integration of legal immigrants is considering their access to education and training through information with packet information, the language and civic orientation courses, etc..

Cooperation with countries of origin is a fourth direction of EU action in the field of migration. It aims to identify countries of origin of immigrants in various skills and increase awareness in these countries about the possibilities for legal immigration into the European Union. It also will be considered as meeting the needs of EU Member States, as well as the countries of origin. Enhancing labour mobility within the European Union as one of the main goals of the Lisbon strategy is pursued in the European action plan on job mobility for 2007-2010.

It sets out the main directions for future action followed by concrete objectives, as well as four priority areas for action:

- improving existing legislation and administrative practices;
- providing policy support for mobility from authorities at all levels;
- strengthening EURES
- increase awareness about the benefits of mobility.

Improving existing legislation and administrative practice is a first priority area in order to increase labour mobility within the European Union. It starts from the fact that one of the main aspects that influence labour mobility at Community level is to ensure that migrant workers do not lose their social

protection. Currently, this is covered by Regulation (EEC) no. 1408/1971 on social security schemes to employed persons and their families moving within the Community and subsequent amending regulations.

Given that appeared new types of mobility (for example by hiring temporary seasonal periodic oscillation between home and destination country) are not protected by existing social regulations, the question whether legislation is necessary to change one part and adaptation of administrative practices in the field, on the other.

Regarding improvement of administrative practices, they have already taken steps to better administrative cooperation between institutions and national authorities. This follows the end of 2009 the administrative exchange of information between national institutions in European Union countries, to be fully electronically, the introduction of a European health insurance card electronically, providing consultations and exchanges of information online. (Lazaroiu, 2002, p. 32)

Providing policy support for mobility from authorities at all levels is a second field prioritar plan. It aims to encourage geographical and occupational mobility within the Community to achieve the national strategy for employment and lifelong learning. It will consider removing obstacles and promoting current practice "fair mobility"(by against social dumping and undeclared). To support mobility, Member States are encouraged to implement the European Qualifications Framework.

Another area for strengthening the EURES (European Employment Services Labour Force) as the main instrument of information about the availability of jobs in EU countries. EURES has created a unique portal in 2006 includes all offers of jobs in the national public service employment, available in 25 European languages. The EURES wants to improve their work by: providing more information, expanding services to new categories of workers (long-term unemployed, young workers, researchers, seasonal workers), increasing the amount of information collected about mobility flows; possible extension of services to nationals of third countries (in a first phase from the country of origin information related to procedures to be followed to access the labour market in the EU). Increasing awareness of the benefits of mobility is the fourth priority area of the plan. It overlooks carrying out activities to raise awareness about workers rights and benefits of mobility by enhancing information sharing and disseminating good practice.

For this purpose will be organized every year activities such as "European Job Days" will create networks of cooperation between stakeholders, will disseminate the latest achievements in the field and lead to new innovative programs.

In terms of illegal migration, the Hague Programmer has made a balanced approach to its insights in the fight against illegal migration, which itself is associated explicitly fight against trafficking in persons, especially women and children. Subsequently, the European Commission has set political priorities, solutions and measures to combat illegal migration priority components (COM/2006/402/final).

Basically, they refer to:

- Continue dialogue and cooperation with third countries on migration, especially those in sub-Saharan region and the Mediterranean to participate in the EU neighbourhoods policy Will be considered to address the causes of migration in countries of origin (poverty, conflict, environmental degradation, etc. n.) And capacity building assistance to these countries to carry out management of migration flows and fight against human trafficking.

- Securing the borders, including "e-borders". To analyze the potential risks and the hazards will be extended system under which some carriers are obliged to report data in travel documents of passengers by authorities performing external border controls.

- Creating an integrated border management model, by identifying best practices.

- Ensuring the security of travel documents and identity by developing common guidelines intended to establish minimum standards on procedures for the granting / issuing travel documents or identity.

-Combating human trafficking by developing mechanisms for coordination and cooperation, promoting best practice identification and victim support, development of guidelines for data collection, involving international organizations and NGOs.

- Combating illegal employment by adopting and implementing measures that would require employers to verify the status of status in terms of entry and residence rights of third states before being hired. Will be established for this purpose and responsibility of the employer, including financially, for employment of nationals of third countries who are in situations of illegality in the Member States. Other measures aimed at ensuring health and safety at work.

- Completion of negotiations on readmission agreements for removal of the EU of illegal immigrants, focusing on countries in the Western Balkans. A particular importance will be given to training staff involved in implementing the return.

- Enhance cooperation between liaison officers on immigration issues (ILO), to maximum use of available information. Priority will be networking ILO African countries and the Western Balkans area.

- Establish clear and transparent rules for returning citizens of third countries which do not meet the conditions of stay in EU countries.

