

Free movement of workers from a Romanian perspective

I will analyse in this chapter the rights of free movement of Romanian nationals especially as workers and assess the situation of gypsies, trying thus to answer the following questions:

What rights do Romanian workers have according to the EU legislation? What rights do Romanian gypsies have according to EU legislation? Are the rights of Romanians and Roma citizens effectively protected in accordance with the EU Treaty?

In answering these questions, it will become evident that there are still many restrictions in Europe towards both Romanian workers and Romanian gypsies, even if some of the restrictions are not actually part of Romania's Accession Treaty to the European Union. In this sense they might be seen as abuses made by EU countries that throughout their policy breach not only EU law principles but also human rights principles.

1. Defining the concept of free movement of workers in the European Union

In this subchapter I will present the concept of free movement of workers in the European Union, from a theoretical point of view relying essentially on the case law of the European Court of Justice. It is essential at this stage to have a good understanding of the rights of Union citizens, especially those who qualify as workers, in order to assess the status of Romanians and Gypsies in this light and assess whether their EU-rights are effectively protected

The free movement of workers is protected both by primary EU law sources, such as treaties (the EU treaty) and secondary legislations, such as directives (Directive 2004/38/EC).

It is relevant to present all the primary and secondary EU law sources that

protect workers, because the free movement of workers is protected by various sources so it is important to assess who qualifies as a worker.

The EU Treaty which defines the free movement of workers is article 45. This article entails: *„the right to look for a job in another Member State; the right to work in another Member State; the right to reside there for that purpose; the right to remain there; the right to equal treatment in respect of access to employment, working conditions and all other advantages which could help facilitate the worker’s integration in the host Member State”* (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0013:0046:en:PDF>)

The provisions of Article 45 TFEU are further developed in Council Regulation 1612/68, Council Directive 68/360/EEC , Regulation (EEC) No. 1251/70. These provisions entitle any EU national to take up and engage in gainful employment on the territory of another Member State, to equal treatment to national workers as regards working and employment conditions, social and tax benefits; his or her family members are also entitled to establish themselves, together with the worker, whatever their nationality. Nevertheless, employment in the public services is excluded from this provision (Article 45(4) TFEU).

Although free movement is an economic, not a social concept, it creates many problems of a social nature: transfer of pensions and social benefits, entitlements of migrant workers to unemployment, social security and other benefits, family issues of education, housing and so on. These social issues were dealt with not as independent social concerns, but under the heading of economic free movement of labour. This created a tension in the balance between the economic and the social perceptions of free movement of workers. Policy initiatives, legislative provisions and court decisions were concerned with economic and not social consequences, that is with possible restraints on free movement and not with the social implications of free movement of workers. Overall, the principle of free movement of workers as a founding principle of the common market had initially a dominant influence on the perception of the nature of labour regulation in the European Union.

(<http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/freemovementofworkers.htm>)

Looking at the problem from a more practical approach, in the case where a Union citizen wants to reside in another Member State, without exercising any work related activity or studying, that citizen has to provide proof that he does not represent a burden on that state. In case the person brings members of his family than he has to prove that he has sufficient financial resources for them as well.

The concept of free movement of workers relates to citizenship in the European Union. Thus EU citizenship is defined in article 20(1) TFEU as: *“Every person holding the nationality of a Member State shall be a citizen of the Union”*, while Article 21(1) TFEU provides that *“Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect”*.

(<http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/freemovementofcitizens.htm>)

The EU Treaty has a number of provisions that deal with the free movement principle, such as article 21 that provides the following: *„ Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States subject to limitations and conditions laid down in the EC Treaty and by the measures adopted to give it effect”*.

The Treaty contains a general prohibition on discrimination on the grounds of nationality and it specifically states that freedom of movement for workers entails *“the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment”*.

(<http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/freemovementofcitizens.htm>)

Workers are also defined as previously mentioned in secondary legislation, such as the Residence Directive, in article 7, which is essential because it

presents the situations where a citizens can reside in another country for more than three months: *“if they are workers or self-employed persons in the host Member State; have sufficient resources for themselves and their family members not to become a burden on the host member state during the period of residence and have comprehensive sickness insurance cover in the host Member State; are enrolled at a private or public establishment, accredited or financed by the host Member State on the basis of its legislation or administrative practice, for the principal purpose of following a course of study, including vocational training; and have comprehensive sickness insurance cover in the host Member State”*.

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004L0038:20040430:EN:PDF>)

One of the first cases where free movement of workers was defined was the Levin Staatssecretaris van Justitie (case 53/81): *„ the concept of worker is a Community concept, not dependent for its meaning on the laws of Member States. There are two aspects to the definition of worker: a formal aspect and an economic aspect. The formal aspect questions whether an individual is employed, rather than self-employed; while the economic test looks at the nature, duration and quality of the work. (Steiner, Josephine and Woods, Loma, Oxford University Press, tenth edition, 2009, pag 410)*

The concept of worker has also been explained in the Hoekstra v BBDA case 75/63: *„ the Court held that it extended not merely to the present workers, but to the one who, having lost his job, is capable of taking another”*.

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61963CJ0075:EN:PDF>)

Worker is also defined in the Immigration (European Economic Area) Regulations 2006 as *“within the meaning of Article 39 (now art. 45 TFEU) of the Treaty establishing the European Community”*. This shows that a worker is a person who is employed, actually or potentially, under a contract of employment and is not a self-employed person. (<http://www.legislation.gov.uk/ukxi/2006/1003/contents/made>)

The Residence Directive also provides that a worker's right of residence cannot be withdrawn just because he is temporarily incapable of work, as a result of illness/ accident or involuntarily unemployment. The ECJ dealt with the issues of involuntary unemployment in relation to a fixed term contract in the case 431/01 (Ninni-Orasche): „ *The ECJ noted that in some sectors workers might have no choice but to accept fixed-term contracts; becoming unemployed on the cessation of such contract could not therefore be considered to be a choice of the worker*”.

(<http://www.efbww.org/pdfs/annex%208%20-%20Brochure%20part%201%20%5BEN%5D.pdf>) So in this case it was not voluntary unemployment. If a worker is not genuinely seeking work, from the moment his employment relationship had ended that person loses his status as worker, but if he can prove that he is genuinely seeking work then he becomes a jobseeker.

The European Court of Justice, in Lawrie-Blum case 66/85 stated that the essential point is that the person provides services during a given time for and under the direction of another in return for remuneration. The EEA national's position within the organisation, the purpose of the work, the level of income it yields (including whether or not the person has to supplement his or her income by claiming social security benefits), and whether payment is in cash or in kind, are not relevant factors.

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61985J0066:EN:HTML>)

In addition reliance on public funds during periods of involuntary unemployment or training does not affect the right to remain under Community law. However, while a person who has been seeking work for more than 6 months may still be a worker for Treaty purposes, the evidential burden shifts to that person after 6 months to demonstrate that genuine efforts are being made to find employment and that he or she has a realistic prospect of success (Antonissen C292/ 89).

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61989J0292:en:HTML#M0>)

As expressed in the Residence directive, self employed citizens have the same

right of residence in the host country as the workers. Self employed citizens are those citizens who are carrying a self employed business activity in the host country. They are also protected against nationality discrimination and obstacles to their freedom of establishment.

