



Науково-практичний
круглий стіл

**Сучасні виклики для
міграційної політики:
правові, освітні та історичні
аспекти**



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**СУЧАСНІ ВИКЛИКИ ДЛЯ МІГРАЦІЙНОЇ ПОЛІТИКИ:
ПРАВОВІ, ОСВІТНІ ТА ІСТОРИЧНІ АСПЕКТИ**

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ЗМІСТ

<i>Бичай Р. Р.</i> ДЕРЖАВНА МІГРАЦІЙНА ПОЛІТИКА УКРАЇНИ В УМОВАХ ВОЄННОГО СТАНУ: ПРОБЛЕМИ РЕАЛІЗАЦІЇ	4
<i>Drakokhrust T. V., Parashchuk V. I.</i> LEGAL STATUS OF CITIZENS WHO WERE DISPALED WITHIN THE TERRITORY OF UKRAINE DURING THE WAR: THREATS AND CHALLENGES. 7	
<i>Гончаренко А. В.</i> МІГРАЦІЙНА ПОЛІТИКА ФРАНЦІЇ ПІД ЧАС «КРИЗИ БІЖЕНЦІВ» 2015–2017 РР.	10
<i>Гуляєва Л. П.</i> ПІДПРИЄМНИЦЬКА ДІЯЛЬНІСТЬ УКРАЇНСЬКИХ ЖІНОК- ВИМУШЕНИХ МІГРАНТОК В УКРАЇНІ ТА ПОЛЬЩІ	13
<i>Дегтярьов С. І.</i> УКРАЇНЦІ-МІГРАНТИ У КРАЇНАХ ПІВНІЧНОЇ ТА ПІВДЕННОЇ АМЕРИКИ: ДОСВІД САМООРГАНІЗАЦІЇ (КІНЕЦЬ ХІХ – ПОЧАТОК ХХ СТ.)	17
<i>Завгородня В. М.</i> РОЛЬ РІШЕННЯ ЄСПЛ У СПРАВІ «СЗУРОВЕЦ ПРОТИ УГОРЩИНИ» У ФОРМУВАННІ МЕДІА-ПОЛІТИКИ ЩОДО ПРОБЛЕМ МІГРАЦІЇ	20
<i>Качур В. О.</i> ДО ПИТАННЯ ПРО МІЖДИСЦИПЛІНАРНІ ПІДХОДИ У ДОСЛІДЖЕННІ ТЕОРІЇ МІГРАЦІЇ	23
<i>Корнева Т. В.</i> ФІНАНСОВІ ІНСТРУМЕНТИ ДЛЯ ПОСЛІДОВНОГО ВІДНОВЛЕННЯ І ТРАНСФОРМАЦІЇ СИСТЕМИ ОСВІТИ В УКРАЇНІ В УМОВАХ МІГРАЦІЙНИХ ПРОЦЕСІВ. 25	
<i>Кузьмін Д. В., Весперіс С. З.</i> СУЧАСНІ ПРОБЛЕМИ ТА ВИКЛИКИ ЗАХИСТУ ПРАВ НЕПОВНОЛІТНІХ МІГРАНТІВ ПРИ ОТРИМАННІ ОСВІТНІХ ПОСЛУГ	28
<i>Lukianets-Shakhova V. S.</i> CURRENT CHALLENGES TO EU MIGRATION POLICY	31
<i>Лук'янихіна О. А.</i> ВИКЛИКИ МІГРАЦІЇ ТА МОЖЛИВОСТІ ПРОГРАМ ОСВІТНІХ ОБМІНІВ ЄС	34
<i>Міщенко М. В.</i> ГЕНДЕРНІ АСПЕКТИ СУЧАСНОЇ МІГРАЦІЇ З УКРАЇНИ ДО ЄС	38
<i>Протсавицька Л. С.</i> ВНУТРІШНЬО ПЕРЕМІЩЕНІ ОСОБИ ТА ЗАХИСТ ЇХ ПРАВ В УКРАЇНІ	42
<i>Рассохіна А. М.</i> МЕДІЙНИЙ ПОРТРЕТ УКРАЇНСЬКИХ БІЖЕНЦІВ У ВЕЛИКІЙ БРИТАНІЇ ТА ЄВРОПЕЙСЬКОМУ СОЮЗІ: АНАЛІТИЧНИЙ ОГЛЯД.....	44
<i>Сіньова Л. М.</i> ОКРЕМІ АСПЕКТИ ЗАХИСТУ ПРАВ ВНУТРІШНЬО ПЕРЕМІЩЕНИХ ОСІБ В УКРАЇНІ	48
<i>Славко А. С.</i> ПОНЯТТЯ «СЕРЬОЗНОЇ ТА ІНДИВІДУАЛЬНОЇ ЗАГРОЗИ» В МІГРАЦІЙНОМУ ПРАВІ ЄВРОПЕЙСЬКОГО СОЮЗУ	51
<i>Славко О. О.</i> ПРАВО ВПО НА ОСВІТУ: ПРОБЛЕМИ РЕАЛІЗАЦІЇ.....	54
<i>Товстий В. О.</i> ІМПЕРСЬКИЙ НАРАТИВ У СЕРЕДОВИЩІ СУЧАСНОЇ РОСІЙСЬКОЇ ЕМІГРАЦІЇ.....	56
<i>Швагер О. А.</i> ДО ПИТАННЯ ВИЗНАЧЕННЯ ЗМІСТУ ПОНЯТТЯ «ВИМУШЕНА МІГРАЦІЯ»	60
<i>Тодоров І. Я.</i> ЄВРОПЕЙСЬКА БЕЗПЕКА В КОНТЕКСТІ МІГРАЦІЙНИХ ВИКЛИКІВ	62
<i>Циватий В. Г.</i> КОНЦЕПТ «МІГРАЦІЯ» І МІГРАЦІЙНА ПОЛІТИКА УКРАЇНИ В МОНДІАЛІЗОВАНОМУ СВІТІ ХХІ СТОЛІТТЯ: ІСТОРИЧНИЙ, ЗОВНІШНЬОПОЛІТИЧНИЙ І МІЖНАРОДНО-ПРАВОВИЙ АСПЕКТИ	65

