

LEGAL IMMIGRATION AND INTEGRATION OF FOREIGNERS IN ROMANIA

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Abstract:

Legal immigration and integration of foreigners in Romania constitute long-debated themes in the European Union, social integration of foreigners in host societies representing the core of public policies in the field of immigration. The awareness and real promotion of fundamental rights, of non-discrimination and equality of opportunities for all become extremely important elements for ensuring a good integration of third countries citizens and for common efforts made both by foreigners and by the autochthonous population for the construction of open, responsible and diverse societies.

Keywords: immigration, foreign, integration.

JEL Clasification : J61, J62, J68

1. Directives of European Commission

After the Communication of November 2000, the European Commission (EC) proposed a Directive regarding the conditions of entry and residence of economic immigrants, the equal treatment of persons irrespective of race or ethnic origin. Another Directive, 2000/78/EC11 should not be neglected in this context, as it supposes the equal treatment in terms of employment and labour conditions, created with the purpose of combating discrimination based on age, gender or religion. In a wide sense, the issues of immigration start to be more and more attentively regarded from the regional point of view, considering that on this level strategies can be elaborated and solutions can be found taking into account local particularities.

Among the measures of major importance adopted by the Schengen Space states, beside the elimination of control at the internal frontiers and establishment of the rules of external frontiers crossing, we may also mention the separation of passengers' flows in harbours and airports, the establishment of rules for asylum seekers, the introduction of a set of rules on cross border surveillance and monitoring for the police forces from the Schengen countries, the strengthening of legal cooperation by means of a rapid system of extradition, the creation of the Schengen Information System (SIS).

The adoption of these measures – specific instruments, used for reaching the goals regarding the control of illegal immigration and derived risks, must strengthen security without bringing prejudices to freedom and vice versa. In this new stage, Europe has started to experience a definite growth of the number of immigrants with legal residence and of illegal immigration, due to globalisation and cross border movement intensification, on professionalisation of the labour market.

The Stockholm Programme (2010-2014), adopted by the European Council in December 2009, marks the priorities for the development of a European zone of freedom, security and justice during the following five years.

The Stockholm Programme affirms the necessity to correlate and enhance the coherence of other EU relevant policies with the European immigration policy and supports the consideration of the objective of the Europe 2020 Strategy and an increased attention granted to the connection between development and immigration policies and the EU agenda regarding integration.

2. The description of the immigration phenomenon in Romania

The description of the immigration phenomenon in Romania and of the integration of foreigners in the Romanian society was focused on the situation of the ressortissants of third countries who reside legally on the territory of Romania. Moreover, documentation, when available, attempted to supply a most comprehensive awareness of some less researched aspects about this phenomenon such as unregulated immigration, migrants smuggling, human trafficking with foreigners, undeclared labour of foreigners, situation of diverse categories of foreigners who reside legally on the territory of Romania, similarities and / or differences between the categories of immigrants as for instance the citizens of the EU and non-EU spaces and / or between Romanian citizens and foreign citizens.

Among the constraints encounters we list:

- Confusions of terminology and of utilization when it comes to define foreigners, migrants, immigrant, refugees, asylum seekers;
- the criteria of data collection differ chronologically from one year to the next, reflecting many a time the strict purpose and interest for the institutions collecting the information for the grounding and deployment of their own activities;
- reorganisation of the institutional system leads to changes of data collected in the field of immigration of foreigners;
- the existing statistics reflect the institutional vision on the phenomenon, i.e. the regulation of the immigration regime in the national plane in the sense of borders security and protection;
- there are few statistic data available or indicators that are calculated also for foreigners in the areas of social, economic, cultural and educational integration, or civil participation.

It was found that the year 2011, like in the analysed period of the last decade, reflects the same reality under the aspect of the dynamics of migrating flows from and towards Romania. Thus, Romania keeps its characters of preponderantly emigration country and becomes, beside a transit county, a more and more attractive destination country for immigrants. According to Eurostat predictions, in the period 2008-2060, Romania will record a net immigration rate of at least 18.4 in one thousand inhabitants (1.84%).