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004L0038:20040430:EN:PDF>)

Another category of workers is the cross border category. Cross-border workers are those that can be described as people who commute to work across a national border and return home at least once a week and who enjoy the same benefits as any other worker in their country of employment. Even if, the Court of Justice of the European Union has held that no residence requirement may be imposed on these benefits, cross-border workers sometimes encounter specific problems when claiming social advantages because these are still linked to their residence

(http://ec.europa.eu/taxation_customs/taxation/personal_tax/crossborder_workers/)

After analysing the concept of worker I will also explain the concept of jobseeker. Jobseekers are those who arrive to the host country in order to look for a job and they have not worked there before. They are a hybrid category between the workers and the inactive Union citizens even though they fall under Art. 45 of the Treaty, article which was presented previously in this chapter. If they fall under art 45 of the Treaty that means that jobseekers have the same rights and obligations as workers.

A jobseeker is according to the Joined Cases C-22/08 and C-23/08, in Vatsouras and Koupatantze v. ARGE Nürnberg 900: Is someone that has established genuine links with the labour market of a Member State and which can receive a benefit of a financial nature intended to facilitate access to employment". Independently of its status under national law, such a benefit is not social assistance which Member States may refuse to job-seekers".

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:180:0014:0014:EN:PDF>)

In the Case 138/02, the Collins case, the Court of Justice makes clear that the right to equal treatment in relation to employment laid down in Article 39, read in conjunction with Articles 12 and 17 of the Treaty, relating to "*prohibition of discrimination on grounds of nationality and to citizenship of the Union, does not preclude national legislation which makes entitlement to a jobseeker's allowance conditional on a residence requirement, in so far as that requirement may be justified on the basis of objective considerations that are independent of the nationality of the persons concerned and proportionate to the legitimate aim of the national provisions*".

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62002J0138:EN:HTML>)

Another case that defines a jobseekers rights is the Antonissen case law 292/89. If you qualify as a jobseeker according to the Antonissen case you have the right to move freely within the territory of the other Member States and to stay there for the purposes of seeking employment. Jobseekers are eligible to any cash benefits which are intended to help them find work, provided they have a genuine link with the local employment market, e.g. they have looked for a job there for a reasonable period of time.

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61989J0292:en:HTML>)

In case the right to reside is conditional upon having sufficient resources not to become a burden on the host EU country's social assistance system (i.e. when you are not economically active), it might be terminated from the moment the person becomes an unreasonable burden on the social assistance system (this is mostly applicable to students, retired people, etc). This does not mean that the person cannot apply for social assistance there when he/she are in need for it. The citizens still has the right to receive the benefit under the same conditions as nationals of the host EU country. However, the host EU country is entitled to examine the circumstances of the claim. Those citizens can consider whether your need to apply for assistance is a case of temporary difficulties. They will also take into account the duration of the residence, the personal circumstances and the amount of aid granted. If the host EU country arrives to the conclusion that the person has

become an unreasonable burden on its social assistance system, they may proceed to your expulsion. However, an expulsion measure can in no case be the automatic consequence of recourse to the social assistance system

Another category that I will analyse is the one represented by inactive citizens. According to the Grzelczyk case 184/99 : *“A citizen of the European Union, lawfully resident in the territory of a host Member State, can rely on Article 12 of the Treaty in all situations which fall within the scope ratione materiae of Community law”.*

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61999J0184:EN:HTML>)

Inactive citizens are also protected by the Treaty in articles 18, 20 and 21. Article 18 of the Treaty specifically prohibits any discrimination on grounds of nationality. Article 20 specifies the following, *„Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship”.* (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0047:0199:en:PDF>)

Citizens of the Union shall have the same rights and be subject to the duties provided for in the Treaties, such as, for example the right to move and reside freely within the territory of the Member States. Article 21 mentions the following : *„Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect”.*

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0047:0199:en:PDF>)

There is a derogation from these rules, specified in the Residence Directive, article 24 (2): „ the host member state shall not be obliged to confer entitlement to social assistance during the first three months of residence, or where appropriate, the longer period provided for in Article 14(4)(b), nor

shall it be obliged, prior to the acquisition of the right of permanent residence, to grant maintenance aid for studies, including vocational training, consisting in student grants or student loans to persons other than workers, self employed persons, person who retain such status and member of their families.

(<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004L0038:20040430:EN:PDF>)

Romanians fully enjoy rights as self-employed and citizens of the Unions whereas Member States are entitled to restrict their rights of free movement as workers.

2. The necessity of restrictions imposed on Romania in the Accession Treaty

In this subchapter I will present the general framework concerning the restrictions that were imposed to Romania when it joined the European Union. I will also explain the necessity for imposing these restrictions in the accession Treaty before analyzing in a subsequent section the specific restrictions that were taken by the Member States concerning Romanian workers.

Several analysis were made after the accession of the ten Central and Eastern European Countries to the European Union since (and well before) May 2004. The debate was then mostly focused on the preparation of the candidate countries, their economical potential; the capacity of the EU to keep the balance in order to increase heterogeneity and also the perception of the other members about the new entries, not to mention conserving the national interests. Related to the conservation of national interests, questions were asked such as the distribution of community budget or the implementation of various national labour market policies.

In 2004 the EU enlargement shocked the world because of the number of

countries that joined (10) whilst in 2007 two more countries joined: Romania and Bulgaria. This can be explained due to the fact that both countries applied for EU membership in the mid 90`s but the decision to start the accession negotiations was taken only in 1999 when the European Council gathered at Helsinki.

The Treaty of Accession was signed with both countries in 2005 and entry into force could be postponed by one year if the progress reports made by the European Commission showed insufficient preparation from the candidate. Some arose also concerning the two countries referring to some economic requirements and regarding the possibility of financial correction on EU funds or restrictions regarding the free movement of workers as well.

Reading the common terminology which was used during the accession negotiations, from the moment a candidate country joins the European Union, it becomes a *“fully fledged member”*. But, in relation to Romania and Bulgaria one can speculate whether that was actually the intention of the people that drafted the Accession Treaty.

(<http://ec.europa.eu/social/main.jsp?catId=508&langId=en>)

First of all, art. 39 (1) of the Protocol related to the conditions and arrangements for Admission of the Republics of Bulgaria and Romania to the European Union stated, that in case of *“clear evidence that ... there is a serious risk of either of those States being manifestly unprepared to meet the requirements of membership by the date of accession of 1 January 2007 in a number of important areas, the Council may, acting unanimously on the basis of a Commission recommendation, decide that the date of accession of that State is postponed by one year to 1 January 2008”*.

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:157:0029:0045:EN:PDF>)

Being aware of the fact that the legal framework of these countries cannot be separated from its historical, economic and political context, European Citizens Action Service considered that it is necessary to go beyond the facts and to show not only the general context but to also show the legal

implications of the accession of Bulgaria and Romania to the EU. These legal implications refer to the much debated topic about migration, exploring human rights and the correlation between Romanians/ Bulgarians and the current EU Member States both past and present.

On the other hand art. 36 – 38 of the Accession Treaty stipulate specific safeguard clauses, which could be taken up to three years after Accession, but they could also remain applicable beyond that date until the particular situation is remedied.

Another interesting clause is the *economic safeguard clause* (art. 36) which represents a traditional trade policy measure that helps to deal with adjustment difficulties from an economic sector or an area for both the EU25 and also for the new Member States.

