

IS THE EUROPEAN AGENDA FOR MIGRATION A THREAT TO THE SECURITY OF THE EU'S EXTERNAL BORDERS ?

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ABSTRACT:

THE PROTECTION BY MEMBER STATES OF PEOPLE WHO, FOR VARIOUS REASONS, SEEK LEGAL MEANS TO MIGRATE TO THE TERRITORY OF ANOTHER STATE, WAS THE FOUNDATION OF THE EU'S PRIMARY OBJECTIVE OF SECURING AND GUARANTEEING ONE OF THE FUNDAMENTAL FREEDOMS, NAMELY THE FREE MOVEMENT OF PERSONS. THE EUROPEAN MIGRATION AGENDA OF 2015 COMBINES INTERNAL AND EXTERNAL POLICIES SO THAT EU INSTITUTIONS, SOCIETY, LOCAL AUTHORITIES AND GLOBAL ORGANIZATIONS PROVIDING ASSISTANCE TO MIGRANTS IN ORDER NOT TO FACE OBSTACLES, AND THEIR INTEGRATION TO BE, INTO NEW COMMUNITIES, MUCH EASIER. BUT WITH THIS FREEDOM, EU COUNTRIES ALSO FACED PHENOMENA THEY DID NOT EXPECT, SUCH AS THE EXPLOITATION OF MIGRANTS BY CRIMINAL NETWORKS, TRAFFICKING IN WEAPONS OR BANNED SUBSTANCES, AND TERRORISM. THE SECURITY OF THE EU'S EXTERNAL BORDERS BEING THUS THREATENED HAS PROMPTED OPERATIONAL COOPERATION AS EFFICIENTLY AS POSSIBLE FOR AGENCIES SUCH AS EUROPOL, FRONTEX AND EUROJUST. THIS ARTICLE, WITHOUT PROPOSING TO TREAT THE PROPOSED SUBJECT IN ITS ENTIRETY, SEEKS TO IDENTIFY THE MOST RELEVANT AND CURRENT ISSUES IN THE FIELD OF MIGRATION AS A POLICY OF EU IN RELATION TO THE INTERNATIONAL OBLIGATIONS ASSUMED BY THE EU BY SIGNING INTERNATIONAL AGREEMENTS WITHOUT, HOWEVER, ENDANGERING THE SECURITY OF CITIZENS AND MEMBER STATES.

KEY WORDS: SECURITY, IMMIGRATION FLOWS, THE EUROPEAN AGENDA ON MIGRATION, COOPERATION, Terrorism.

1. INTRODUCTION

Starting from the main goal of the European Union to create an area of freedom, security and justice within which citizens enjoy the freedoms and fundamental rights guaranteed by the Treaty, we can note the many efforts and changes brought by the Union treaties. It was necessary to respect the principle of the freedom of movement of persons and to create a Community policy on migration, asylum and border controls. Thanks to the Amsterdam Treaty, the rules in this area have been communitarised. The European Union protects the fundamental rights of people, the desideratum of its evolution, so that European citizens are allowed to move from one Member State to another without control at internal borders, but also access to the territory of European citizens of third-country nationals. This guarantees and protects citizens' right to study, work or family reunification. At the same

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time, citizens' right to a safe space is also taken into account, which is why the Treaty of Lisbon (TFEU) comes to ensure their protection through an effective control system at the external borders, bringing together in a chapter of public policies specific to the current situation. As regards border control, the EU's own policy provides for the absence of internal border controls in the content of Article 77 TFEU, as well as the careful control and surveillance of persons crossing the external borders. It is clear that in the current security context of citizens, priority in the EU is rather to fight against the terrorist threat and to integrate migratory flows. The migration agenda thus becomes the main European public policy analyzed in a broader context of the review of the whole package of normative acts on the right of European citizens to a safe space in a climate favourable to development. This article will explore how current is the Agenda, in the international context, possible measures.

The main bibliographic resources used in drafting are the studies and reports of the European Institutions or the Romanian European Institute, as well as the European Commission's statistical data. Period chronological study is targeted for 2007-2017 period, during which there were important decisions to the Governments of the Member States, but also in terms of regional policies and transnational cooperation. They were identified and analyzed a number of relevant monographs, scholarly articles under the flow of international databases, comments from European officials.

2. POLICIES AND JOINT ACTIONS TO PREVENT AND COMBAT CRIMES AFFECTING EU SECURITY

Analyzed from another perspective, guaranteeing freedom of movement with the direct consequence of giving up internal borders, amid the operational inefficiency of some of the authorities at the external borders, has caused negative consequences for Union citizens. Thus, a series of serious crimes affecting EU security such as terrorism and the violation of fundamental rights of migrants through exploitation by criminal networks have led Member States and the EU to adopt a series of common policies and actions to prevent and combating these phenomena.

