
RIGHTS OF IMMIGRANTS AND CONSTITUTIONAL FREEDOMS IN THE EUROPEAN UNION

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ABSTRACT

The European Union (EU) serves as a symbol of unity, cooperation, and shared values among its member states. Over the past few decades, the EU has witnessed a notable increase in immigrants seeking refuge, opportunities, and a better quality of life. As the region grapples with the complexities of migration, it becomes essential to address and uphold the rights of immigrants within the European Union. Functioning as a distinctive political and economic alliance that transcends national borders, the EU promotes collaboration and integration among its member states. It stands as a manifestation of democratic principles, human rights, and the rule of law. The rights of immigrants in the European Union (EU) are safeguarded by a comprehensive legal framework that mirrors the EU's dedication to human rights, non-discrimination, and the rule of law. The EU also encourages immigrants to integrate and become part of the community to build a society that values equality, fairness, and diversity. Respecting these rights reinforces the overall structure of the European Union and advances equality and inclusivity. Immigrant rights in the EU encompass various aspects, including asylum, non-discrimination, family reunification, and access to education and employment. At the core of the EU's identity is a commitment to upholding fundamental rights and freedoms as outlined in the Charter of Fundamental Rights.

Keywords: Rights of Immigrants- Political and Economic Alliance- Human rights- Charter of Fundamental Rights

INTRODUCTION

Any non-European Union citizen wanting to relocate to an EU nation for any needs like education, employment, or with family members shall be eligible for those specific benefits as per the European Union convention. Immigrants are guaranteed protection under the constitution of the European Union, which supports their rights. Immigrants in the EU have fundamental rights, including freedom of movement, non-discrimination, and equal treatment. A non-resident who enters a state to stay there for more than a year is referred to as an immigrant in the global context. An individual must have previously resided in another EU Member State or a third country and establish their usual residence in the territory of an EU Member State for a term that is, of at least 12 months. The EU Charter of Fundamental Rights ensures that human rights are protected for everyone living within EU borders. Immigrants' constitutional rights.

HISTORICAL AND LEGAL FRAMEWORK FOR EU IMMIGRANTS

The development of the European Union (EU) has been significantly influenced by immigration, shaped by historical occurrences and the continuous evolution of legal structures. This essay explores the historical context of immigration in the EU, connecting it to the post-World War II reconstruction era. It then scrutinizes the established legal frameworks aimed at governing immigration within the EU, investigating the treaties, directives, and regulations that have melded the union's stance on migration. In the 1950s and 1960s, several European countries signed bilateral labor migration agreements. Subsequently, three distinct periods emerged. The first, preceding the 1973–1974 oil crisis, saw economic growth, guest worker schemes, and movements from former colonies to motherlands. The second period, post-oil crisis to the late 1980s, witnessed migration restrictions, a shift to family reunification, and rising asylum applications. Migration flows also redirected to Southern Europe. The third period, from the fall of the Iron Curtain to today, reflects increased EU influence, control over third-country migration, and the promotion of intra-European mobility.¹

Post World War II Reconstruction

¹ Migration and Immigrants in Europe: A Historical and Demographic Perspective by Christof Van Mol & Helga de Valk.

Post-World War II, there were extensive population movements and a reconstruction imperative. Western European nations, facing labour shortages, engaged in recruiting foreign workers, notably from Southern Europe (such as Italy, Spain, and Greece) through bilateral agreements.² The post-war period also witnessed significant refugee migration, primarily from Eastern Europe to Western Europe. Displaced populations sought refuge and opportunities in more economically stable and politically secure Western European nations. Over time, migration patterns evolved in response to changing economic conditions, policy shifts, and geopolitical events. The post-1973 oil crisis and the fall of the Iron Curtain in the late 1980s, for example, influenced the dynamics of migration within the EU. The post-World War II reconstruction in the EU created a context where immigration played a crucial role in addressing labor shortages and contributing to economic recovery. The patterns established during this period influenced subsequent migration policies and the multicultural landscape of European societies.

Schengen Agreement-1985

The Schengen Agreements paved the way for the elimination of border controls among participating countries, fostering a sense of European unity and facilitating cross-border movement. The Schengen Agreement, signed in 1985 by five EU member states (Belgium, France, Germany, Luxembourg, and the Netherlands) aimed to eliminate internal border controls among participating nations. The Schengen Agreement had implications for immigration policies within the participating countries.