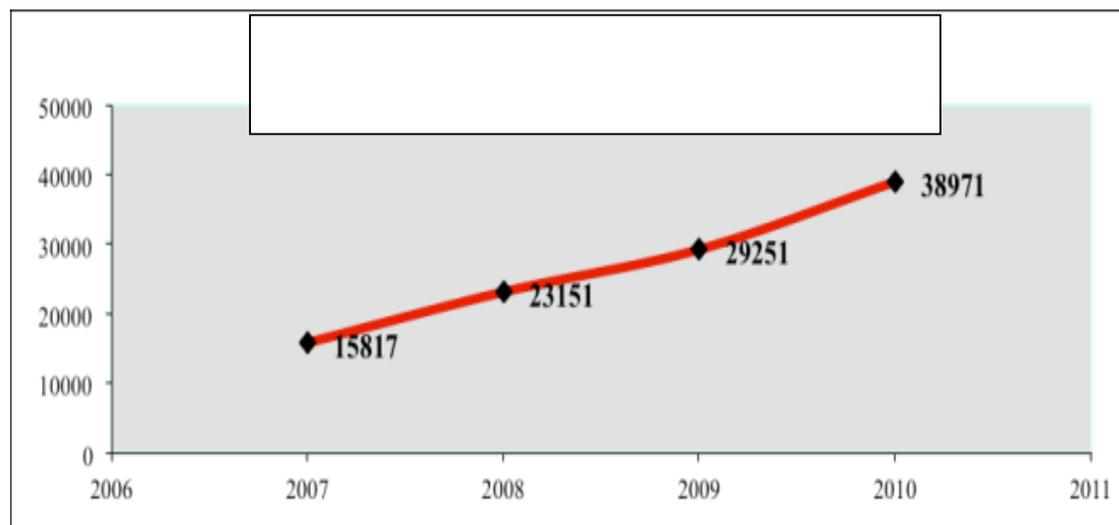
The inflow of foreigners to Romania, during the last decade, exhibited an ascendant trend, and the composition of the migrating flow is also diversified. Moreover, we appreciate that the Romanian status of EU member state, the potential of economic and social development along with the future entry into the Schengen Space will turn Romania into a more and more interesting destination for immigrants.

The year 2007 represented a turning point as regards the management of immigration in Romania through the prism of acquiring the status of EU member. At that moment, Romania entered the intercommunity circuit, and the immigration policy shifted focus to the immigration phenomenon of third countries, i.e. the extra community space. Thus, Romania implemented a new legislation for the EU / SEE member states and their families, by transposing the Directive of the Council 38/2004/CE regarding the right to free circulation and residence on the territory of member states for the EU community citizens and their families.

Consequently, the change of the status of EU / SEE citizens and of their family members resulted in the drop of the immigration stock, i.e. of the migrants come from third countries.

The dynamics of intra-EU mobility in the past three years highlights, in this case too, a more substantial growth of the number of EU citizens, legally on the territory of Romania (fig. 1) that grew two and a half times in the reference period, and the growth variations from one year to the next were, on the average, higher than 35%.

Number of EU and SEE citizens in Romania between 2007-2010



The years 2007-2010 represent a period with an interesting dynamics of the immigration phenomenon in the context of Romania's economic development. Thus, in direct correlation with Romania's economic situation we witness a massive intensification of labour immigration and the number of labour authorisations issued, the migrant workers in Romania in the period of economic peak (2007-2008) and a drastic drop thereof along with the start of economic contraction and during the entire period of economic and financial crisis, afferent to the years 2009-2010.

The immigration phenomenon exhibits a continual growth after Romania's EU adhesion, amplifying the changes produced in the composition of migratory flows caused by the aligning of the Romanian legislation to the EU community one, consequences remarkable even since the period of pre-adhesion. What is relevant in this respect, on the one hand, is represented by the ascendant trends of migration of third countries citizens who come to Romania in order to reunite with their families or are family members of Romanian citizens, who come to study and, as mentioned above, to get a job, and on the other hand, the dramatic drop of immigrants coming to our country in order to start a business, or for commercial purposes.

