

Summary

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The end of the 20th century and the beginning of the 21st century dominated the European continent, more than ever, by the phenomenon of international migration. The European Union (EU) has gradually transformed into the scene of complex processes that have often led to debates on the values and fundamental principles of European construction by the political and academic elite. Meanwhile, globalization has eroded and diminished the concept of barriers or borders in the face of phenomena such as flows of goods, services, capital, information and even people. Europe has thus become a continent of immigration, a fact highlighted by the impact of the phenomenon on the demographic evolution of the European states. According to Eurostat's statistical data, after 1989 some 1.3 million people chose the East-West migration path, in which immigration has become a substantial factor of demographic growth at EU-15, states characterized by a naturally low and an aging population. For example, in 2005 the impact of immigration on demographic developments at EU-25 was strongly felt, the flow of about 1.69 million migrants was much higher than the natural population growth in the EU Member States before the 2004 and 2007 enlargements, to 0.327 million¹.

On the other hand, it is unanimously accepted that we currently live and are the actors of a globalized world. The phenomenon of globalization has been characterized as a first step in the free movement of goods and capital. As it was to be expected, the positive effects of trade were not delayed at global and European level, of course not in a fair way for all states. Subsequently to facilitating economic or trade exchanges, the phenomenon of globalization has boosted the geographical mobility of the population to regions characterized by economic prosperity, such as the EU. Awareness of the immigration pressures to which the European construction is subject has forced the political elite to adopt policies to control the phenomenon and, in fact, to select immigrant categories according to the needs felt in the labor market. The

¹ Rinus Penninx, *Introduction*, in *The Dynamics of International Migration and Settlement in Europe*, (eds.) Rinus Penninx, Maria Berger, Karen Kraal, Amsterdam University Press, 2006, p. 7.

effects of these policies have to some extent reached their objectives, but they have generated a phenomenon associated with international migration, namely irregular migration, defined by many researchers as illegal or unmanaged migration, but we will focus our attention on the concept in the following chapters.

The phenomenon of migration has also generated benefits and vulnerabilities in all states involved in this phenomenon, particularly in the countries of origin and destination. However, the European political elite has repeatedly referred to this phenomenon rather in terms of the threats that this phenomenon projects, falling into the trap of the under-dimensioning of the risks associated with the phenomenon. Since state institutions have defined the phenomenon as a challenge rather than an opportunity, political decision-makers have adopted a number of policies that restrict the quantitative and qualitative dimension of the phenomenon. These policies aimed, first of all, on raising barriers or walls in the face of migratory flows in the hope that they would reduce the migration potential. In fact, given that these policies did not contribute to reducing economic disparities between countries of origin and destination and did not eliminate either the risks to which migrants are exposed once they arrived in the country of destination or did not ensure a higher level To protect the host society's society from the alleged threats that migrants project, we believe that the effectiveness of this approach is delayed. In these circumstances, we affirm that the EU Member States have often experienced shortcomings in the adaptation of migration policies to the challenges that the migration phenomenon is inducing and the needs in the domestic economic sectors. Moreover, the migration policies adopted at the level of the European states have favored the overshadowing of phenomena related to international migration, namely irregular migration, social tensions, discrimination, as well as diminishing the trust of the society in the state institutions.

Research on irregular migration has revealed that the phenomenon is a legal and political construction, being in fact the result of the definitions given by migration policies and their subsumed legislation, which is why the process can be deconstructed from a political point of view. For these reasons, in the chapters of the present research we will focus on the mechanisms behind the migration policies and on the legislation that determines the definition of some categories of migrants as irregular, especially on the aspects included in the following actions: the entry into the territory of a state, Exceeding the period of stay according to the visa, carrying out lucrative activities that exceed the conditions stipulated on the documents of entry

or stay in the territory of the host country, respectively conferring the status of irregular immigrants to persons whose parents already have the status of irregular migrants. In order to identify the peculiarities of these situations, we will devote a chapter on the legislation on migration both at European level and at the level of the Romanian state.