While external borders were closely monitored, there were efforts to harmonize rules and procedures for managing asylum seekers. the 1985 Schengen Agreement significantly transformed the immigration landscape in the EU by promoting open borders and facilitating freedom of movement for EU citizens. It influenced not only the experiences of EU citizens but also shaped the challenges and opportunities for immigrants, particularly in the context of border controls and visa policies within the Schengen Area.³

² A Migrant Is a Migrant Is a Migrant? Immigration Policies in Post-World-War-II Europe Christiane Harzig OAH Magazine of History, Vol. 14, No. 1, Migrations (Fall, 1999)

³ Schengen and the Free Movement of People Across Europe Julia Gelatt is Associate Director of the U.S. Immigration Policy Program.

Post-2004 Enlargement and Migration

The accession of central and eastern European countries in 2004 resulted in a substantial influx of workers from these nations to older member states. Concerns arose regarding labour market impacts and social integration, prompting discussions on the need for cohesive immigration policies.⁴ With the enlargement, citizens of the newly acceded countries gained access to the EU's labour market. This led to increased labour mobility as individuals sought employment opportunities in Western European countries. Post-2004 enlargement saw a notable increase in intra-EU migration, with citizens from the new member states moving to countries with more robust economies, such as the United Kingdom, Germany, and Ireland, in search of better employment prospects. The surge in migration from the new member states sparked debates and concerns in certain destination countries. The influx of migrants from the post-2004 enlargement countries had demographic and economic implications in both sending and receiving countries. Some countries experienced demographic shifts, while others benefited from increased labour market dynamism.⁵

LEGAL FRAMEWORK

- **Treaty of Rome:** It set up the European Economic Community (EEC), bringing together Belgium, Germany, France, Italy, Luxembourg, and the Netherlands to work together towards integration and economic growth through trade, establishing a common market based on the free movement of goods, people, services, and capital. This foundation for the European Economic Community emphasized the free movement of workers among member states.
- **Amsterdam Treaty (1997) and Tampere Summit (1999):** This Treaty introduced the main concept of an Area of freedom, security, and justice, emphasizing cooperation in immigration and asylum policies. The Tampere summit set the agenda for common EU immigration and asylum policies, aiming for a unified approach to address the challenges posed by migration.
- **Lisbon Treaty (2009):** This treaty reinforced and expanded the legal framework for

⁴ Postwar Migration to Europe: Reflux, Influx, Refuge by Ceri Peach in Social Science Quarterly, Vol. 78, No. 2 (June 1997)

⁵ Migration prospects after the 2004 enlargement of the European Union by Gloria Moreno-Fontes Chammartin and Fernando Cantú-Bazaldúa

EU migration policies, emphasizing the principle of solidarity and fair burden-sharing among member states.

- **Common European Asylum System (CEAS):** The system established through various directives and regulations, aims to harmonize asylum procedures and ensure fair treatment for asylum seekers across the EU.

The historical context of EU immigration, spanning from the reconstruction after World War II to the present, illustrates the union's ongoing adjustment to evolving geopolitical circumstances. The legal structure, enshrined in treaties and agreements, aims to reconcile the values of free movement, solidarity, and shared responsibility. In addressing current immigration challenges, a comprehensive grasp of the EU's historical development and legal underpinnings is essential for crafting a unified and enduring strategy for migration within the union.

RIGHTS AND THE CONSTITUTIONAL FREEDOM OF IMMIGRANTS IN EU

The European Union (EU) stands as a unique entity, emphasizing the principles of human rights, democracy, and the rule of law. As a union of diverse nations, the EU is committed to safeguarding the rights and constitutional freedoms of immigrants within its borders. The fundamental right is established by Article 21⁶ of the Treaty on the functioning of the European Union and Article 45⁷ of the EU Charter of Fundamental Rights.

a) Right to Asylum

The EU recognizes the right of individuals to seek asylum, protecting those fleeing persecution, violence, or serious harm in their home countries. The Common European Asylum System (CEAS) aims to harmonize asylum procedures across member states, ensuring a consistent and fair approach to asylum applications. According to Article 18 - Right to asylum⁸ the right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and following the

⁶ Non-discrimination – forbids discrimination on grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion or other belief, political opinion, membership of a national minority, property, birth, disability, age or sexual orientation

⁷ Article 45 of the Charter of Fundamental Rights of the European Union (the Charter) also provides for freedom of movement and residence.