The *internal market safeguard clause* (art. 37) allows the Commission to take measures by analyzing case by case (either on its own initiative or upon the request by one Member State) in sectors such as telecommunication, competition, energy, agriculture, consumer and health protection. An example of this could be given in the food sector, where the Commission can decide to restrict the sale of some Romanian products of the internal market if the product does not follow the high-level EU standards.

The specific *justice and home affairs safeguard clause* (art. 38) is related to the functioning of the judicial system in fields such as insolvency, parental responsibility, matrimonial matters, uncontested claims etc. In addition to this, in case that EU funds are not used properly, financial corrections, like delayed disbursement, reduction of future payments or recovery of funds can be imposed. Also transitional measures are applied for a period of time in fields such as free movement of workers, land acquisition, road transport, agricultural and environmental EU laws and standards.

From a more practical approach, during the first two years following the accession of Bulgaria and Romania the access of their citizens to the labour market of the EU 25 Members States will depend on the policy and national law

of that particular State, as well as taking into consideration the bilateral agreements that these countries might have.

There are some countries that have mentioned the fact that they are going to open their labour market, whilst other countries have said that they are going to impose more restrictive access, which practically means that Romanians will need a work permit during the period in which the EU-25 Member States will apply those national measures.

After the end of these two years, the Commission will draft a report, which will be analysed by the Council. The Council thus has to review the functioning of the transitional measures. Besides this, all 25 EU countries have to make a formal notification addressed to the Commission stating if they want to continue with the national law measures for a maximum of three more years (in this case you will need a work permit), or if they will apply the Community law regime concerning the full free movement of workers, which means that they can go and work freely there.

As a principle the transitional arrangements should end after the expiration of the first five years after the accession. But still there exists this possibility for the 25 Member countries to ask the Commission for authorisation in order to continue to apply their national measures for two more years. This extension for two more years can be justified only if these countries experience serious disturbances on their labour market. The transitional measures cannot be extended after a maximum period of seven years.

After the national law restrictions have ended and free movement can be applied, the EU-25 Member States can no longer require a work permit from Romania and Bulgaria as condition of access to the labour market.

In the situation when an EU-25 Member State has stopped applying national measures and free movement of workers under Community law fully applies, it can be asked again to re-impose restrictions if it has serious problems on its labour market, or is threatening it.

Thus the Commission must decide what type of restrictions can be enforced and their duration as well. Any Member State can ask the Council to annul or change the Commission`s decisions and this action must be voted and agreed by a qualified majority. These „ *safeguard clauses*” have been included in every Accession Treaty since the European Union was formed still they have never been invoked.

Discrimination on grounds of nationality is excluded. Regarding the job market, the Member States must give workers from Bulgaria and Romania priority over workers from third countries.

In the situation a citizen legally works in an EU-25 Member State at the date of accession and also have a work permit or an authorisation for 12 months or more than that, he/she will gain direct access to the labour market of that particular Member State, but not automatically to the labour market of other EU-25 Member States which are actually applying national measures during all of these temporary measures.

In case a citizen decides to work in one of the EU 25 Member State after the date of accession and actually have permission to work there for 12 months or more than that he/she will benefit from the same rights. But in the situation where you decide voluntarily to leave the labour market of the host Member State, you then lose the right of access to the labour market of that State until the temporary measures have expired.

Another concept integrated in the Accession Treaty is the standstill clause. This clause means that the EU-25 Member States cannot make access to their labour markets by workers from Bulgaria and Romania more restrictive than it was before the moment when they signed the Accession Treaty in 2005. So in the situation when the EU-25 Member States has a quota of workers from these two countries which is part of a bilateral agreement from 2005 or earlier then it is impossible to go below that quota.

The most controversial issue that arose was regarding the migration issue, because of the newly entrants and also national unjustly turned attention away from the European problem: the right of each European citizen to move

freely from one Member State to another, but not only as tourists or beneficiaries of services or other but also workers or self-employed.

<http://ec.europa.eu/social/main.jsp?catId=508&langId=en>

This transitional system allows any Member State to grant free access for Bulgarian and Romanian workers to their labour market any time during the application of maximum seven years or if not to restore their national regime of work authorisations in the case when that country (having previously granted free access to workers from the new Member States) actually experiences serious disturbances on its national/regional labour market or in regarding a particular occupation (*safeguard clause*).

The general rule mentions the fact that the transitional arrangements should cease to apply on 31/12/2011. However between the following period: 01/01/2012 – 31/12/2013 a Member State can still be authorised to maintain its work permit regime but only if it can prove that there is a real disturbances on the labour market, which justifies closing the labour market. Even so, this system of transitional measures precludes any Member State from not following the community preference principle and so act towards people coming from third country nationals in a more favourable way than accession State nationals when trying to apply for work and also having equal aptitude to fulfil their position.

These transitional measures do not affect the workers that are already legally working in those countries, for an uninterrupted period of 12 months or longer. So they can automatically gain access to that labour market, but this does not apply to those of the other Member States which are also maintaining restrictions. Explained in a different way: these transitional measures apply to Bulgarian and Romanian workers who join the labour market of a Member State which continues to apply its national work authorisation regime before or after the 1st of January 2007 but who do not have a work authorisation (contract) which lasts for more than 12 consecutive months.

As a conclusion the transitional measures part of the Accession Treaty are complicated, but this is because their application is actually flexible. This

flexibility makes it almost impossible to provide the accurate information as each of the EU-25 Member States has to decide regarding the access that they allow Romanians into their national market. (<http://ec.europa.eu/social/main.jsp?catId=508&langId=en>)

3. The implementation of the restrictions in the Member States

After analyzing the Accession Treaty and the general provisions regarding Romania, in this part of the paper I will present the specific restrictions taken by some EU countries concerning the free movement of Romanian workers, demonstrating thus the fact that there are still many problems for Romanians to obtain a work permit in some countries, not to mention the fact that besides the restrictions that are still some countries that are restrictive in hiring Romanian workers. I consider it relevant to present these cases because this also shows the opinion of the European countries about Romania and the way in which they actually interpreted and implemented the provisions of the Accession Treaty in their national legislation.

The restrictions concerning Romanian workers differ from country to country. There are some countries that opened their job market without hesitations, there are some countries that did not differentiate between the countries that joined in 2004 and the countries that joined in 2007, there are also other countries that had specific, national requirements concerning Romanian workers making it thus very hard for Romanian workers to access the job market of that specific country. In the following part, I will present different categories of countries and their policies concerning Romanian workers.

3.1. Liberal countries

In this category I can include Sweden, Finland, Denmark and Italy. Sweden is

known to have opened its door policy, being thus the first country to fully liberalise the access to the labour market and not restricting access to social benefits either. This type policy is applied not only concerning the EU10 nationals, but also concerning Bulgarian and Romanian workers.

Finland was also the first from the EU15 countries that announced that they are going to lift the restrictions to free movement of workers at the end of the second year of the transitional period as regards EU10 nationals. So as a consequence of this Finland does not apply restrictions to Bulgarian and Romanian nationals either.