Another contextual phenomenon that has led the European Union to adopt measures in relation to everyday reality, namely the weakening of immigrant reception requirements in order to cover the labour shortage, was represented by the migration wave in 2015 determined by the outbreak of civil wars in Libya and Syria.

Unfortunately, a flow of more than 1 million immigrants and refugees has entered the European Union territory in 2015, a phenomenon unprecedented since the Second World War. Given that no Member State can take measures by itself to protect and provide unitarily the rights claimed by persons entering its territory but also to protect its own citizens either from the point of view of the work or possible threats to their security, it was necessary for all Member States, together with the European Union, to use all internal and external policy tools to identify a common policy in this area that would guarantee safe borders, unitary procedures and protection of the rights and freedoms of all citizens.

Therefore, in order to be able to manage this fact, the European Union created the European Migration Agenda in the same year as a mechanism for controlling the migration flow, a mechanism that involves a close link between the Member States, their authorities, the Union institutions and the EU agencies.

The solution identified by the European Union on the flow of immigrants is built, in principle, on four pillars. The first is to reduce the factors that encourage irregular migration. What is particularly worrying is the ratio of those who migrated to the European space

because almost 75% of the more than one million immigrants tried to cross the Mediterranean, thousands of people even losing their lives².

Much of them paid the networks of human traffickers to be driven to the European space, even indicating the connivance of corrupt officials, which means that a number of illegal border crossings have been used. The European Union considers appropriate solutions to prevent these procedures by tightening up investigations and prosecution of trafficking offenders, fighting for the elimination of their networks, strengthening the FRONTEX³ procedure for the return of illegal migrants and developing and strengthening relations with the states third countries, ie those of transit and origin in the area of illegal immigration by the posting of European liaison officers.

The second pillar foresees saving lives and securing external borders⁴. In order to save lives, the EU initially allocated more than € 10 billion from its own budget to cope with the refugee crisis in order to meet their basic needs. At the same time, the EU also provides humanitarian aid to third countries, such as Turkey, a country that hosts a large proportion of refugees arriving on its territory but ending up with EU Member States⁵. FRONTEX also has a very important role in this case. Against the backdrop of all the agreements that the EU has and in the international space, such as the United Nations, both the Union and the Member States have made a contribution to helping those in need of protection because the political, military or economic situation no longer allows them to return to their country of origin. In this respect, partnerships with third countries, which are in the neighborhood of the EU, are vital to the Union's external border security.

The third pillar concerns a solid asylum policy. The Common European Asylum System already introduced but reinforced by the Treaty of Lisbon, will be fully implemented only together with a new monitoring mechanism based on systematic fingerprinting of refugees. Increased attention is also paid to the application of equal and unitary treatment to all asylum seekers, thus attempting to eliminate the unfair use of the asylum system.

The last pillar of the Agenda calls for a new policy on legal migration based on a system that allows for a firm-based selection based on an asylum application. Thus, equal treatment for all applicants is guaranteed, but they can also be tracked in EUROPOL's checking systems to no longer pose a security risk. In this respect too, the EU is proposing to modify the European Blue Card, which allows highly qualified immigrants to work and live in the EU, thereby increasing their benefits.

All these initiatives under the European Agenda for Migration can only be successful through careful and close cooperation on the one hand between the competent authorities of the Member States and on the other hand between the institutions and agencies of the European Union. The joint refugee assistance procedure, immigration transfer and

² See for details European Parliament resolution of 12 April 2016 on the situation in the Mediterranean and the need for a global approach to migration by the EU (2015/2095 (INI))

³ FRONTEX - The European Border Police and Coast Guard Agency - helps EU Member States and Schengen associated countries to manage their external borders. It also contributes to the harmonization of border controls across the Union. The Agency facilitates cooperation between the border authorities of each EU country, providing technical assistance and expertise

⁴ On 7 March 2017, the Council adopted a regulation amending the Schengen Borders Code to reinforce checks by consulting relevant databases at the external borders. The change obliges Member States to carry out systematic checks by consulting relevant databases on all persons crossing the external borders. The checks will also allow Member States to determine whether or not these persons pose a threat to public policy, internal security or public health. This obligation applies to all external borders (air, sea and land), both at entry and exit. For details see <http://data.consilium.europa.eu/doc/document/PE-55-2016-INIT/en/pdf> - accessed 27.04.2017

⁵ See Joint Communication to the European Parliament and the Council - Identification of solutions to the European Refugee Crisis: the role of EU external action - JOIN (2015) 40 final - 9.9.2015 - accessed 27.04.2017 <http://eur-lex.europa.eu/legal-content/ro/TXT/?uri=CELEX%3A52015JC0040>

resettlement proposals, detection and tracing of trafficked persons, preventing and combating terrorism are all possible by strengthening the role of FRONTEX, the centralization of all information through EUROPOL, the secondment of liaison officers, the preparation of the legal body by EUROJUST, which deals with the investigation and prosecution of those committing serious crimes such as terrorism and trafficking in human beings.