⁸ EU Charter of Fundamental Rights

Treaty on European Union and the Treaty on the Functioning of the European Union⁹ (hereinafter referred to as 'the Treaties'). Through its common asylum system, immigrants seeking protection are entitled to fair and humane treatment.

b) Non-Discrimination and Equality

Immigrants in the EU are entitled to the same fundamental rights and freedoms as EU citizens. Discrimination on the grounds of nationality, race, or ethnic origin is strictly prohibited. The Charter of Fundamental Rights of the European Union explicitly states the right to non-discrimination, emphasizing equal treatment for all individuals. The EU places great emphasis on non-discrimination and equal treatment. Immigrants are entitled to the same rights and protections as nationals, ensuring that they are not subjected to unjust treatment based on their nationality or immigration status. Immigrants, regardless of their nationality, are entitled to the same social rights and protections as nationals. This ensures that they have access to healthcare, education, and other essential services on an equal basis, contributing to their overall well-being and integration. Despite legal provisions, challenges persist in the enforcement of non-discrimination and equal treatment. Immigrants may still face subtle forms of discrimination or unequal treatment in various sectors. Efforts to raise awareness, promote diversity training, and strengthen legal mechanisms are essential to address these challenges and ensure effective enforcement.

c) Access to Education and Employment

Immigrants in the EU have the right to access education and employment opportunities on an equal basis with EU citizens. This includes access to vocational training, language courses, and other integration programs. The EU encourages member states to implement inclusive policies that address the specific needs of immigrant students, promoting diversity within educational institutions. The EU places a strong emphasis on combating discrimination in education. Legal frameworks, such as the Charter of Fundamental Rights, prohibit discrimination on the grounds of nationality, ensuring that immigrant students are treated fairly. Efforts to raise awareness about diversity, inclusion, and anti-bullying campaigns contribute to creating a supportive

⁹ Convention relating to the Status of Refugees (adopted 28 Jul. 1951, entered into force 22 Apr. 1954), 189 UNTS 137.

educational environment for immigrants.¹⁰

d) Protection Against Exploitation and Trafficking

Immigrants are protected against exploitation, forced labour, and human trafficking. The EU has adopted measures to prevent and combat these crimes, recognizing the vulnerability of immigrants in certain situations.¹¹ The EU places a strong emphasis on human rights and has developed a robust legal framework to combat exploitation and trafficking. Directives and regulations, such as the Anti-Trafficking Directive and the Victims' Rights Directive, outline the rights of victims and establish measures to prevent and combat human trafficking. These legal instruments reflect the EU's commitment to protecting the most vulnerable members of society.

The EU employs comprehensive strategies to prevent exploitation and trafficking. These strategies include awareness campaigns, educational programs, and cooperation with civil society organizations. By raising awareness about the risks and consequences of exploitation and trafficking, the EU aims to empower individuals to recognize and resist these practices. By addressing the root causes and consequences of exploitation, the EU plays a vital role in fostering a society where the inherent dignity and rights of every individual are respected and protected.

e) Legal Assistance and Due Process

Immigrants facing legal proceedings, including asylum applications, have the right to legal assistance and fair legal procedures. The EU upholds the principle of effective access to justice for all individuals. While the EU has established a robust legal framework to protect the rights of immigrants, challenges remain in ensuring consistent implementation across member states. Efforts to address these challenges and promote social cohesion are ongoing, reflecting the EU's commitment to upholding human rights and fostering inclusivity within its diverse societies.