On 30.09.2010 in Romania a number of 59358 foreigners were recorded as legal residents, of which 49282 with temporary residence and 10076 with permanent residence. From the viewpoint of the purpose for which the foreigners obtained the right of temporary residence, the most numerous were family members of Romanian citizens (20863), those come to study (12587) and for employment (6951).

More than half of immigrants are family members of a Romanian citizen / EU and SEE citizen, and almost 10% of them arrived in Romania in order to be together with their family, a third of Romania's immigrants is represented by the category of those come to learn, to attend Romanian schools. There are other immigrants who chose Romania for a job, with a percentage under 15% and a very low percentage, less than 5%, is represented by small businesses.

For exemplification, I mention a decision from the ECHR jurisprudence, the Administrative Contentious section, the judgement no. 53/CA/2009 pronounced by the Appellate Court Oradea where a petition was judged of a claimant with the domicile in Satu Mare county in contradictory with the respondents the Romanian Office for Immigrations Satu Mare and the Ministry for Internal Affairs and Administrative Reform for granting the right of permanent residence on the territory of Romania for himself and his family, the object of litigation being the regime of foreigners and ruling suspension.

It was found that by the petition recorded at this court on 29.01.2009, the claimant sued the respondents the Romanian Office for Immigrations Satu Mare and the Ministry of Internal Affairs and Administrative Reform, formulating contestations against the decision to return from the territory of Romania no.-/22.01.2009 as well as the suspension of this decision until the final and irrevocable solution of the case on the docket.

In the motivation of the contestation it is essentially shown that he had filed a petition on 21.06.2008 with the Romanian Office for Immigrations by which he required the granting of the right of permanent residence on the territory of Romania for himself and his family, and his petition was denied.

The claimant filed an action in administrative contentious with the Appellate Court Bucharest, and the latter, through the civil judgement no.2373 of 23.09.2008 admitted the contestation filed by the claimant and ruled that the Romanian Office for Immigrations grants him the right of residence. It is also shown that the claimant came to Romania in April 1995 together with his family and his under age daughter, settled on the territory of Romania, bought a dwelling, they are currently integrated both socially and materially and his daughter attends the courses of a school in Romania.

By the contestation introduced to the file, the respondent the Romanian Office for Immigrations demanded the rejection of the contestation with the motivation that the claimant entered Romania on 27.09.2008 with a short-stay visa conferring him a 90-day stay on the territory of Romania.

Considering that the claimant had his right of stay regulated until 26.12.2008, it results that on the date the return decision was issued the claimant had been illegally on the territory of the country for 27 days.

They demanded the rejection of the petition for the suspension of execution acc. to the dispositions of art.84 par.3 of OUG 194/2002, the institution of the suspension of the execution of the removal measure being applicable only until the solution of contestation against the direction of return in the case and not until the solution of other contestation formulated by the foreign citizen.

After the examination of the formulated contestation the court retains the following:

According to art.79 par.1 of OUG no.194/2002 with the ulterior alterations and completions "against the foreigners who came illegally, whose stay on the territory of Romania became illegal, the Romanian Office for Immigrations may dispose the measure of return and removal from the territory of Romania".

By the civil judgement no. 2373 of 23.09.2008 of the Appellate Court Bucharest, remained final by the decision no. 1416 of 13.03.2009 of the claimant, the Romanian Office for Immigration was forced to grant the claimant the right of permanent residence on the territory of Romania, and thus the court ruled that the claimant's stay on the territory of Romania was not illegal, although the right of stay granted by the visa expired on 30.12.2008.

From all the above, the court will admit the contestation formulated by the claimant and to annul the return decision.

