

MANAGING LEGAL MIGRATION IN THE EU: SHORTCOMINGS AND CHALLENGES

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Abstract: *My paper provides a review of the various EU legal schemes and initiatives that facilitate legal migration in the EU, their achievements, and shortcomings in their implementation, while investigating concerns, issues, and policies related to the rights and protection of migrants. The European Union's migration policy is complex and encompasses multiple aspects, aiming to manage legal migration, combat illegal migration, ensure and create functional mechanisms to guarantee and protect asylum seekers, and promote the integration of migrants into host countries. These UE schemes have revealed shortcomings caused by complicated bureaucratic procedures, limited mobility between states, abuses and exploitation.*

Key words: *migration, protection, asylum, integration, directives.*

1. Introduction

The European Union's migration policy is complex and represents an essential aspect of community policies, contributing to the social and economic needs of the Member States, to the demographic changes caused by an aging population, and to the needs of the labor market. The EU has recognized that well-managed migration flows can bring significant benefits, both for the destination countries and for migrants. Thus, mechanisms have been created to facilitate the legal access of skilled and semi-skilled migrants, addressing the challenges associated with illegal migration and long-term integration.

Legal migration provides real guarantees of protection as well as benefits to migrants, and to the countries they leave and those they arrive in, seeking better-paid employment. Legal migration is a safe path for migrants to improve their material situation and to contribute to meeting labor market demands in host countries.

EU migration policies have a long history of directives, schemes, and initiatives aimed at managing legal migration, combating illegal migration, ensuring the protection of asylum seekers, and promoting the integration of migrants into host countries. A significant example of such initiatives is the pilot projects for legal migration, launched in partnership with third countries. These aim to attract talent and labor for sectors facing

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shortages in the EU, such as healthcare, agriculture, and technology. At the same time, these projects aim to support economic development in the countries of origin by providing training and employment opportunities. The growing concerns about managing legal migration and labor mobility are evidence of humanity, both globally and at the EU level. However, how much the EU succeeds in ensuring real protection mechanisms for migrants through its policies remains a major challenge, with many mindsets still needing to change, both in host countries and among their nationals (Purda, Diaconu, 2016).

Nevertheless, legal migration policies remain a topic of debate, requiring a balance between labor demand and the need for the effective integration of migrants into host societies. Therefore, the evolution of this legal framework and its effectiveness are crucial in ensuring a sustainable and fair migration process in Europe. My work aims to analyze these mechanisms, the advantages offered by their implementation, as well as their shortcomings, attempting to identify and propose solutions for improvement wherever possible.

2. The European Union's Pilot Projects on Legal Migration

The European Union's pilot projects on legal migration are an initiative aimed at improving the management of economic migration through cooperation between Member States and third countries. These projects seek to provide legal migration opportunities to the EU for workers from outside the Union, especially from African countries, to meet the labor market needs of Europe and contribute to the development of countries of origin through the transfer of skills and knowledge.

The main challenge that led to the launch of these projects is the need to create safe and regulated migration channels as an alternative to illegal migration (Adrian Favell 1998). At the same time, the EU recognizes the demand for labor in certain economic sectors, such as healthcare, IT, construction, and agriculture. Therefore, the pilot projects focus on attracting skilled and semi-skilled workers who can contribute to European economies, while also offering development opportunities for the countries of origin.

Another central objective of these projects is the more efficient management of migration overall. By establishing cooperative relationships with countries of origin, the EU hopes to reduce illegal migration flows and create safer and more organized conditions for migrants. At the same time, these projects aim to facilitate the integration of migrants in host countries through vocational and language training programs, both in the countries of origin and in the destination countries.

The pilot projects are carried out in partnership with Member States and third countries, which adapt their national policies to facilitate legal migration. The first partner countries include Morocco, Tunisia, and Nigeria, which have cooperation agreements with European states such as Germany, Spain, Belgium, and France. These projects aim to meet the labor market needs of Member States and provide legal employment opportunities for migrants (Bauböck, 2012).