¹⁰ The Potential Economic Benefits of Education of Migrants in the EU EENEE Analytical Report Prepared for the European Commission by Holger Bonin- last visited on 05.02.2024

¹¹ Protecting migrant workers from exploitation in the EU: workers' perspectives

f) Access to Healthcare

Immigrants, regardless of their legal status, are entitled to access essential healthcare services in the EU. The EU emphasizes the importance of providing healthcare to all individuals, contributing to public health and well-being. Given the continuous immigration flows to Europe and the increased numbers of migrants arriving in EU member states, issues related to the more equitable and effective delivery of healthcare become a high priority for EU member states.¹² Increasing access to basic health services for the migrant population in host countries is of utmost importance. The scant evidence that exists on healthcare access for migrants in Europe makes it difficult to make comparisons between systems and countries or to support public policy decision-making.¹³

CONSTITUTIONAL FREEDOMS IN EU

The European Union (EU) upholds a set of fundamental rights and freedoms, enshrined in various legal instruments and treaties. These rights contribute to the establishment of a democratic, inclusive, and just society within the EU. The primary document outlining these rights is the Charter of Fundamental Rights of the European Union, which became legally binding with the entry into force of the Lisbon Treaty in 2009. Here are some of the key constitutional freedoms in the European Union:

a) Freedom of Movement and Freedom of Expression and Information

Citizens of EU member states enjoy the freedom to move and reside freely within the territory of the EU. This includes the right to live and work in any EU country without discrimination based on nationality. Article 45- Freedom of Movement and of Residence states that every citizen of the Union has the right to move and reside freely within the territory of the Member States. Freedom of movement and residence may be granted, following the Treaties, to nationals of third countries legally resident in the territory of a member state. The EU guarantees the freedom of expression and information, ensuring that individuals have the right to express their opinions freely and receive and impart information without interference from

¹² Future Migration Trends; Migration Data Portal. [(accessed on 23 November 2020)]

¹³ Lebano A., Hamed S., Bradby H., Gil-Salmerón A., Durá-Ferrandis E., Garcés-Ferrer J., Azzedine F., Riza E., Karnaki P., Zota D., et al. Migrants' and refugees' health status and healthcare in Europe: A scoping literature review. BMC Public Health. 2020; 20:1039. Last visited on 07.02.2024

public authorities.¹⁴

Article 11 - Freedom of expression and information

- 1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
- 2) The freedom and pluralism of the media shall be respected.

b) Right to Privacy & Freedom of Thought, Conscience and Religion

The right to privacy is protected in the EU, encompassing the protection of personal data and communications. The General Data Protection Regulation (GDPR) is a significant legal instrument that ensures the privacy and security of individuals' personal information. The right to privacy or private life is enshrined in the Universal Declaration of Human Rights (Article 12)¹⁵, the European Convention of Human Rights (Article 8), and the European Charter of Fundamental Rights (Article 7)¹⁶. Citizens of the EU have the right to freedom of thought, conscience, and religion. This includes the right to change one's religion or belief and the freedom to manifest one's religion or belief, either individually or in community with others.

Article 10 - Freedom of thought, conscience and religion

- 1) Everyone has the right to freedom of thought, conscience, and religion. This right includes freedom to change religion or belief and freedom, either alone or in a community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice, and observance.
- 2) The right to conscientious objection is recognized, under the national laws governing the exercise of this right. Everyone has the right to freedom of thought, conscience, and religion. This right includes freedom to change religion or belief and freedom, either

¹⁴ Freedom of Expression as a Common Constitutional Tradition in Europe

¹⁵ Article 12 Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion.

¹⁶ Article 7 provides for a right of residence for more than three months. All EU citizens have the right of residence in another Member State for longer than three months if they meet any of the following conditions: They are employed or self-employed (no further conditions apply).

alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice, and observance.

c) Freedom of Assembly and Association & Equality Before the law

Citizens have the right to assemble peacefully and to form and join associations or organizations. These rights are fundamental to the functioning of civil society and democratic participation. Everyone has the right to freedom of peaceful assembly and freedom of association at all levels, in particular in political, trade union, and civic matters, which implies the right of everyone to form and join trade unions for the protection of his or her interests.¹⁷ The principle of equality before the law is a foundational element of EU fundamental rights. Discrimination based on various grounds, such as sex, race, ethnicity, religion, disability, or sexual orientation, is strictly prohibited.

d) Right to Fair and Just Working Conditions and Right to a Fair Trial

Workers in the EU are entitled to fair and just working conditions, including the right to reasonable working hours, paid leave, and safe working environments. The EU also recognizes the right to strike as a means of protecting workers' interests.