Denmark is also a liberal country. In Denmark for example a citizen is eligible to obtain a Danish work permit if the person holds a fulltime (which means at least 30 hours per week) employment on collective bargaining, contract conditions or having a standard wage and work conditions while their employer has to be registered in compliance with Danish laws. That particular applicant can start his work once his/her work/residence permit has been granted and once both the employer and the employee can be penalised if working or employing illegally.

3.2. Moderate countries

Countries such as Italy, Luxembourg , France and Belgium can be considered moderate countries concerning their approach towards Romanian workers because they applied the same restrictions for these countries as for the ten countries that joined in 2004.

In Italy even from the 1st of January 2007 Bulgarian and Romanians could seek for work easier in areas such as: construction; agriculture; domestic work; engineering trades; hotel trade; tourism and also some other highly qualified areas. Thus seasonal work is also covered by this facilitated procedures, even if the rest of the occupations, the transitional arrangements apply. So as a consequence the Italian Minister for Social Solidarity states the fact that partial liberalisation of access to the labour market *"would cover the majority of Romanians already in Italy who have been hitherto subject to*

restrictions as non-EU

members". (<https://ec.europa.eu/eures/main.jsp?acro=free&lang=en&countryId=RO&fromCountryId=BE&accessing=1&content=1&restrictions=1&step=2>)

This action made by the Italian government is seen as a sort of regularization programme because it legalises the Romanian workers which are already present in Italy.

In the case of Luxembourg as I previously mentioned the government chose to impose the same restrictions as of the countries that joined in 2004 (which is actually a simplified procedure to grant work permits in viticulture, agriculture, the catering sector and also in the financial sector.

France chose to adopt a coherent approach ("choix de la cohérence") related to labour migration for the ten countries that joined in 2004 and the other two that joined in 2007. This means that the sectors open to workers that are coming from EU10 and Bulgaria and Romania are the same. In the situation when a worker applies for a work authorisation in sectors such as agriculture, construction, tourism and other sectors the required authorisation should be automatic. The opening of those 61 sectors is benefiting seasonal workers, mainly those ones that are working in agriculture.

In Belgium on the other hand there exists a selective labour market policy which allows EU10 nationals, Bulgarians and Romanians to get easily access to "*bottleneck jobs*", for which there are not that many candidates from the other found member states. The work permits are issued using an accelerated procedure in maximum five days in the sectors that are struggling with labour shortages. Another specific feature of Belgium is that Belgium does not differentiate between workers of the fifth enlargement round (EU10 and EU2), meaning that they do not make any difference between the countries that joined in 2004 and those which joined in 2007. But even with this measure, a difference between the two stages of EU Accession differ because on one hand the restrictive measures related to the countries that joined in 2004 will end in December 2008 those the countries that joined in 2007 will end, optimally speaking at the end of 2013. So at the end of the day, there will still be a difference between the treatment applied to these countries.

3.3. Restrictive countries.

There are countries that have restricted their policy regarding Romanian workers, such as the Netherlands, Austria, Germany, The United Kingdom and Spain.

In the Netherlands workers from EU2 are treated differently from the EU10 ones regarding the Dutch labour market. Concerning the EU10 workers the Dutch government was liberalising step by step the restrictions and took the decision to open other sectors, where obtaining a work permit would be easier since 2007. Transition is completed now for EU10 countries. From the 1st of May 2007 the government liberalised the access to the Dutch labour market for all the workers concerned and applied EU rules on free movement of workers. At that moment the Bulgarian and Romanian citizens were subject to more restrictive labour market measures. Romanians and Bulgarians must apply for a work permit and they must also satisfy the "*labour market test*" before being granted the authorisation.

Austria for example restricts access to its job market by applying a federal quota system and also imposing the work permit requirements at the same time. Like Germany, Austria also restricts some provisions of services in some sectors. The migrants coming from Bulgaria and Romania who wish to work in Austria have to pass the "*labour market test*" which represents a verification that assesses if there are no other EU15 (the EU member countries before 2004) national better placed for that particular job.

As I previously mentioned Germany acted as Austria because they clearly expressed that they will use these possibilities offered by the Accession Treaties to a maximum extent blocking the free provision of services in both the construction and in the industrial cleaning sector with the others. This immigration policy has not changed from that moment since: "*employment and self-employment of foreigners are to be oriented on Germany's economic needs, taking into account the labour market situation and the need to reduce unemployment*". (<https://ec.europa.eu/eures/main.jsp?acro=free&lang=en&country>

Actually section 39 (6) of the German Residence Act says that nationals coming from the acceding States can take part in the German market if there are no Germans or other persons which are enjoying equal rights (which means not the new Member State nationals). But priority must be given to EU10 and EU2 workers over third country nationals.

The United Kingdom had a different policy concerning Romanians and Bulgarians. If those nationals want to work in the UK they have to be in the possession of an "*accession workercard*" in case they intend to take up employment. Bulgaria and Romania will be granted gradual access to the country's labour market which means that for the present the number of lower skilled workers is limited by a quota in the United Kingdom. On the other hand skilled workers are not submitted to a quota requirement but they need to satisfy the criteria for obtaining a work permit.

Spain initially took the decision to restrict the access to its job market from the newest Member States for the first phase of the transitional period. After that the government had to review all the measures after the expiration of one year and then assess if the evolution of the situation on the labour market justifies more restrictions or not. There are two important factors to assess in this situation: first of all public opinion and second of all the status of the Romanian immigrants that came to Spain. Now Spain obtained an authorisation from the European Commission to keep its labour market closed to Romanian workers until the end of 2013.

In December 2012 the Commission authorised the Spanish authorities to maintain their temporary restrictions concerning Romanian and Bulgarian workers. The Spanish government took this measure because they declared that their labour market has been seriously disturbed by the Romanian workers and that this measure should be valid until January 2014. After this restriction Spain has to report to the European Commission every three months on the situation of its labour market.

4. The reasons invoked by the other Member States for their restrictions concerning Romanian workers

There are explanations for the measures taken by some states concerning Romanian workers. In France currently because of the high unemployment rate (a record of 10 percent), people are worried because of the competition represented by citizens coming from the East. The French government is also divided on this matter. For example, the French Senate, who votes both from the Socialists and the opposition, vetoed a motion made by the Green Party that tried to eliminate the restrictions earlier than planned, meaning in the autumn. An important French figure, Marine Le Pen of the Front National (FN) party described Holland's action as being a „ scandalous decision, especially given that France is already suffering from mass unemployment”.

In Germany for example, there is a great debate about 2014. Some political parties have as their slogan: *“poverty immigration”* concerning the East migration. There has been a report released last year by the German Association of Cities which said that municipalities are no longer capable of addressing the issues related to the growing number of immigrants on their own. The Association President Christian Ude is looking for additional financial support from the German government : *„If countermeasures aren't finally taken, then the situation is going to intensify come Jan. 1, 2014”*, Guntram Schneider, the labour minister for the populous western state of North Rhine-Westphalia warned in the Frankfurter Allgemeine Sonntagszeitung newspaper.

On the other hand there is some evidence which shows exactly the opposite. For example in 2012 when the EU lifted the labour market for Poland there was no sudden flood of immigration, because most of the Poles who actually wanted to immigrate to Germany did that before 2012.