Here are some significant examples of pilot projects:

a. Mobility and Skills Partnerships (Talent Partnerships): These partnerships are established between EU Member States and third countries, especially from North and Sub-Saharan Africa, to attract talent and respond to the economic needs of the EU. They offer vocational training opportunities and temporary job placements for workers in fields such as IT, healthcare, and agriculture.

b. Spain-Tunisia Project: This project focuses on seasonal agricultural workers, offering Tunisian workers the opportunity to work in Spain during the agricultural season under temporary contracts. It aims to promote circular migration, with workers returning to their country of origin after the contract ends.

c. Belgium-Senegal Project:

This project focuses on developing technical and professional skills for migrants from Senegal, offering them the chance to work temporarily in Belgium, particularly in the technical and engineering fields.

A successful example is the project between Germany and Morocco, which aims to attract workers in the healthcare and IT sectors.

The frequent question that arises is: Do these projects bring benefits? Are they viable? Do they offer the best solutions? The benefits of these projects are numerous and have created opportunities for both states and migrants. For EU states, they help to address labor shortages in a controlled and transparent manner, while also reducing the pressure created by illegal migration (Hein de Haas, 2020). For countries of origin, they offer an opportunity to improve the living standards of migrants and benefit from the remittances sent by them. Additionally, the transfer of knowledge and skills to these countries contributes to local economic and social development.

However, pilot projects also face certain challenges. Firstly, there are difficulties in implementing bilateral agreements between Member States and third countries, particularly due to legislative and administrative differences. There are also concerns that such initiatives could lead to a “brain drain,” meaning the loss of skilled labor from the countries of origin. Moreover, the integration of migrants into European labor markets and host societies remains a challenge, especially regarding linguistic and cultural barriers (Donnelly, 2013)

The EU’s pilot projects on legal migration represent an important step toward a more balanced and sustainable management of international migration. Although there are still challenges related to implementation and coordination, these projects offer a viable alternative to illegal migration and create opportunities for both destination and origin countries.

3. Implementation of the Regulatory Pillars on Legal Migration in the European Union

The EU has created various schemes to facilitate legal migration, such as the EU Blue Card Directive, which allows skilled workers from outside the EU to work in Member States. The European Union has implemented several schemes to facilitate legal migration, particularly for skilled workers, students, researchers, and for family reunification. Here are some of the main schemes and initiatives:

3.1. EU Blue Card

The EU Blue Card was adopted through Council Directive 2009/50/EC on May 25, 2009, with the aim of facilitating the entry and residence of highly skilled workers from third countries into the European Union to meet the demand for skilled labor in Member States. It is a work permit that allows non-EU citizens to work in a Member State if they have a job offer for a highly skilled position.

The EU Blue Card is a work and residence permit intended for non-EU citizens who wish to work in a Member State of the EU. Applicants must demonstrate that they have a higher education degree or equivalent professional experience and must secure a minimum salary set by the host Member State.

The EU also set specific requirements for obtaining the Blue Card, such as: a work contract or a firm job offer for a position lasting at least one year, and proof that the salary offered is at least 1.5 times the national gross average salary of the host Member State (with exceptions in certain professions where the threshold can be reduced to 1.2 times).

Additionally, the Blue Card requires qualifications such as a higher education degree or at least five years of relevant professional experience in the job sector. The applicant must also have health insurance for themselves and their accompanying family members, and must not pose a risk to public order, security, or health.

Meeting these requirements allows the holder and their family to live and work in the EU, with access to a set of economic and social rights similar to those of national citizens, such as fair working conditions and access to education and professional training. However, mobility within the EU is restricted during the first 18 months of residence in a Member State.

These shortcomings have led to the need for continuous adaptation to the changing labor market and economic needs of Member States, aiming to maintain an efficient and attractive framework. This prompted a review of the directive in 2021 to address some of these issues by lowering the salary threshold, introducing measures to ease employer changes and mobility between Member States, and improving application procedures to reduce bureaucracy. These reforms aimed to make the EU Blue Card more accessible and appealing to skilled workers worldwide.