In order to understand the complexity of the phenomenon of irregular immigration, we support the need to make a clear distinction between factors of an economic and political nature that potentiate migration, although the two categories are difficult to separate. In a first phase we mention that irregular migration is a result of the existing asymmetries in demand and supply, determined by the refusal / inability of policies and legislation to correctly and realistically estimate the level of economic dependence of the host country of migration. In fact, this is the result of the right of each national and sovereign state to select the categories of migrants it integrates into the labor market. As far as the economic factors underlying the phenomenon of irregular migration are concerned, they are overlapping with the economic factors determining the international migration, among which we mention the high level of unemployment, the low level of income, etc. Nevertheless, some research also highlights the existence of some peculiarities at the level of the economical factors that promote the irregular migration, especially found at the level of the host states, due to the existence of some sectors of the underground economy within which the irregular migrants can be framed or the adoption of policies / lax legislation on the controls of forms / employment documents.

On the other hand, irregular migration raises a series of dilemmas at the level of European state entities and equally vulnerable to irregular migrations amid exposure to various forms of exploitation. We believe that an important role in assessing irregular migration from this perspective is the analysis of the dual dimension of the risks and threats caused by irregular migration, with an impact both on national security and on the human, citizens and society of the host country. We emphasize in parallel the necessity of the unitary approach by state and supra-state entities of the aspects regarding the national security of a state and the imperative of respecting and protecting human rights and fundamental freedoms in the policies regarding the fight against irregular immigration. Even if all EU Member States are aware of the dual dimension of the phenomenon, the expectations of civil society and political establishment at both national and European levels must be realistic. The phenomenon of irregular immigration will continue to be ranked among the top priorities of international migration management,

starting from the complexity and strength of the factors that generate this phenomenon and the impossibility of eradicating them.

At the level of the European continent, irregular migration has become a significant phenomenon at the end of the twentieth century and has become of major importance with EU enlargement. The research has highlighted a strong link between international migration, restrictive migration policies, and continued migration, while restrictive migration policies appear to favor disfavoring migrants in illegal activities instead of generating a deterrent effect. On the other hand, we emphasize that the quantitative dimension of the phenomenon of irregular migration is often overstated, in which the decisions taken by the political factor are often oversized. Most often, these policies have the role of criminalizing irregular migrants without taking into account the beneficial effects of this segment of immigrants, such as high availability in accepting a wide range of jobs or their high geographic mobility. Against this background, we start from the hypothesis that policies adopted at EU and Member State level are the result of discourses and political principles generated by the speculation of perceived societal perceptions and not based on applied / applied research. Taking into account the relatively small size of the phenomenon of irregular migration in relation to the size of international migration, corroborated with often positive fiscal and economic effects, we believe that policies to prevent and combat irregular migration are disproportionate and often produce more negative effects than their absence. Based on these coordinates, one of the main challenges of irregular immigration at the level of destination countries is to guarantee human rights and fundamental freedoms.

To confirm or refute the above assumptions, I structured this research into two dimensions of analysis, one focused on developments at European level and one on the national level - Romania. The first chapter of this doctoral thesis includes aspects regarding the motivation of choosing the research theme and an introduction to the complex subject of the phenomenon of international migration, is the irregular one. Within the same chapter we included a presentation of the methods proposed by this research project, namely a multifaceted analysis of the phenomenon of irregular and international migration on the demographic, historical and, of course, legislative dimensions, supplemented by the elements regarding the security dimension and the risks These phenomena project them. In this chapter we will also deal with issues related to historiography of the problem of irregular and international migration, but given the quantitative dimension of the researches dedicated to the phenomenon we will not stop

on the evaluation of each study but will address the main theories that are used for the research. And understanding of the phenomenon with emphasis on those that have an explanatory and predictive character.

In the second chapter of this research we propose to make a radiograph of the phenomenon of international migration both at European and national level. To achieve these objectives, our research will begin with the analysis of the phenomenon of international migration at the level of the European continent in the second half of the 20th century and the beginning of the 21st century and the evaluation of the catalytic factors of the phenomenon. Adjacently, we will analyze the risks and threats generated by the European continent from the migration phenomenon, with an emphasis on the relationship between migration-security, migration-terrorism-security, and the importance of the concept of security in the development of migration policies. In the second part of this chapter I have drawn attention to the experience of the Romanian state in relation to the phenomenon of international migration. In particular, we focused on the phenomenon of emigration that grew in size after the fall of the communist regime. In order to complete the picture on the migratory experience of the Romanian state, we focused on the phenomenon of immigration in post-December Romania, focusing on the main characteristics and trends of the phenomenon, the issue of refugees and asylum seekers in Romania, the motivation of immigration, State / institutions on the integration process of immigrants.