The controversy with the year 2014 does not take into consideration the fact that both Romanians and Bulgarians are already permitted to work in Germany. Not only people with higher education can work but also job trainees and skilled workers. Besides this any Romanian or Bulgarian now has the right to own a business in Germany or work as a freelancer. The only problematic

labour market sector is that of unskilled workers, because in this case seasonal workers can only come and work in Germany for a maximum of 6 months.

The Federal Office for Migration and Refugees declared that in Germany there are around 209 000 Romanian workers and 121,000 Bulgarian workers. It is still not documented how many of them are from the Roma community. There are also thousands of additional immigrants who come from the south-eastern Europe which arrive every month. There are thus some cities that report a six-fold increase from the moment the two countries became EU members.

But, on the other hand with the Roma community there are other problems having local governments complain about their status in their countries. As an example, Hans Peter Friedrich the German minister of interior has requested the EU to make money available for the integration of Roma into their countries.

The migration situation will continue for as long as there will be a lack of jobs and career opportunities in these two countries. In Germany the discussion now revolves around who should be held reliable for the costs of integrating into the society all the immigrants. Romanian and Bulgarian immigrants are not, average wise unemployed more than other Eastern Europeans.

<http://www.spiegel.de/international/europe/western-europe-fearful-of-roma-immigrants-from-romania-and-bulgaria-a-884760.html>

László Andor (The European commissioner for employment, social affairs and inclusion) considers that: *"I strongly believe that free movement of workers should be promoted and that restrictions on it are not the answer to high unemployment. However, Spain's labour market has been very badly hit by the crisis and the Commission has therefore agreed to this temporary measure."*

<http://www.europeanvoice.com/article/imported/commission-backs-spanish-restrictions-on-romanians-/76109.aspx>

Spain's policy concerning the migration situation is very unusual compared to the other countries, because Spain opened its labour market for Romanians and Bulgarians in 2007. But after that moment they restricted the Romanians work

permits in the summer of 2011, measure that will be valid until January 2014. After this restriction Spain has to report to the European Commission every three months on the situation of its labour market.

Even so in UK the mood is tense regarding the year of 2014, this being the year when the restrictions concerning the free movement of workers have to be removed. The governing Tories have mentioned not only once the fact that they dubbed the welfare tourism: *"We're not tough enough right now about people coming from the other side of the world who decide to use our health service,"* Prime Minister David Cameron recently stated. *"They haven't contributed in their taxes. They should pay when they use the NHS,"* the National Health System. British Work and Pensions Secretary Iain Duncan Smith has thundered against other Europeans who *"use the free movement rules just to travel around, looking for the best benefits they can get"*.

(<http://www.europeanvoice.com/article/imported/commission-backs-spanish-restrictions-on-romanians-/76109.aspx>)

These statements are a response from the country's newspapers, such as The Sun for example, which talks about a flood of poor immigrants from southeast Europe: *"So here we stand, staring at the oncoming train, but ... utterly impotent"*, an article in the Daily Mail stated. With this *"potentially huge political and social disaster hurtling down the tracks,"* the paper warned, Cameron and his government are standing, *"frozen in the headlamps, waiting for the crash in January"*. The story is accompanied by a photo of a group of downtrodden Roma standing in front of a dumpster.

The UK prime-minister has announced his intention to cap social services for all immigrants coming to Britain. There is already a team in his cabinet that is working currently on proposals to make this action happen. One of the measures that they plan to take is to apply fees to newcomers for a national healthcare system in Great Britain which at this moment is free of charge. Another idea that was launched was that of creating an advertising campaign in Bulgaria and Romania that would discourage future immigrants from coming to England

5. Instead of a conclusion

The restrictions imposed on Romanian workers in the Accession Treaty were nearly the same as those imposed on its 10 predecessors in 2004 and these restrictions will probably be imposed also in the future. Yet, one could regret some comments made by some high-up politicians regarding Romanian workers, calling Romanian immigration the poverty migration. Romania has been in the European Union since 2007 and in 2014 all restrictions concerning workers will have to be lifted, Romania becoming a country on the same footing as all the older members.

Bibliography

- 1.http://www.citizensinformation.ie/en/moving_country/moving_abroad/freedom_of_movement_within_the_eu/freedom_of_movement_in_the_eu.html?printpreview=1
- 2.<http://www.europeanvoice.com/article/imported/commission-backs-spanish-restrictions-on-romanians-/76109.aspx>
- 3.<http://www.europeanvoice.com/article/imported/commission-backs-spanish-restrictions-on-romanians-/76109.aspx>
- 4.<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0013:0046:en:PDF>
- 5.<http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/freemovementofworkers.htm>
- 6.<http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/freemovementofcitizens.htm>
- 7.<http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/freemovementofcitizens.htm>
- 8.<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004L0038:200>

40430:EN:PDF

9. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61963CJ0075:EN:PDF>

10. <http://www.efbww.org/pdfs/annex%208%20%20Brochure%20part%201%20%5BEN%5D.pdf>

11. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61985J0066:EN:HTML>

12. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61989J0292:en:HTML#M0>

13. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004L0038:20040430:EN:PDF>

14. http://ec.europa.eu/taxation_customs/taxation/personal_tax/crossborder_workers/

15. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:180:0014:0014:EN:PDF>

16. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62002J0138:EN:HTML>

17. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61989J0292:en:HTML>

18. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61999J0184:EN:HTML>

19. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0047:0199:en:PDF>

20. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0047:0199:en:PDF>

21. <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004L0038:200>

40430:EN:PDF

22.<http://ec.europa.eu/social/main.jsp?catId=508&langId=en>

23.<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:157:0029:0045:EN:PDF>

<http://ec.europa.eu/social/main.jsp?catId=508&langId=en>

24. <http://ec.europa.eu/social/main.jsp?catId=508&langId=en>

25.<https://ec.europa.eu/eures/main.jsp?acro=free&lang=en&countryId=R0&fromCountryId=BE&accessing=1&content=1&restrictions=1&step=2>

26.<https://ec.europa.eu/eures/main.jsp?acro=free&lang=en&countryId=R0&fromCountryId=BE&accessing=1&content=1&restrictions=1&step=2>

27.<http://www.legislation.gov.uk/ukxi/2006/1003/contents/made>

28.<http://www.spiegel.de/international/europe/western-europe-fearful-of-rom-immigrants-from-romania-and-bulgaria-a-884760.html>

29.[Steiner, Josephine and Woods, Loma, Oxford University Press, tenth edition, 2009, pag 410](#)

Expulsion of gypsies

1. The status of Romanian gypsies according to EU law

After analysing Romania's Accession Treaty to the European Union and all the restrictions concerning the free movement of Romanian workers, I will now discuss the controversial issue of Romanian gypsies. I will analyse the

status of Romanian gypsies according to EU law. One might argue that the negative image of Romanians in the Member States and the reason why they at times are discriminated is partly due to the Romanian gypsies. One of the reasons why some EU countries closed their job market to Romanian workers until 2014 might be linked to the fact that among the Romanians benefiting from all the freedoms in the EU treaty, there are the Romanian gypsies. I will first briefly present some facts about the Roma community, before analysing the issue further.

The Roma are one of the oldest surviving minorities in Europe. Linguists demonstrated the fact that the Roma descend from North Indian castes which left to migrate across Europe between the years 500 and AD 1000. The name Gypsy is a name derived from the term –Egyptian. When Gypsies began to arrive in England from Egypt they were identified as being different by the color of their skin and dress so they were attributed to the Egyptian origin. After their settlement in Europe their number started to increase and recent estimates place the Romany population of Europe at around ten million people.