Article 31 - Fair and just working conditions

- 1) Every worker has the right to working conditions that respect his or her health, safety, and dignity.
- 2) Every worker has the right to limitation of maximum working hours, daily and weekly rest periods, and an annual period of paid leave.

The right to a fair and impartial trial is a fundamental principle of EU law. This includes the presumption of innocence, the right to be informed of the charges, the right to legal assistance, and the right to an effective remedy.

e) Right to Education & Environmental Rights

The EU acknowledges the right to education, emphasizing that everyone has the right to access

¹⁷ Article 12 - Freedom of assembly and of association

education and that education shall be free, at least in the elementary and fundamental stages.

Article 14 - Right to education

- 1) Everyone has the right to education and to have access to vocational and continuing training.
- 2) This right includes the possibility to receive free compulsory education.
- 3) The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical, and pedagogical convictions shall be respected, following the national laws governing the exercise of such freedom and right.

The EU recognizes the importance of environmental protection and sustainable development. Citizens have the right to a high level of environmental protection, and EU policies aim to ensure the conservation and sustainable use of natural resources. These constitutional freedoms are integral to the EU's commitment to democracy, the rule of law, and the protection of human rights. The Charter of Fundamental Rights serves as a cornerstone in ensuring that these rights are respected and upheld across the European Union. It reflects the shared values that underpin the European project and contribute to the development of a cohesive and inclusive European society

THE EXTENSION OF UNIVERSAL RIGHTS

The Universal Declaration of Human Rights UDHR, adopted in 1948, serves as a foundational document for human rights globally. The European states have instituted constitutions to protect human rights, including the UDHR and the central tenets like the human rights treaties give guidelines to the national authorities. European Union recognizes the indispensable need of the UDHR and its principles have been integrated into international agreements, internal legislation, and external policies. UDHR is universally recognized but nonbinding, but it's paramount to address the violations of human right. This nonbinding is advantageous, as it enhances the flexibility by way of the uniform approach enhancement regardless of the challenges faced. The UDHR emerged in the aftermath of World War II highlighting the endeavour to prevent future rivalries by reinforcing the inherent dignity and the rights of the individuals. The persuasion of the declaration in EU legislation distinctively in the anti-

discrimination mandates. The external policies of the EU pursuant to Article 21 of the treaty on the European Union, to uphold the universality of human rights are mirrored.

The European Convention for the Protection of Human Rights and Fundamental Rights is persuaded by the declaration, albeit its centrality is on civil and political rights. The European Charter [2009] contemplates the universal vision of the declaration, pertaining to civil, political, social, and economic rights. This charter attends to unambiguous EU-related rights, as exemplified by the right to petition the European Parliament and freedom to conduct business. The EU has developed profound legislation on human rights, covering domains of non-discrimination, privacy, asylum, and workers' right. The EU industriously inspects the abidance with the laws and the charter.¹⁸ The rights of irregular migrant workers under international human rights standards, particularly focusing on the ILO Convention 143, the UN Migrant Worker Convention 1990, and the Domestic Workers Convention 2011

1) ILO Convention 143 and UN Migrant Worker Convention 1990:

- ILO Convention 143 establishes fundamental rights protections for irregular migrant workers, addressing issues like control of irregular migration and equal treatment in pay, social security, and related benefits.
- UN Migrant Worker Convention 1990 extends extensive fundamental rights protections for irregular migrant workers but has not been ratified by any EU member state.

2) Domestic Workers Convention 2011:

- Convention 189 provides rights for domestic workers without explicit reference to immigration status. However, concerns exist that irregular migrant domestic workers might be excluded due to national legal requirements.
- The ILO asserts that Convention 189 intends to cover all domestic workers, irrespective of immigration status.

¹⁸ [HTTPS://PUBLICATIONS.IOM.INT/SYSTEM/FILES/PDF/MIGRANTS_HUMAN_RIGHTS.PDF](https://publications.iom.int/system/files/pdf/migrants_human_rights.pdf)

3. UN Universal Declaration of Human Rights (UDHR), International Covenant on Economic, Social and Cultural Rights (ICESCR), and International Convention on the Elimination of Racial Discrimination (ICERD):

- These UN standards, universally endorsed by EU Member States, offer various rights protections similar to the EU Charter/ECHR.
- They guarantee rights without distinction, but there are concerns about implicit application to irregular migrants or restrictive interpretations based on legal permission.