CURRENT CHALLENGES TO EU MIGRATION POLICY

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Migration is a European challenge that needs a European response. The EU should work on this together, all 27 countries. Such unity made it possible to successfully defend against hybrid attacks by Belarus, against the transformation of migrants into weapons. It also made it possible to shelter millions of Ukrainian refugees fleeing Putin's bombs in the EU. It is important to learn these lessons from the past – when the EU acts together, there are no challenges the EU cannot overcome. These words of the head of the European Commission formed the basis of countering the current challenges to the EU's migration policy.

Historically the free movement of workers forms part of the four freedoms upon which the European Community was founded in 1957. This right, although broadly interpreted by the European Court of Justice, has primarily focused on those who are nationals of the European Community and who are economically active, with special rules applying to their families. Today, these rights apply to all EU citizens and there is no need to show any economic activity on the part of the individual seeking to move from one Member State to another. Third-country nationals in their own right did not fall under these initial regulations, nor do they fall under the regulations as regards free movement of EU citizens [1].

Immigration and asylum issues were handled by the Member States under the Justice and Home Affairs pillar, which had been created by the Treaty on the European Union and operated on an intergovernmental basis. The intention was for Member States to coordinate their policies and adopt common positions. Any such decisions were to be decided on a unanimous basis between the Member States, with the EC institutions occupying only a peripheral role.

Here an overview of some key points and ongoing discussions related to EU migration policies up until that time. Some there might have been developments since then, so it's important to consult the latest sources and official EU documents for the most up-to-date information. Here are some general aspects to consider:

Comprehensive Approach: The EU has been pursuing a comprehensive approach to migration, emphasizing the need for a holistic strategy that addresses various aspects such as border control, asylum procedures, legal migration, integration, and cooperation with third countries.

Common European Asylum System (CEAS): The EU has been working towards establishing a Common European Asylum System to ensure a fair and harmonized approach to asylum procedures across member states. However, the implementation of the CEAS has faced challenges due to differing national interests and perspectives.

Border Control and Management: The EU has been strengthening its external borders through initiatives like the European Border and Coast Guard Agency (Frontex) and the development of integrated border management systems. Cooperation with neighbouring countries and sharing of information are key components of border control efforts.

Return and Readmission: The EU has been focusing on enhancing the effectiveness of return procedures for individuals whose asylum applications have been rejected. Cooperation with countries of origin and readmission agreements have been important in facilitating returns.

Legal Migration: The EU has recognized the need for legal pathways for migration to address labour market demands and demographic challenges. Policies promoting legal migration channels, such as skilled worker schemes, have been discussed and implemented to varying degrees across member states.

External Partnerships: The EU has been engaging in partnerships and dialogues with countries outside the EU to address migration challenges, including the root causes of migration, cooperation on border management, and addressing human rights concerns.

Solidarity and Responsibility-Sharing: The distribution of responsibility for asylum seekers and refugees among EU member states has been a contentious issue. Discussions have focused on achieving greater solidarity and burden-sharing among member states to address the disproportionate pressure faced by certain countries of first arrival.

It's important to note that migration policies and strategies are subject to ongoing discussions, changes, and evolving circumstances. The special European Council agreed on two main directions for improving the mechanism for regulating migration flows.