It is hard to speak about the Roma community without talking about racism. The degree of discrimination and hostility they face from the rest of the society is a well known fact. This could be considered the biggest factor in their identification, that of a transnational minority. The degree of discrimination that they are confronted with does not exist only in a region of Europe, but across Europe: *“The problem of anti-Roma prejudice and discrimination while more acutely felt in Central and Eastern Europe is by no means confined to this region. Indeed, recent inflammatory reports in the British press demonstrate the deep seated hostility towards Gypsies, particularly to those continue to adopt a nomadic way of life in the face of great adversity”*

The Persecution of Roma across Europe is well documented. Alongside Jews, gays and the disabled, they were targeted by the Nazis for extermination. But while European views on Judaism, homosexuality and disability have come on in leaps and bounds in the past six decades, the attitude towards the Roma still drips with prejudice

Josephine Verspaget, a Rapporteur for the Council of Europe, highlighted the position of disadvantage common to most Roma: *“The position of many groups of Gypsies can be compared to the situation in the third world: little education; bad housing; bad hygienic situation; high birth rate; high infarct mortality; no knowledge or means to improve the situation; low life expectancy. If nothing is done, the situation for most gypsies will only worsen in the next generation”*. (O’Nions, Helen, *Minority rights, Protection in International Law*, ed Ashgate, 2008.)

Analysing criminality in the Roma community is a very sensitive topic. As previously mentioned, gypsies represent the most discriminated minority group in Europe. One of the explanations given for this hatred towards them is the „*criminal mind*” they have. People have the impression that gypsies cannot adapt properly in a society this being the reason why they will always try to abuse the system.

Yet, how can people talk about gypsy criminality when there are no numbers, no statistics made about that? As previously mentioned it is hard to track them, because most of them will not admit their culture, they will not reveal it because they are afraid of discrimination. In Europe there is no body of control, that has numbers regarding gypsies that are beggars, or those who have been imprisoned, so it is actually very hard to say how many of them are actual thieves and how many of them are just victims of an unfair system.

A model that can be set as an example is the American model in my opinion, meaning the BJS (Bureau of Justice Statistics) which is an interesting system, because it collects, analyses, reports statistical data on activities in the nation`s criminal justice system.

The Bureau of Justice Statistics maintains data on the race and ethnicity of the victims of crime obtained through a national household survey; the race of offenders as reported by victims; and the race of inmates in local jails, state prisons, and federal prisons and Courts. Data are also collected on the race of law enforcement officers through a survey of police agencies. This body of information can be used in policymaking to ensure fairness in justice

administration and to develop programs that address the issues, problems or services peculiar to specific groups. (<http://www.bjs.gov/index.cfm?ty=tp&tid=3>)

2. The expulsion of gypsies from European countries

As I previously mentioned another focus in my paper is the status of gypsies as EU citizens, their rights and obligations in the European Union. I will try to answer several questions, such as: Are they still the most discriminated group of Europe? How can their situation improve? I will try to answer these questions by presenting some case law, analysing their experiences in France, Italy and the United Kingdom.

2.1. Facts concerning the expulsion of Gypsies from France, Italy and the United Kingdom

In this subchapter I will present the facts that revolve around the expulsion of Gypsies from countries such as France, Italy and the United Kingdom.

In the situation of France, this case got the international media's attention. Using the police, the French government in 2011 broke up the gypsy camps around the country, including areas in Lille, Lyon, Paris, Marseilles and others. As a consequence over 200 gypsies have been deported to Romania in a move, motivated by the Government by health, sanitation and security. The people from the Roma community that actually accepted the repatriation received 300 euros per adult and 150 per child, this also being a controversial measure because a lot of people believed that they would use the money to return to France.

(<http://rt.com/news/france-gypsies-camps-dismantle-406/>)

In the case of Italy, in main cities such as Milan, Rome and Naples the Italian authorities have dismantled Roma camps. As an example, in Milan where local authorities have been evacuating Gypsies from a couple of years, because of upcoming elections, their focus has been now redirected towards the exclusion of Gypsies from their community, which represents a popular action through the community.

<http://www.csmonitor.com/World/Europe/2010/1013/In-Italy-local-politics-appears-to-drive-latest-round-of-Roma-Gypsy-expulsions>)

In the case of UK, the government has also been criticised for expelling hundreds of gypsies ahead of the opening of the London 2012 Olympics. The National Gypsy Council says yet again they are discriminated, as they were in France under ex-president, Nicolas Sarkozy. The gypsies, mostly from Romania, used to live in East London, near the site of the Games. Right before the opening of London Games, local police invited Romanian police to deport them back to their home country. The main Gypsy population is formed of immigrants who come mostly from Eastern European countries like Romania, usually illegally. Most of the time they are seen begging on the streets of British cities, reason for which a number of British see them as thieves and beggars who represent a threat to social order.

<http://english.cntv.cn/program/newshour/20120812/103259.shtml>)

2.2. The reasons invoked by the parties for the expulsion of the Roma community

In this subchapter I will present the arguments invoked by the parties to the conflict about the expulsion of gypsies. Regarding the evacuation of gypsies the opinions are of course divided in two, one group that is pro this measure and considers it necessary, whilst there is the other group that considers that this measure is illegal. After presenting the opinions expressed by France, Italy and the United Kingdom I will also express my opinion on the topic.

For France this is not the first time something like this is happening because the first action of this kind started in the period while Nicolas Sarkozy was president, in 2010, when gypsies from 88 camps were expelled in a matter of weeks. At that time Sarkozy's politics were highly criticised and seen as an effort on his behalf to bring in far-right voters in his bid for tough re-election campaign.

One of the most important figures responsible for this measure is Manuel

Valls, France's Interior Minister. He declared that these evacuations were necessary due to the possibility of health risks and not only that but also due to the fact that the neighbours of the camps were often complaining about noise, an antisocial behaviour and serious crimes that were coming out from the settlements. Manuel Valls also assured that everything would be done for vulnerable people, mostly for children and pregnant women in order for them to be re-housed as soon as possible underlining the fact that this is a "decent and humane" policy of removing people from deplorable conditions. (<http://www.bbc.co.uk/news/world-europe-11020429>)

The French government also declared that they only have to give residency permits if they want to settle long-term and work because of the transitory measures in the EU accession agreement, citizens from these countries are not actually allowed to work legally in France until December 31, 2013. "The repatriations do not take the form, in any way, of forced, collective expulsions," said Interior Minister Valls. The government also added that according to EU law gypsies need to have the means to support themselves if they intend to stay for more than three months. The government said travelers camps were sources of „illegal trafficking" and „exploitation of children for begging, of prostitution and crime".

France has insisted that the actions „ fully conform with European rules and do not in any way affect the freedom of movement for EU citizens, as defined by treaties".

Foreign ministry spokesman Bernard Valero told AFP that an EU directive „ expressly allows for restrictions on the right to move freely for reasons of public order, public security and public health".