4. General Comments on ICERD and ICESCR:

- Committees overseeing ICERD and ICESCR issued General Comments clarifying the applicability of their human rights standards to irregular migrant workers.
- The ICERD Committee emphasized that discrimination based on immigration status contradicts the ICERD's purpose, urging a proportional and legitimate approach.
- ICESCR's General Comment 20 emphasized non-discrimination and equality for all, including non-nationals, regardless of legal status
- The political context of migration issues has led to clarifications on the applicability of human rights standards to irregular migrant workers.
- The discussion highlights the challenges and considerations in ensuring comprehensive rights for irregular migrant workers at the international level.¹⁹

TREATY OF LISBON

On the entry into the treaty of Lisbon in 2009, the rights, freedom, and principles detailed in the charter became binding in the EU legally and onto the member states, also calling the EU to concede to the ECHR.²⁰

¹⁹[https://www.europarl.europa.eu/REGDATA/ETUDES/STUD/2022/702670/IPOL_STU\(2022\)702670_EN.PDF](https://www.europarl.europa.eu/REGDATA/ETUDES/STUD/2022/702670/IPOL_STU(2022)702670_EN.PDF)

²⁰ <https://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/treaty-of-lisbon#:~:text=The%20Treaty%20of%20Lisbon%20was,the%20Commission%20and%20the%20Council>

- EU priorities in the UN human rights fora

The EU will continue working on strengthening respect, and protection. And the fulfilment of human rights and will continue to align efforts with all regions of the world.

- The promotion and protection of human rights being an epicentre of EU relations with others

The UNIVERSAL DECLARATION OF HUMAN RIGHTS is a pinnacle document in the chronicle of human rights, as it was drafted by the envoys with distinguished legal and cultural backdrop and asserted by the UNITED NATIONS GENERAL ASSEMBLY in Paris on 10th December 1948

HUMAN RIGHTS OF MIGRANTS

The European Union is accountable for securing the fundamental rights of all people under their oversight, irrespective of their legal status and their nationality. This encompasses access to asylum procedures. The EU has instituted a framework for the protection of the rights of asylum seekers, refugees, and migrants. This configuration aims to ensure that individuals receive commensurate rights and protection even at borders. There is an admittance of protection lacunae between the fundamental rights embodied in the EU and the actual rights encountered by irregular migrants working.

On many occasions, international, conventional or customary law is not necessarily invoked before European national courts, because the secondary law of both international organisations has already constituted the fundamental rights of all persons, regardless of their migration status, into national legislation, such as:

- The right of life, liberty and security of the person, the right to be free from arbitrary arrest or detention, and the right to seek and enjoy asylum from persecution.
- The right to be free from discrimination based on race, sex, language, religion, national or social origin, or other status.
- The right to be protected from abuse and exploitation, the right to be free from slavery and involuntary servitude, and the right to be free from torture and from cruel,

inhumane or degrading treatment or punishment.

- The right to a fair trial and legal redress; and
- The right to protection of economic, social and cultural rights, including the right to health, adequate standard of living, social security, adequate housing, education, and just and favourable conditions of work.²¹

STANDARDS APPLICABLE TO MIGRANTS

- International human rights standards
- Council of Europe standards
- Standards on equality and non-discrimination

SEEKING MIGRATION IN A MEMBER STATE OF THE COUNCIL OF EUROPE

- Immigration controls in conformity with human rights standards
- State jurisdiction
- Rights of migrants during the entry process and reception
- Examination of asylum seekers' claim.