Even so, to further improve the EU Blue Card in the future, the following measures and reforms could be adopted: simplifying the application process and harmonizing requirements across Member States to make the procedure more accessible and transparent, creating an EU-wide digital platform where applicants can apply, track their application status, and receive support, adjusting the salary threshold to better reflect the economic diversity and labor market needs of different Member States, thereby facilitating access for more skilled workers, increasing the flexibility for Blue Card holders to move and work in other EU Member States without major restrictions, promoting a more integrated European labor market, and implementing more flexible salary thresholds for sectors experiencing labor shortages (Triandafyllidou, 2010).

EU efforts should also focus more on harmonizing the recognition of qualifications, improving procedures for recognizing qualifications and professional experience gained

outside the EU to facilitate rapid integration into the labor market, working closely with educational institutions and professional associations, and collaborating to establish common standards and uniformly recognize qualifications.

3.2. The seasonal workers directive

The Seasonal Workers Directive (Directive 2014/36/EU) was adopted by the European Parliament and the Council of the European Union on 26 February 2014. It sets the conditions for the entry and stay of non-EU citizens who wish to engage in seasonal work in EU Member States.

The objectives of the directive are: to facilitate legal access for seasonal workers from third countries to the EU, to ensure fair working conditions and adequate protection for these workers, and to prevent abuses and combat illegal immigration.

The directive defines seasonal work as dependent employment, based on a work contract in an occupation tied to a specific season and recurring annually. It sets the requirements for obtaining the permit, including a work contract or a firm job offer for seasonal work, proof that the employer provides adequate accommodation for seasonal workers, and that the applicant has health insurance for the duration of their stay in the host Member State.

Under the directive, seasonal workers can stay in the EU for up to 90 days within a 180-day period. Member States can extend this stay to a maximum of 9 months within a 12-month period, depending on national legislation.

The directive guarantees seasonal workers the right to fair working conditions and pay, including wages, working hours, and health and safety conditions similar to those of national workers. Access to certain social benefits is limited and depends on national law.

In terms of return, Member States are responsible for ensuring the return of seasonal workers to their country of origin once their residence permit expires.

However, the directive has also led to several issues, often resulting in abuse and exploitation. Seasonal workers are often vulnerable, facing below-minimum wages, precarious working conditions, and limited access to social rights, primarily due to the lack of an effective monitoring mechanism, which has led to unchecked exploitation.

In some cases, seasonal workers do not have full access to all social benefits, making them vulnerable in the event of work-related accidents or illnesses.

Although the directive requires employers to provide adequate accommodation, in practice, the standards can be very low, affecting the living conditions of seasonal workers.

Some Member States have delayed or inadequately implemented the directive, leading to discrepancies in the application of rights for seasonal workers.

Certain administrative procedures are complex and may discourage seasonal workers and employers from using legal channels, thus promoting illegal migration and undeclared work.

The directive also imposes limited mobility, as seasonal workers are tied to a specific employer and location, restricting their job opportunities within the EU.

To improve this directive, it would be necessary to strengthen monitoring and enforcement mechanisms, ensure decent working and living conditions, and facilitate access to essential social rights. Additionally, simplifying administrative procedures and creating more flexible frameworks that allow greater mobility and security for seasonal workers would be beneficial, enabling non-EU citizens to work in Member States for limited periods in seasonal sectors, such as agriculture or tourism (Guiraudon, 2001).

The directive sets only minimum conditions and rights for seasonal workers, which may not ensure fair treatment or prevent exploitation.

3.3. The Intra-Corporate transfer directive

Directive 2014/66/EU was adopted by the European Parliament and the Council of the European Union on May 15, 2014. It establishes the conditions for the entry and stay of non-EU citizens who are temporarily transferred within the same company from a third country to a subsidiary or branch located in the European Union. It allows for the temporary transfer of employees (managers, specialists, and trainees) from a multinational company in a third country to the company's EU branches.