These have been the arguments brought by the people in charge of this measure. Now I will present some of the most important arguments brought against this action. The Romanian president declared about this action: *"We understand the position of the French government. At the same time, we support unconditionally the right of every Romanian citizen to travel without restrictions within the EU".*

[\(http://rt.com/news/france-gypsies-camps-dismantle-406/\)](http://rt.com/news/france-gypsies-camps-dismantle-406/)

The Roma groups accused Sarkozy of „*ethnic cleaning*“, underlining the fact that gypsies come either from Romania or Bulgaria, countries that are both in the EU since 2007, thus they were benefiting from the free movement principle.

The operation has also been condemned by human rights groups, who say it is deliberately stigmatising a generally law-abiding section of society to win support among right-wing voters.

When this action was taken by the police forces members of the UN's Committee on the Elimination of Racial Discrimination criticised the tone of political discourse in France on race issues, saying racism and xenophobia were undergoing a „*significant resurgence*“ in this country. Mr Sarkozy's political opponents have accused him of using the Roma issue to shift public attention away from the corruption in France to the Roma issue.

The row erupted after EU Justice Commissioner Viviane Reding branded the French policy a „*disgrace*“ and called for legal action. She said she was „*appalled*“ by the expulsion of thousands of Roma, adding: '*This is a situation I had thought Europe would not have to witness again after the Second World War*'.

(<http://www.theguardian.com/world/2010/sep/07/barroso-french-anti-gypsy-campaign>) Viviane Reding later said she regretted interpretations of her statement. Reding promised to haul France before the European Court and force it to change its policy. Still France has not only continued the deportation of the Roma, but also extended it. Admittedly its Interior Ministry has stopped circulating documents that mention the Roma by name, now he is using the phrase „*not exercising treaty rights*“ should be deported. The phrase "*not exercising treaty rights*" means "*those who are not in work, or looking for work*".

After analysing this situation the European Union also took measures to remediate the problem. In a resolution that was passed by 337 votes to 245, the Members of the European Parliament (MEPs) told Paris to „*immediately*

suspend all expulsions of Roma”, saying they „ amounted to discrimination”. Although their demands are not legally binding, the MEPs said that “mass expulsions are prohibited ” under E.U. law, „since they amount to discrimination on the basis of race and ethnicity”.

(<http://www.theguardian.com/world/2010/sep/09/french-anti-gypsy-european-parliament>)

German MEP Martin Schulz, head of the Parliament’s powerful socialist group, lamented, *“The country that gave us liberté, égalité and fraternité has taken a different, regrettable path today”* and President José Manuel Barroso’s described this measure as: *“reawaken the ghosts of Europe’s past”*.

(<http://www.theguardian.com/world/2010/sep/13/sarkozy-roma-expulsion-human-rights>)

The Commission had questioned whether France was actually meeting the E.U.’s legal requirements with its deportations whether case-by-case assessments of the deportees were being made and decided that measures singling out a specific ethnic group are illegal.

There is a little that European institutions can do against such a determined government because the EU has no authority to actually interfere with the internal affairs of national governments, so far as they do not breach community rights. This is the reason for which EU actions are many times very soft. Because of the situation of the Roma community the measure that Europe took was to create an awareness campaign. This program that received millions of euros in order to help gypsies overcome the problems that they are confronted with, such as discrimination, poverty, bad housing and poor health.

But campaigns against the Roma have spread across Europe. The latest French offensive recalls Italy’s *„security package”* from 2008, which actually led to the dismantling of Roma camps and the deportation of migrants who could not prove that they actually had regular employment. In the past two years countries such as Italy and Great Britain, have also taken actions against the Roma or stated an intention to do that.

As previously mentioned Italy had the same politics as France concerning the Gypsies living in their country. Italy Roberto Malini, a representative from Everyone, a nongovernmental organization that defends minorities declares: *"The strategy is clear and simple: Rather than forcing someone on the airplane, authorities keep demolishing gypsy camps so that eventually Roma people have no place to go and leave the country"* (<http://www.csmonitor.com/World/Europe/2010/1013/In-Italy-local-politics-appears-to-drive-latest-round-of-Roma-Gypsy-expulsions>) Besides Milan, camps have also been evacuated in cities such as Rome, Naples, Venice. Maurizio Paganini, leader of the Opera Nomadi gypsy organization declared on this matter: *"In a sense, Italy has anticipated the French trend in cracking down on Roma"*.

Riccardo De Corato declared to Asca News Agency that: *"We have kicked out 150 squatters in 24 hours and have evacuated 355 people since 2007"*. The campaign under way here is a part of what observers are calling the most intense wave of anti-immigration sentiment to wash over Western Europe in years. (<http://news.yahoo.com/italy-local-politics-appears-drive-latest-round-roma.html>)

The United Kingdom has taken the same measure as France and Italy, to expel gypsies from the country.

3. Is the expulsion of gypsies in breach of the EU legislation?

First of all, looking at the example of France in my opinion the action taken by France cannot be justified by public order and safety. The gypsies were indeed living in bad conditions, no hygiene, outrageous behaviour and having often a criminal behaviour. But in order to invoke the principle enriched in the Residence Directive, the principle of public order and safety some conditions have to be met, otherwise the principle is not applicable. If those conditions are met expulsion can only be made following the European legislation.

According to the Residence Directive "Member States may restrict the freedom of movement and residence of Union citizens and their family members, irrespective of nationality, on grounds of public policy, public security or public health. These grounds shall not be invoked to serve economic ends". As a consequence, Member States can restrict the free movement of residence of Union citizens on the grounds above, if this does not follow an economic end. So far the measure taken by France is legal.

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004L0038:20040430:EN:PDF>)

A relevant phrase from the Residence Directive mentions also the following: *"Measures taken on grounds of public policy or public security shall comply with the principle of proportionality and shall be based exclusively on the personal conduct of the individual concerned.*

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004L0038:20040430:EN:PDF>)

Previous criminal convictions shall not in themselves constitute grounds for taking such measures". This article demonstrates the fact that France has committed an abuse. First of all if the measure is taken it must respect the proportionality principle. In my opinion the measure taken by the French Government did not respect the proportionality principle. Second of all, the Directive mentions in the article the fact that evacuation is possible in some conditions, only if it is based on *"personal conduct"*. In this case there is no personal conduct, but a general conduct, because the same measure of expulsion was taken for all the Gypsies living in those camps, so it was a general conduct. Not only this, but the measure is in breach of EU law, because the Residence Directive specifically forbids collective expulsions and this is exactly what happened in this case. So I consider that the action taken by the French government is in breach of EU law. There were without any doubt huge problems with the Roma community leaving there and the French position is understandable until a certain moment, but even so, the decision is still in contradiction with the EU legislation. The French Government should have proceeded in a different way in my opinion. If they wanted to protect the public order in the country, they should have investigated each

and every person living in those camps.

The gypsies living there benefit from European protection, depending on their status. Some of them were living there for less than 3 months, which means that, as EU citizens they benefit from the free movement of people principle. Any EU citizen can travel around and stay in a country for 3 months without having to justify his stay. This is the first category of gypsies that were staying in those camps. The second category of gypsies was represented by workers. Among those people there were surely also gypsies that were workers in France. Those people are entitled to the protection offered by European Union to workers. The third category is probably represented by the jobseekers. If you qualify as a jobseeker, then you are entitled to the same rights as workers.

The last category was formed by gypsies, who were either beggars or thieves, this is the category which worried the French Government and the group that actually caused the French Government to expel them.