Controlled immigration aims to promote free movement of persons within the European Union, but also facilitate admission of third country workers. Measures proposed by the national strategy in Romania, are in accordance with the Hague Programmer and the EU common policy on legal immigration.

- a.1. Providing administrative framework required to exercise the right to free movement and residence of citizens of European Union Member States by providing appropriate legal and institutional framework
- a.2. Fostering the admission of third country nationals for work will be done according to labour market needs in Romania through: establishing admission quotas for work, facilitating access for limited periods of certain socio-professional categories that are deficient domestic bilateral agreements between Romania and other countries for admission Romania workers for work.
- a.3. Encouraging admission of third country nationals for carrying out commercial activities and business that have major potential in making investments and creating jobs in Romania.
- a.4. Promoting an efficient selection of citizens from third countries to study in Romania, so that their level of training to help them stay any further after completion of studies to conduct the benefit of Romanian society.
- a.5. Development and efficient management information systems in managing immigration on national territory. It aims to create high performance systems to be interconnected nationwide in their central system is National Visas, Migration and Asylum.

The main actions to be undertaken in accordance with European legislation refer to:

- b1. Ensuring access to the asylum and the principle of non-refoulement, special attention being given to cases of persons residing in Romania, but the real need of international protection, the necessary regulation of their status.
- b2. Prevent, deter and punish abuse of asylum procedure, by applying the criteria of efficiency and quality of procedures, policies and practices.
- b3. Providing and maintaining Romania's capacity to assume the responsibilities and obligations of EU membership Asylum, which involves, inter alia, an active contribution to the mechanisms of division of labour between countries receiving asylum seekers and refugees.

- b4. Providing an active role in developing legal and institutional framework and building functional asylum systems in eastern and south-eastern Europe, to countries such as the opening of the ex-Yugoslavia or the Republic of Moldova. In this respect will strengthen cooperation with the authorities of EU Member States as well as with international organizations - O.I.M. and U.N.H.C.R.
- b5. Improving the reception of asylum seekers and research information from their home countries by solutions to the opportunities offered by the European Refugee Fund and Integration Fund Social integration of foreigners is to:
 - c1. Support active participation of foreigners who reside or have resided legally in Romania the social, economic and cultural country, which will contribute to their integration into the host country society, while preserving their cultural identity.
 - c2. Protecting vulnerable groups and victims of persecution based on gender/sex, unaccompanied minors, victims of torture, people with disabilities, people age
 - c3. Providing access to all foreigners who live or reside on territory of Romania the procedure for obtaining Romanian citizenship.
 - c4. Adequate training of personnel involved - civil servants, contractual personnel, people with leadership, staff in health services, education, welfare, to respect cultural differences, religious, physical and psychological needs of people undergoing integration. It will focus on the development of programs of education and training of these staff.

If by 2007 the priority concerns were focused on legislative and institutional harmonization in order to fulfil the *acquis* after accession to the EU. Romania has new obligations that derive from the status of EU member country. From this perspective, we fully share the view expressed by the National Strategy on Immigration in the period 2007-2010 that "migration is a process to be managed and not a problem to be solved". It relates to the migration target from early this century, decisively marked the implications of globalization.

Romania currently has well developed strategies, policies, action plans to manage migration, but the biggest challenge, real, occurs when they have translated into practice. In this direction there must be a modern management, performance, to ensure the best use of human and material resources allocated to this process. Therefore we present below a series of recommendations and proposals aiming at improving policy and practice of migration in Romania, from the state of existence. From a legal perspective, Romania has transposed the *acquis* communitarian in the field of migration. But bear in mind that the changes currently taking place migration policies at European level with the trend toward greater openness to attract labour from third countries. These policy changes attract new directives whose requirements must be implemented nationwide. Romania will have to continue to align policies and permanent migration in EU legislation, which currently experience a stronger dynamic.

In Romania there is a very complex institutional framework, but also very fragmented, leading to deficiencies in communication between the institutions responsible for migration, and even between departments within the same institution, which have different competent in the field of migration. Appears the need for better cooperation, coordination and information between the management and inter-institutional migration process. Of great utility as an integrated information system with the participation of each institution and information that is accessible all institutions and departments.