3. FAILURE TO IDENTIFY THE MOST APPROPRIATE CONTROL DECISIONS

Returning to the initial thesis, one of the main objectives of the Agenda was to guarantee an area of freedom, security and justice. As we know, the EU is constantly confronted by a large flow of immigrants, and the recent terrorist attacks in the European space prove that some of them represent a real threat to EU security. Unfortunately, terrorism is not the only serious threat to the European community at this time. Organized crime and computer crime join. The latest offense has grown in recent years, favoring the spread of violence and the attack on European values and institutions.

Thus, a series of serious crimes affecting EU security such as terrorism and the violation of fundamental rights of migrants through exploitation by criminal networks have led Member States and the EU to adopt a series of common policies and actions to prevent and combating these phenomena. It results that one of the negative consequences of the introduction of the European Migration Agenda may be the result of one of the most important axes, namely the lack of control at the EU's internal borders. Due to the spread of illegal immigrants across the EU without being able to control effectively all people entering the European area, Member States have had to force the reintroduction of controls at internal borders, thus even depriving their own citizens of this important freedom. A natural question must nevertheless be put forward can the Agenda be a failure, even from the perspective of the previously hardened?

4. CONCLUSIONS

Although for that time it seemed a well-developed instrument to help the EU overcome the migration crisis, creating mechanisms to ensure both the security of EU citizens and its borders on the one hand, but also the help given to migrants and refugees through joint actions and at the international level, on the other hand, the European Agenda for Migration seems today to be overcome. Decreasing the requirements of entry into the EU space for migrants to cover the labor shortage has led to a difficult management today for citizens entering the territory of the Member States, with the EU even facing a large immigration flow in 2017 to destabilize the situation of some Member States more than others. At the same time, terrorist offenses, illegal trafficking in human beings, serious crimes that threaten EU security and international security have been spread and favored, unintentionally, and in this direction the fight against these phenomena has to be intensified and specialized institutions come back, first of all, this important task.

The EU must have a balanced but firm approach to immigration and provide facilities for joint efforts by Member States to promote the integration of third-country nationals legally residing in the EU, especially for the difficult exercise of attracting people innovative in the European space⁶. One of the first inconveniences could be the lack of uniform provisions on the harmonization of national laws and regulations with respect to European

⁶ See in detail Directive 2009/50 / EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment introduced the "Blue Card", a fast-track procedure for issuing a special residence permit and by providing more attractive conditions for third-country workers to enable them to access highly qualified employment in the Member States.

directives. In this broad context, tackling clandestine immigration is the EU's responsibility⁷, and a first step in this direction would surely be the revision of the Blue Card Directive⁸, in particular with regard to the development of public return policies by concluding or revising readmission agreements in the country of origin or provenance of third-country nationals who do not, or who no longer, fulfill the conditions of entry, presence or residence in the territory of one of the Member States⁹, but also with respect for fair treatment, at least in terms of respect for fundamental rights¹⁰.

Last but not least, the principle of solidarity needs to be reconsidered, strictly in line with the provisions of the Treaty of Lisbon, which includes, amongst others, the equitable distribution of responsibility, including its financial implications, between Member States in Article 80.

⁷ Liza Mügge, Marleen van der Haar, *Who Is an Immigrant and Who Requires Integration? Categorizing in European, Integration Processes and Policies in Europe Contexts, Levels and Actors* Blanca Garcés-Mascareñas, Rinus Penninx Editors, Sage Open, 2016, ISBN 978-3-319-21673-7, p.77

⁸ Sona Kalantaryan and Iván Martín, Migration Policy Centre, EUI, *Reforming the EU Blue Card as a Labour Migration Policy Tool?* Migration Policy Centre Robert Schuman Centre for Advanced Studies - European University Institute, ISBN 978-92-9084-317-7 ISSN 2363-3441, 2.

⁹ Sergio Carrera, *Implementation of EU Readmission Agreements - Identity Determination Dilemmas and the Blurring of Rights*, Springer Open, 2016, ISBN 978-3-319-42504-7, 25

¹⁰ See, for details, http://www.europarl.europa.eu/ftu/pdf/en/FTU_5.12.3.pdf - accessed 27.04.2017

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