The measure to expel the gypsies from the country does not only represent a breach of EU legislation but also a breach of human rights, because the Government targeted from the first moment a specific group, which is anyway the most discriminated group in Europe. This action thus represents a racist action meant to get rid of the Roma community from the country.

In my opinion, this was a political action which does not resolve immigration problems. Proper knowledge of the existing problem is indeed needed before action is taken and impulsive action such the expulsion might be an easy way to get votes, but not to resolve problems in the long run

Second of all, moving on to the Italian case, I consider the legal situation as being identical to the French one, the only difference between the two countries is the quantity of Roma that they expelled from their country. Because it was at a national level in France there were more gypsies evacuated than in Italy, but the action was the same, racist towards a specific group, measure than is not covered by the public order and public safety principle.

Third of all, analysing the situation in the United Kingdom, I consider the action taken by the UK to be in breach of EU law, because the free movement principle can be restricted only in specific cases, if the action is justified by public order, public safety and health. If none of these exemptions exist then the free movement of principle must be respected, because it represents one of the foundations of the European Union. The action taken against gypsies in UK was taken only to hide the real situation in front of all the personalities and tourists that were coming to London to see the Olympics. The English authorities did not want to paint a grim picture and show that there are also people that are in leaving in this way in those conditions in their country.

Concluding on this issue, I do consider that a state has the positive obligation to look after its citizens but also to try to integrate immigrants into its country. In a case like this, were they might represent a menace to public safety and public order the government`s action can be justified, if taken at the right time and if not targeting a specific ethnic group, but targeting dangerous people, that represent a menace to their society.

After presenting the politics of these countries towards gypsies in the following part of the paper I will briefly also present my conclusions and the migration problem for Romanians.

4. Conclusion

Regarding the expulsion of gypsies from France, Italy, UK, I argued that this did not only breached EU law but also Human Rights. Expulsion can be accepted under the Residence Directive, if protecting public order but that was not demonstrated by the governments of any of these countries. In addition, mass expulsions are specifically prohibited and this is exactly what happened to the Romanian gypsies living in the countries mentioned above. But a big problem still remains: gypsies, still represent the most discriminated group of Europe. How can this problem be solved?

The issue of gypsies might explain why Romania was refused accession the

Schengen space and the restrictions on the free movement of Romanian workers. These people are normally identified according to the way they are dressed, they are mostly seen by other Europeans as beggars, thieves, etc. These are the reasons for which they were expelled from the countries mentioned above. In my opinion this behaviour should change. The mentality could change through further discussion between the countries hosting large minorities of Roma people; need for research; more discussion among Romani leaders about the way in which they could interfere integrate/protect Roma people rights ; more objective media coverage because they are often depicted badly in the media, which is not revealing all the time both sides of the story and last but not least, some sort of police training and partnership with the Roma.

It is essential to gather more information about the patterns of migration of Romanians and gypsies because this it is one of the reasons why Romania was denied the access to the Schengen space and why some countries imposed severe restrictions in their countries concerning their job market.

Today the European Commission, E.U. member countries and the Roma themselves all agree that Spain has become the model for integrating Gypsies. Now the governments of Bulgaria, Slovakia, Hungary, the Czech Republic and even Romania where many Roma come from are looking to Spain for ideas to apply themselves.

Of the 10-12 million Roma living in Europe, Spain has the second biggest community, estimated at 970,000, or about 2% of the total population. And the country spends almost €36 million annually bringing them into the fold. In Spain, only 5% of gypsies live in makeshift camps and about half of Roma have their own houses. Just about all Gypsies in Spain have access to health care and while no recent figures exist, at least 75% are believed to have some sort of steady income.

(<http://www.nytimes.com/2010/12/06/world/europe/06gypsy.html?pagewanted=all&r=0>)

The spokesperson of the Amnesty International in Denmark, Ole Hoff-Lund, said in the newspaper Yesterday's Information that: *"Roma have no peace anywhere*

in Europe. They are in the most vulnerable population group, which is persecuted and discriminated against in the EU. They have no access to jobs, housing, education or health. This type of discrimination, Roma now encounter also encounter in Denmark and even from the highest place. Even Minister of Justice has pitched in".

(<http://content.time.com/time/world/article/0,8599,2019316,00.html>)

Another debate that occurred was related to the costs of this migration waves. Still the Romanians and Bulgarians that wanted to leave the country and work somewhere else did that already. More than 1 million Romanians currently work in Italy, whereas in Spain there are 900 000. These countries have been chosen by Romanians because of the linguistic similarities.

(<http://www.nytimes.com/2010/12/06/world/europe/06gypsy.html?pagewanted=all&r=0>)

The free movement of labour is a fundamental right which is enjoyed by all EU citizens. It represents a core principle that is the cornerstone of a prosperous, peaceful and integrated Europe. As a consequence developing a nationalistic attitude towards the labour market across the continent is a dangerous attitude. Eroding the foundation for the concept of labour mobility within Europe would set the EU further back in actually meeting the need to grow and ensure the economy on the long run and also it`s prosperity.

Besides the substantial economic benefit, free movement also paves the road towards a common European identity. Ultimately, just trading goods across borders and integrating any fiscal policies will not be able to complete the required foundation for closer political union.

European citizenship can be understood as a fundamental right given to European citizens to move, work and build their lives in other Member States which also includes establishing families and nurturing friendships, which fosters a true sense of common European citizenship. In the situation where Europeans start closing down their borders to their fellow Europeans today there will remain not that much of "European" to defend.

Even with the current situation Europeans have historically exercised their

right to move and reside freely across the EU less than predicted because of all the linguistic and cultural barriers that kept many Europeans tied to their own markets. As a consequence, many governments are fighting with high rates of unemployment and angry electorates, which are scared about migration on their country. This reaction of people is not actually supported by facts because empirical evidence shows that this fear, of foreign workers might crowd out the domestic ones is incorrect. It rarely happens that migrant workers displace the domestic labour force. Instead they do contribute substantially to national economies, through the labour they supply, through the taxes that they pay and also through the services that they consume.

Bibliography

1. <http://www.bbc.co.uk/news/world-europe-11020429>
2. <http://www.bjs.gov/index.cfm?ty=tp&tid=3>
<http://rt.com/news/france-gypsies-camps-dismantle-406/>
3. <http://www.csmonitor.com/World/Europe/2010/1013/In-Italy-local-politics-appears-to-drive-latest-round-of-Roma-Gypsy-expulsions>
4. <http://content.time.com/time/world/article/0,8599,2019316,00.html>
5. <http://english.cntv.cn/program/newshour/20120812/103259.shtml>
6. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004L0038:20040430:EN:PDF>
7. <http://news.yahoo.com/italy-local-politics-appears-drive-latest-round-roma.html>
8. http://www.nytimes.com/2010/12/06/world/europe/06gypsy.html?pagewanted=all&_r=0
9. http://www.nytimes.com/2010/12/06/world/europe/06gypsy.html?pagewanted=all&_r=0

10. Nions, Helen, Minority rights, Protection in International Law, ed Ashgate, 2008.

11. <http://rt.com/news/france-gypsies-camps-dismantle-406/>

12. <http://www.theguardian.com/world/2010/sep/07/barroso-french-anti-gypsy-campaign>