The third chapter of this research is dedicated to assessing the relationship between the opportunities and challenges of the phenomenon of international and irregular immigration to the EU's eastern border. In this respect, we propose the evaluation of the phenomenon of irregular migration from the perspective of the European and national legislative framework. The chapter starts with the evaluation of the European migration legislation and the steps taken by the European fora for a common EU policy on migration. In addition, we proposed to evaluate the legal framework in Romania on the phenomenon of migration, with an emphasis on the way in which the circulation of foreign citizens on the national territory is regulated, the migration for the purpose of carrying out gainful activities, as well as the conditions for granting the asylum status. Adjacently we have brought to the attention the harmonization process achieved at the level of the normative acts adopted by the Romanian state and the European legislation, as well as the adaptation of the attributions of the national institutions responsible for managing the

migration phenomenon. Also in this chapter, we conducted an assessment of the effects of controlled migration as a form of combating the phenomenon of irregular immigration in Romania, as well as the role of governmental policies and national strategies in preventing / fighting irregular migration.

The fourth chapter stops on the theoretical and conceptual framework of the phenomenon of irregular migration, starting from the historical perspective of the concept of illegal migrant and reaching the assessment of irregular immigration in the context of globalization. At the same time, in this chapter we made an assessment of the definitions given to irregular migration and the placement of this concept in the context of EU enlargement to the East. To complete the image of the definitions given to irregular migrants at the end of this chapter, we conducted an assessment of the main rights and freedoms that are granted at European level to this category of migrants.

The last chapter of this research has analyzed the existing relationship between the Romanian state and the phenomenon of irregular migration. In this respect I have drawn attention to the position that the Romanian state adopts in the conditions in which geography plays a decisive role in the modeling of this phenomenon, namely Romania is positioned at the intersection of the main international routes of irregular migration concerning the European continent. Within this chapter, we conducted an analysis of the national legislation on the phenomenon of irregular immigration, focused on the limits and consequences of this phenomenon on the involved actors - immigrants. In parallel, we intend to evaluate the main risks and vulnerabilities that the phenomenon is projecting on the security of the host society, but also on migrants. At the end of this chapter we have conducted a short and medium term predictive analysis of the main evolutionary directions of the phenomenon of international and irregular migration at European level and the impact that is projected on Romania either from the perspective of a destination or transit country.

Although the phenomenon of international migration has attracted the attention of researchers and specialists since the second half of the 20th century, research into the characteristics and complexity of the phenomenon of irregular migration has remained in a shadow. The explanation of this "marginalization" can easily be understood that although the approach of the migration phenomenon has a wide range of perspectives / points of view, the peculiarities of the phenomenon of illegal migration, caused by the illegal nature of the

phenomenon, make it difficult to carry out in-depth research to reveal as a whole, but also in particular, of its quantitative or qualitative dimension. Against this background, aspects of the gender distribution of illegal immigrants, their quantitative dimension or the particularities of the socio-professional categories involved in this phenomenon, as well as the factors influencing these aspects of irregular migration, remain under the magnifying glass of researchers, presently the existence of patterns that allow understanding of the phenomenon from this perspective. Adjacently, defining the term illegal migrant continues to pose a challenge for many specialists. The illegal status is conferred by the legislative and regulatory framework in relation to the position that immigrants acquire in the State of destination on how to enter the national territory of the country of destination, the type of gainful employment or the respect of periods of residence in the country of destination. Although, over the years, researchers and field specialists have attempted to re-introduce this concept by replacing the term illegal migrant with a migrant without papers or irregular migrants, a unitary way of defining the concept has not been established at the level of European construction. Starting from these aspects, I pointed out in this research that the inadequacy of some concepts in the strategic documents or normative acts potentiates the criminalization of the categories of immigrants and leads to their placement in the illegal sphere, a de facto state that can endanger the integration of migrants.