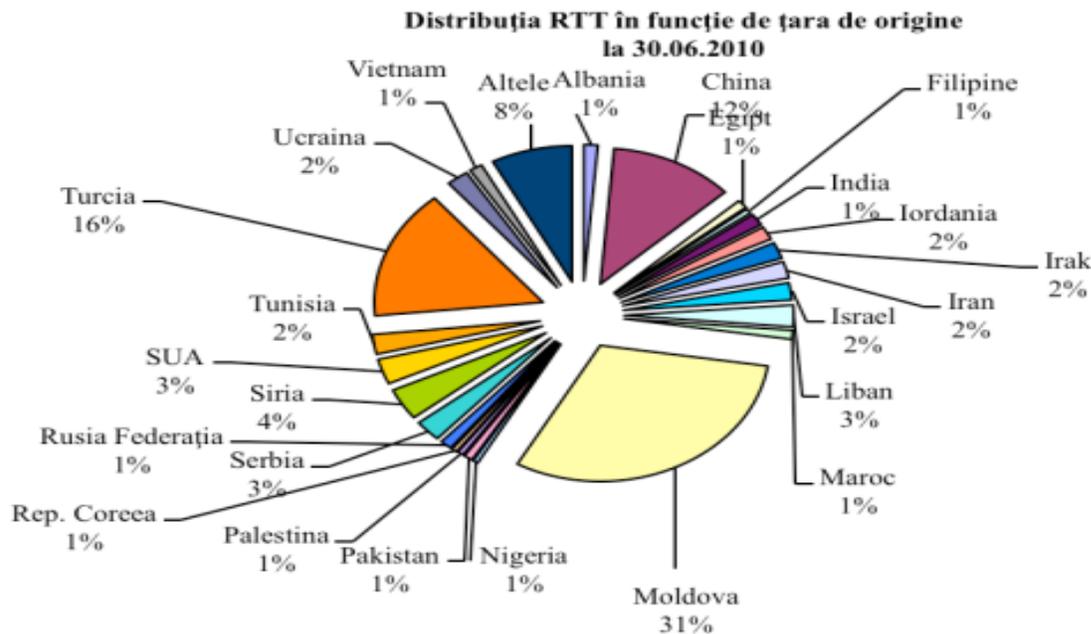
Most immigrants with family reunification are women, from the Middle East, Turkey, China, or are citizens of

the Republic of Moldavia. A very low percentage of the immigrants who are in Romania by family reunification are the factory or the first-degree relatives, senior citizens or minor children of foreigners.

The records show that on the national level there is a policy stimulating the coming of foreigners to study, especially persons of Romanian ethnic origin, who have special places in Romanian university. The data show that around 80% of those who study in Romania are from the Republic of Moldavia

From the point of view of the origin countries, most foreigners with temporary residence, on 30.09.2010, are from Moldavia (17091), Turkey (7179) and China (4752), the three countries representing 60% of the total origin countries.

RTTs distribution depending on the origin country on 30.06.2010



The analysis of the structure by genders and age groups of immigrants who are legally in Romania both for those with temporary stay and for those with permanent stay highlights in general that the scales is tilted in the favour of RTT men who represent 60% of the total immigrants. Nevertheless, as expected, in the 35-65 age group, their proportion increases even more and reaches the percentage of 70% men and 30% women. When analysing the distribution of immigrants by age groups we remark that the immigrant population is a young population and even more, an active population on the labour market, with productive potential and consequently they benefit from all the condition for a successful integration. Furthermore, the age structure of immigrants in Romania constitutes a premise and a potential solution for Romania's demographic problem, as it is an ageing society, with high emigration and low birth rate.

3. Conclusions

The immigration phenomenon exhibits a continual growth after Romania's EU adhesion, amplifying the changes produced in the composition of migratory flows caused by the aligning of the Romanian legislation to the EU community one, consequences remarkable even since the period of pre-adhesion. What is relevant in this respect, on the one hand, is represented by the ascendant trends of migration of third countries citizens who come to Romania in order to reunite with their families or are family members of Romanian citizens, who come to study and, as mentioned above, to get a job, and on the other hand, the dramatic drop of immigrants coming to our country in order to start a business, or for commercial purposes.

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