The first concerns the completion of work on the so-called EU Pact on Migration and Asylum [2]. One of the pilot projects in this direction involves the improvement of border procedures, exchange of experience and unification of the processes of quick and fair consideration of asylum issues, as well as the return of migrants to their countries of origin. In this context, the EU will adhere to the concept of so-called "safe countries" with which it will cooperate in matters of the return of migrants. The return procedure itself will be unified - if one EU country has made a decision to return a migrant, this decision must be accepted in the rest of the community countries, that is, other countries should not initiate consideration of such a case again. All this work should be carried out with the participation of all the European structures involved, including the border agency Frontex, the EU Asylum Agency and Europol.

The second area on which the EU leaders focused their attention during the meeting in Brussels is operational measures to strengthen the borders, which can already be implemented at the EU level and at the level of individual member states. The EU borders must be regulated and member states shall act to strengthen the external borders and prevent illegal migration. This involves the provision of an integrated package of mobile means and stationary infrastructure - from cars, cameras and security towers to electronic surveillance systems. This requires European funding. Bilateral and national funding is also welcome, stated Ursula von der Leyen [3].

In assessing the developments with regard to immigration and the EU, a strong trend towards the development of a common policy can be noted. Although a common immigration policy for certain third-country nationals was already in place under the Tampere Programme, Member States have for a long time been reluctant to give up competencies in the field of labour migration. With the Legal Migration Plan 2005, two proposed Directives and further measures to come, this position seems set to change. The recent communication from the Commission "Towards a Common Immigration Policy" amounts to a strong call for action for a common policy. It should also be noted that the external dimension of migration (cooperation with third countries) has become an increasingly important item on the EU agenda in recent years. Optimizing the benefits from circular migration has been recognized as being critical for countries of origin and destination alike, as well as for individual migrants and their families. To this end, the concept of mobility partnerships has been proposed as a concrete tool for enhanced migration management and socio-economic development. At this stage it is important that the initiatives proposed by the Commission are put into practice by Member States. The practical experiences gathered will then allow further discussion and refining of those instruments.

Here are some positive results that have been achieved through measures taken by the EU regarding migration:

Enhanced cooperation and coordination: The EU has fostered closer collaboration among member states, leading to improved information sharing, joint operations, and better coordination in addressing migration challenges. This has helped in achieving a more unified and comprehensive approach to migration management.

Common European Asylum System (CEAS): The EU has worked towards developing a common framework for asylum, aiming to ensure consistent and fair treatment of asylum seekers across member states. Although implementation has been challenging, the establishment of the CEAS has created a shared set of standards and procedures, promoting a more harmonized approach to asylum.

Financial support: The EU has allocated substantial funds to support member states in managing migration and asylum-related issues. For instance, the Asylum, Migration, and Integration Fund (AMIF) provides financial assistance for reception, integration, and return programs. Such financial support has helped improve reception conditions, promote integration initiatives, and strengthen border management capabilities.

Partnerships and agreements: The EU has engaged in dialogue and cooperation with countries of origin and transit, leading to various agreements aimed at addressing migration challenges. For example, the EU-Turkey Statement in 2016 aimed to reduce irregular migration flows from Turkey to the EU. These partnerships have contributed to better management of migration routes and the facilitation of returns.

Resettlement and relocation programs: The EU has implemented schemes to relocate refugees within member states and facilitate their resettlement from outside the EU. These programs aim to provide protection to those in need and alleviate the burden on countries disproportionately affected by arrivals. They have helped ensure a more equitable distribution of responsibility among member states.

Integration efforts: The EU has promoted integration measures to support the social inclusion of migrants and refugees. Initiatives such as language training, access to education, employment support, and cultural orientation programs have been implemented to facilitate the integration process and enhance the prospects of successful integration into European societies

Search and rescue operations: The EU has supported search and rescue efforts in the Mediterranean Sea, contributing to saving lives and providing assistance to those in distress. Operations coordinated by the EU, such as Frontex's Joint Operation Triton and Operation Sophia, have played a crucial role in preventing loss of life at sea.

These are just a few examples of positive results that have been achieved through EU measures. Migration management remains a complex and evolving issue, and the EU continues to work on addressing challenges and improving its policies and practices in this area.

REFERENCES:

1. Consolidated version of the Treaty on the Functioning of the European Union <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12016E/TXT>
2. EU pact on migration and asylum: State of play. Briefing 23-06-2023: [//www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2022\)739247](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2022)739247)
3. EU agrees radical reforms on migration and asylum laws <https://www.theguardian.com/world/2023/jun/08/eu-agrees-radical-reforms-migration-asylum-laws>