Irregular migration flows that were originally, originally or regionally-shipped in Central and Eastern Europe were not only outlined by some conventional factors, including the prospects of improving the financial situation, the flexibility of the labor market, or the opportunity to raise the level Quality of life. In addition to these determinants, irregular migration has been generated by other factors, including those of ethnic, political and psycho-social. In addition to these factors, we consider that the policies adopted at the level of the EU Member States on the control of migration flows are directly responsible for increasing the flows of illegal migration. We emphasize that by this argument we do not subject the evaluation to these measures adopted in terms of white or black, namely good or bad, since the adopted policies are understandable from the point of view of the legislator or the political decision maker who ensures the state and the citizens he represents Stable social-economic-political climate within the country and, as far as possible, in the immediate vicinity. However, we can not deny the emergence of negative consequences generated by the adoption of legislative norms

aimed at regulating the geographical movements of the population, namely the criminalization of the individuals involved in the phenomenon of illegal migration.

Regarding the rights of irregular immigrants in the EU, this research has revealed that the most delicate dimension of the phenomenon of irregular immigration is represented by the process of guaranteeing the fundamental rights and freedoms for immigrants who are acquiring an illegal status. The process of defining migrants who are outside the legal boundaries plays an important role in the process of integration and assimilation of illegal immigrants into host societies. In particular, defining this category of immigrants as illegal potentiates the risk of their exclusion from all rights, and thus favors their dehumanization. In these circumstances, we maintain that the use of the term "irregular" can help to neutralize their status and, implicitly, to raise awareness of both public opinion and state institutions about the need to respect human rights for irregular migrants, even if they are placed outside the legislative framework force. This assessment highlights the lack of unitary EU-level policies on respect for irregular immigrants' rights and the existence of major discrepancies between policies at European Union level to respect the rights of illegal immigrants in areas such as education, health and the provision of optimum working conditions and the realities recorded in each of these states.

Moreover, most of the studies / research undertaken so far have highlighted that the legislative documents drafted / adopted at the level of EU Member States and European Institutions use negative terminology to define the category of irregular migrants, which incites their criminalization and brings in The feeling of insecurity, a situation that favors the positioning of society / public opinion and public institutions in opposition to illegal immigrants. The situation is likely to contribute to the criminalization and at the same time marginalization of illegal immigrants, emphasizing the process of social exclusion. At the same time, policies adopted at national level by some EU Member States aimed at adopting measures to regularize the phenomenon of irregular immigration have produced a number of effects that have indirectly boosted the quantitative dimension of the phenomenon of irregular immigration, Which has led to the formation of the perception of public opinion and institutions that these policies are turning into attraction factors.

Through this research we have attempted to draw attention to the dual dimension of the threats caused by international and irregular migration, with an impact both on national security and on the human, citizen and society of the host country. The analysis on this dimension

highlighted the fact that the European political leadership felt the need to reconceptualize the management of the phenomenon of irregular migration on the background of awareness and assumption of the dual dimension of the projected risks, but they rarely managed to reduce the quantitative dimension of the phenomenon or reduce The impact of the risks associated with this phenomenon on national security and citizens. Against this background, in this research we have tried to highlight the need to include in the policies regarding the fight against irregular migration aspects concerning the national security of a state, as well as the imperative of respecting and protecting human rights. To understand the complexity of the existing relationship between the concept of security and the phenomenon of international migration, we have referred to the existing relationship between the nation state in the sense of the XX / XXI century and the quantitative and qualitative dimension of this phenomenon. This perspective has started from the premise that the state as an entity has the right and the obligation to carry out border controls as well as persons entering the national territory.

These conclusions have underpinned one of the hypotheses that we have embarked upon in this research, namely that the migration phenomenon is equally a threat to national security as well as an opportunity for political establishment. To emphasize character development opportunity that lies with the migration phenomenon mentioned that the migration strategies and policies adopted states have always prioritized migration flows and categories of migrants. Exemplary, brain migration or migration from an economically developed country is an opportunity for development for the host country. Against this background, we conclude that migratory policies are made in such a way that they are a factor of attraction according to the needs of the host state's labor market. At the same time, migration of a lower level of training or underdeveloped countries and irregular migration brings with it a number of risks and vulnerabilities to the host, so that migration policies adopted nationally imposed a series of restrictions in order to discourage immigration of these categories. Consequently, this research led us to the conclusion that reshaping migration policies, with emphasis on ensuring human rights and access to social protection and waiver of restrictive policies are likely to lead to reducing irregular migration and reduce the impact and likelihood Human security risks.

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