DETENTION OF MIGRANTS

- Restrictions on freedom of movement which amount to deprivation of liberty
- Rights of migrants during administrative detention
- Length and condition of detention
- Detention of children and vulnerable groups
- Living conditions and economic, social and cultural rights, right to health and to social

²¹ [HTTPS://PUBLICATIONS.IOM.INT/SYSTEM/FILES/PDF/MIGRANTS_HUMAN_RIGHTS.PDF](https://publications.iom.int/system/files/pdf/migrants_human_rights.pdf)

and medical assistance

- Right to education
- Right to work and protection of migrant workers

THE RIGHT OF FAMILY REUNIFICATION

- European standards on family reunification
- Notion of family

EXPULSION OF MIGRANTS

- Substantive rights of migrants
- Scope of the protection of the principle of non-refoulement under the Geneva convention
- The principle of non-refoulement under the European Convention on human rights
- Procedural rights of other category of non-nationals
- Collective expulsion
- Voluntary returns

APPLICATION BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS

- The status of the applicant and the notion of the victim
- Notion of potential victims and migrants
- The requirement of exhaustion of domestic remedies
- The six-month time limits

THE IMMIGRANT DEBATE IN EU COUNTRIES

Liberal Attitudes Towards Immigration

- Supporters argue that immigration is crucial to addressing the aging population issue, relieving strain on pension systems.
- Immigrant inflows are seen as stabilizers, especially after asymmetric shocks, by moving into areas with labor shortages.

Anti-Immigrant Opinions

- High levels of anti-immigrant sentiments in some European countries, with varied proportions favouring tight immigration policies.
- Negative opinions are often linked to the perception of immigrants as a fiscal burden, draining public resources.

Reasons for Anti-Immigrant Sentiments

- Concerns about the impact on wages and employment, leading to wealth redistribution across subgroups.
- Fear that immigration may affect cultural norms and values, potentially jeopardizing common values in the host country.

Paradoxical Measures

- Despite the EU's emphasis on social protection and inclusion, measures are perceived as exclusionary, tightening welfare access for migrants.

Global Approach to Policies:

- Coordination among EU member states is crucial, especially in managing irregular immigration within the Schengen zone.
- Emphasis on strengthening cooperation with countries of origin and transit to manage migrant inflows and combat human trafficking.

Factors Influencing Migration

- Policies should address both push factors (problems in origin countries) and pull factors

(attractions in destination countries).

- Examples include official development assistance, reducing trade barriers, and considering labor market conditions.

EU Blue Card and Qualified Immigrant Workers

- The EU Blue Card reflects the EU's ambition to compete globally for skilled talents.
- Focus on attracting qualified immigrant workers to meet labor market requirements.

Control of Irregular Immigrant Inflows

- Policies needed to reduce undocumented immigrants.
- Emphasis on individual EU countries deciding on admission numbers based on their labour requirements.
- The immigration debate in the EU involves complex considerations, necessitating a global and coordinated approach.
- Ongoing discussions focus on attracting skilled workers and controlling irregular immigration.²²

RACISM: RACIALLY MOTIVATED CRIME TOWARD MIGRANTS

Racist attacks against migrants, asylum seekers, refugees, and their accommodation in EU member states, fuelled by the terrorist attacks in Europe and an increasingly hateful anti-migrant political and public discourse, were reported by civil society organizations, media, and international organizations around the EU.²³

ANTI-IMMIGRATION POLITICAL RHETORIC AND RACIST SPEECH

In several Member States governments have made it quite clear that irregular and in particular

²² [HTTPS://WWW.CAIRN.INFO/REVUE-REFLETS-ET-PERSPECTIVES-DE-LA-VIE-ECONOMIQUE-2010-2-PAGE-121.HTM?REF=DOI](https://www.cairn.info/revue-reflets-et-perspectives-de-la-vie-economique-2010-2-page-121.htm?ref=doi)

²³ [HTTPS://MIGRANT-INTEGRATION.EC.EUROPA.EU/LIBRARY-DOCUMENT/RACISM-AND-DISCRIMINATION-CONTEXT-MIGRATION-EUROPE_EN](https://migrant-integration.ec.europa.eu/library-document/racism-and-discrimination-context-migration-europe_en)

Muslim (Estonia, Hungary, Poland, Lithuania) migrants are not welcome in their nation-states. Politicians and political/media commentators have delivered anti-migrant statements and racist hate speech with impunity. Some political groups have launched adverts either at home or abroad (Denmark, Hungary, Sweden) to make it as obvious as possible that certain migrants are not welcome. Racism plays a key role in the violation of the rights as well as the expulsions of the migrants from the European union.