The main objectives of the directive are to facilitate the intra-company mobility of managers, specialists, and trainees from outside the EU within a multinational company and to harmonize the conditions of entry and stay in EU Member States for this category of workers. The directive defines the categories of workers as follows: managers are individuals who lead a unit or section of a company and supervise the work of other employees; specialists are individuals with essential knowledge specific to the company's activities, techniques, or management; trainees are employees with a higher education degree who are transferred to receive professional training or to gain experience in a specific field.

Managers and specialists can be transferred for up to 3 years, while trainees for up to 1 year. Permit holders may benefit from limited mobility within the EU, allowing them to move to other Member States to continue working within the same company after notifying the competent authorities.

The shortcomings of the directive include that the application procedures can be complex and vary between Member States, which may discourage companies and workers from using this system. Discrepancies in the implementation of the directive across Member States can lead to unequal experiences and inconsistent application of the rules. Although there are provisions for intra-EU mobility, these can be restrictive and do not allow completely free movement between Member States, affecting the flexibility of transfers. Not all Member States rigorously enforce the requirements regarding working conditions and accommodation, which can result in unequal treatment and substandard living conditions for transferees. Access to certain social services and benefits may be limited, which can affect the well-being of transferees and their families.

To improve the application of the directive, it is necessary to simplify and harmonize application procedures across Member States to reduce bureaucracy and facilitate the transfer process, create a more flexible framework that allows transferees to move

more easily between Member States without the need for complex approval processes, and improve monitoring and enforcement mechanisms to ensure that all Member States comply with the directive's requirements, including working and accommodation conditions.

These improvements could make the Intra-Corporate Transfer Directive more efficient and attractive for multinational companies and their employees, promoting mobility and competitiveness in the EU labor market.

4. Conclusions and Discussions

The massive influx of refugees from the Middle East and Africa has overburdened the asylum systems of several member states, and asylum application procedures are often slow and inefficient, leading to delays and poor living conditions for applicants. There is a disproportionate burden on the countries at the EU's external borders (e.g., Greece, Italy, Spain), which generates tensions and discontent among member states. Integrating migrants into host societies is a complex and often problematic process. Language barriers, access to education and the labor market, discrimination, and social exclusion are major challenges. Failure to properly integrate migrants can lead to social segregation and increased social tensions.

Combating illegal migration and human trafficking remains a major challenge. Smuggling networks are well-organized and exploit vulnerabilities in border controls. Additionally, there are security concerns related to the potential infiltration of terrorists among migrants.

The European Union's pilot projects on legal migration represent an innovative and balanced solution for managing economic migration, addressing both the labor needs of member states and the development needs of the countries of origin. These initiatives, such as mobility partnerships with Morocco, Tunisia, or Senegal, offer a safe and regulated alternative to illegal migration, while also promoting circular migration and skills development.

However, the implementation of these projects brings significant challenges. On the one hand, efficient coordination between member states and third countries is needed to ensure the success of these programs. On the other hand, integrating migrants into host societies and preventing the "brain drain" remain key issues for discussion. At the same time, these projects demonstrate the potential of legal migration to contribute to economic and social development both in Europe and in the partner regions.

In the long term, it is essential for the EU to improve these partnerships and expand cooperation with more third countries to ensure the sustainability of these initiatives and create an effective model for migration management. One of the main challenges is the need to simultaneously address internal demographic pressures and labor market demands. Europe is facing an aging population and shortages in key sectors such as healthcare, agriculture, and technology. In this context, the pilot projects on legal migration offer a solution by attracting skilled labor from third countries, but the success of these initiatives depends on the member states' ability to efficiently integrate migrants into their societies.

Another important aspect is balancing the attraction of talent with preventing the “brain drain” from the countries of origin. The EU seeks to avoid the depletion of essential human resources from less developed regions by promoting circular migration and training programs that allow migrants to contribute both in host countries and in their countries of origin.

In conclusion, legal migration remains an integral part of the EU’s strategy to address socio-economic and demographic challenges, but it requires careful coordination and increased flexibility to adapt to global changes. In the future, deeper integration between member states and third countries will be crucial for creating a sustainable migration management model that provides mutual benefits and contributes to regional and global stability.

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