Frequent institutional changes through reorganization, establishing and ending the institutions and within institutions directions led to a high turnover of staff so that continuity is lost in many cases occupying certain positions with consequences that going concern. Many people are newly engaged or have little experience in a newly created or reorganized institutions, and in conditions of strong dynamic operating systems and institutional frameworks, resumes activity almost from scratch in new directions with new people, losing many or previous experience very helpful in this area. It is therefore

necessary to attempt to stabilize the personnel involved in activities related to the migration process once it has specialized in this activity.¹

Staff turnover, with insufficient coordination and information between departments and institutions may be another explanation for the weakness, that lack of vision and an overview of the employees of various institutions, involved in various activities in the field. Each knows his own work to be performed today, but has less knowledge about the activities of colleagues from other departments and institutions dealing with other aspects of migration. Therefore, we had a much better coordination between departments and institutions better information and mutual knowledge "about each other" in respect of the activities, tasks, objectives follow employees from different departments / institutions and how they can be linked and coordinated between them.

There are a large number of NGOs that are involved in migration issues (especially regarding asylum). Better cooperation with state institutions such organizations would contribute to better management of migration. Unlike state institutions, these organizations have a greater continuity of their activities, organizational structures, many of them benefiting from support and international experience.

If not otherwise, at least in terms of turning the experience of these institutions can be more cooperation between governmental and non-governmental organizations. An example of good practice for the purposes mentioned is the collaboration between the Romanian Government (ROI) and the ILO for a program of voluntary repatriation of foreigners residing addressed.

From financial perspective, it is necessary to administer effective, rational management of funds allocated for migration - internal and external sources, primarily from European funds. In some cases requires, besides increasing the absorption of funds allocated for solidarity and management of migration flows, rethinking allocations, specifically for asylum seekers, refugees, return, border security.

These must be accompanied by concerns administratively for staff training, ability to identify real needs, to develop viable projects. In the current European context of migration and the problems facing workers Romanian, Romania should make their position known as vigorous campaign for change and vision for mobility and labour migration: they are two interrelated concepts, which should describe different realities, namely the mobility of citizens of the old Member States versus migration of citizens of new Member States, which would lead to the equal treatment of all European citizens.

About asylum seekers and refugees, basic requirement, rational basis for management is to recognize the difference between the two groups and their treatment correlated: the numerical, asylum seekers are far less numerous than refugees, in fact, request for asylum is a transient state to refugee status or other forms of protection, which requires dealing with requests in terms and procedures established by law, finding the most appropriate response particular claim, followed by implementation, the policies and differentiated management, appropriate measures chosen solution: acceptance / integration - rejection - repatriation.

Although in the past Romania among countries was not flooded with requests for asylum is considered a transit country on the route to other European countries after EU accession is expected that soon become a target country, although deriving implications in terms of strategies, policies and management in the field.

In the illegal migration should be given special attention trafficking, a phenomenon increasingly worrying, multi-dimensional: it is a serious violation of human rights, economic and social phenomenon with negative consequences for society, an aspect of public health and one criminal order, the traffickers are criminals (and victims).

A change whose implications should be treated with all the attention is overcome, recently, the share of persons exploited sexually exploited share the work. It is accompanied by decrease in comparison with previous periods, the share of women victims of trafficking victims in total. In our opinion efforts

¹ MIRA (2008). Immigration and Asylum in Romania - 2007, Ministry of Interior and Administrative Reform, Bucharest.

in institutional, technical and operational plan to combat trafficking must still combine with the Romanian society's awareness about this issue. Continuation and expansion of information campaigns should contribute to the awareness of public on the difference between human trafficking and various antisocial acts such as prostitution, theft etc. It also requires inter-institutional capacity building especially after the return of persons who were victims of trafficking for their reintegration and treatment of traumatic shock consequences.

References

ANITP (2007). Report on trafficking situation in Romania, January-June 2007, National Agency Against Trafficking in Persons, Bucharest, September 2007.

Constantin, Vasile; Preda V. & Niculescu, L. (2004). *Migration from the perspective of Romania's accession to the EU* (bilingual edition - Romanian and English) p. 33.

Delcea. M. (2002). *Legal Protection of Refugees in International Law*. Timisoara: University Press Publishing, p. 15.

Kozak, D. (2007). Romania: labour migration trends and Reasons. European Conference on Mobility on Workers Labour Market, Gdansk, April, 2007.

Lazaroiu, S. (2002). *Circular migration of labour from Romania. Consequences of European integration*, p. 42.

MIRA (2007). *Immigration and Asylum in Romania - 2006, Ministry of Interior and Administrative Reform*, Bucharest.

MIRA (2008). *Immigration and Asylum in Romania - 2007, Ministry of Interior and Administrative Reform*, Bucharest.

Nicolescu, L. & Constantin, D.L. (2005). Romania's External Migration in the Context of Accession to the EU: Mechanisms, Institutions and Social-Cultural Issues. *The Romanian Journal of European Studies*, No. 4/2005, p. 28.

*** www.arca.org.ro

*** www.e-migration.ro/

*** www.muncainstrainatate.anofm.ro/

*** www.oim.ro

*** <http://anitp.mira.gov.ro>