THE FUTURE OF MIGRATION IN EU

● SCENARIO WITH COLLABORATION

The EU remains as a significant player in the international arena, the strategic vision of the leaders has allowed the EU to adapt and maintain influence in the face of changing global dynamics, the internal divisions in the past decade as well as the efforts to reduce inequalities and the efficiency in improvements.

● INCLUSIVE GROWTH

The inclusive right-based social model weakened the recruitment ideas base of terrorist networks, which occurred as an outcome of the terrorist attack in the mid-2020s. The diversification of the migration flow plays a significant role in the growth of the economies of the member states, from a centralized policy to a localized policy which reflects the address of the concerns of the migrant population.

● SLOW GROWTH AND FRAGMENTATION

The global engagement and economic hubs, environmental crises and solidarity, growing cybercrime and external threats, demographic trends and political shifts, divergent approaches to social services, fragmentation in social justice and quality of life, economic attractiveness, and social justice concerns.

● SHOCKS, INEQUALITY AND CONTROL

The international cooperation setbacks, the isolationist approach and cyber threats, global community efforts, the failure of the EU project by 2030, the institutional fragmentation, the

return of national labour markets, and the reintroduction of borders and controlled migration.²⁴

CHALLENGES AND RECOMMENDATION

The difficulties experienced by immigrants in the European Union (EU) can exhibit significant variations, contingent upon individual situations, the policies of the host country, and societal attitudes. The following are the challenges faced by immigrants:

- Migrant workers have resided in locations characterized by conditions more challenging than those in refugee camps, lacking amenities such as running water, electricity, and sanitation.
- Additionally, women who sought employment as domestic workers in the residences of diplomats in Switzerland have had to resort to legal action, filing cases related to coercion and trafficking against influential employers.²⁵
- Societal attitudes can affect how immigrants are received, the prevalence of discrimination, and the overall sense of belonging.
- Conduct public awareness campaigns to highlight the positive contributions of immigrants to the host society.
- Some workers daring to raise their voices have thus been left baffled when trying to identify the competent authority to address their grievances. Workers attempting to earn their daily wages cannot confront these legalities alone: they require free or low-cost legal assistance.
- Economic disparities may exist between immigrants and the native population, leading to challenges in achieving financial stability and upward mobility.
- EU willingness to attract more qualified immigrant's workers and to reduce the number

²⁴<https://www.ispionline.it/sites/default/files/publicationi/ispifutureofmigrationweb1.pdf>

²⁵ <https://www.socialeurope.eu/all-work-and-low-pay-europes-migrant-workforce#:~:text=Migrant%20workers%20in%20Spain%20have,cases%20against%20high%2Dprofile%20bosses-last%20visited%20in%2008.02.2024>

of undocumented immigrants.²⁶

Addressing the challenges faced by EU immigrants requires a multifaceted and collaborative approach involving various stakeholders, including governments, communities, and support organizations. Here are some recommendations:

- The implementation of the firewalls between the state institutions providing rights and services for irregular immigrants and its enforcement agencies.
- A need for coordination among Eu member states for policies related to irregular immigrants.
- new EU directive which should clarify the application of existing labour rights standards to irregular migrants, ensuring equal treatment.
- Offer immigrants easy access to legal aid and information, ensuring they know their rights, visa procedures, and where to seek help in legal matters
- Regularly review and adjust immigration policies to address new challenges, ensuring alignment with humanitarian principles and human rights standards.

CONCLUSION

In summary, the fundamental rights and constitutional freedoms granted to immigrants in the European Union (EU) serve as essential cornerstones within the EU's legal framework. Rooted in both international and EU laws, such as the European Convention on Human Rights and the EU Charter of Fundamental Rights, these safeguards are designed to uphold the dignity and fundamental rights of every individual, regardless of their immigration status. It's important to note that while these rights exist at the EU level, the practical implementation may vary among member states. National legal systems play a role in ensuring the protection of these rights, and advocacy efforts often focus on harmonizing practices to create a more consistent and equitable experience for immigrants across the EU. By upholding the principles of justice, equality, and respect for human dignity, the EU can cultivate a society that embraces the diversity and contributions of immigrants, fostering a harmonious and rights-based approach to immigration

²⁶ Immigration policies in the EU : challenges and priorities Biagio Spéciale Dans Reflets et perspectives de la vie économique 2010/2-3 (Tome XLIX)

within its borders.