Research Paper

EU Integration Policy
- An Overview of an Intricate Picture

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Abstract

According to the Lisbon Treaty, the EU is entitled to intervene in the field of integration but only through coordination. However, developments that have taken place at EU level over the last 10 years show a different picture. On the one hand, the EU has adopted rules, the effects of which have been to force Member States to harmonise national rules and policies in fields which fall within integration policies. On the other hand, and in order to circumvent “the harmonisation prohibition”, the EU and Member States have developed a series of “soft law tools” which create the conditions of de facto harmonisation. At the end of the day, it is possible to claim that an integration policy is taking place at EU level which influences the convergence and, to a certain extent, the harmonisation, of national policies. This paper tries to give an overview of this blurred picture.

Introduction

Discussing immigration and asylum policies involves addressing, at some point, the issue related to the integration of third country nationals legally residing in the receiving society. However, this question is intricate as it is sometimes hard to clearly delineate what integration covers and who is responsible for its management and proper implementation. It goes from questioning the role of the state, the receiving society and the migrants in this process as well as the definition of fields involved in this policy. In other words, addressing the issue of integration policy is all but simple.

Amsterdam Treaty and Tampere European Council conclusions

The picture is even more complicated when trying to identify these questions at EU level. Indeed, the development of an EU immigration and asylum policy since the entry into force of the Amsterdam Treaty, in May 1999, has not been accompanied by the development of a clear and fully fledged integration policy.

This derives from the Treaty provisions as well as political orientations. With respect to the Treaty provisions, the Amsterdam Treaty is silent on this issue. With the exception of one provision addressing the issue of family reunification, the Treaty does not contain any legal basis granting the EU any specific competence to intervene in the field of the integration of
legally residing third country nationals. This lack of legal entitlement is somehow reflected in the Tampere European Council conclusions adopted in October 1999.

In a paragraph entitled “fair treatment of third country nationals”, the heads of State and government declared, “A more vigorous integration policy should aim at granting them [third country nationals legally residing in the EU states] rights and obligations comparable to those of EU citizens. It should also enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia”. When looking more closely to the conclusions, the picture related to integration policy is divided into two main types of actions.

The first one is based on the fight against racism and xenophobia and the development and implementation of non-discrimination rules. In these domains, the EU has already acted and is able to further take decisions, in particular on the basis of article 13 of the Amsterdam Treaty. However, policies related to these fields are mainly national policies which are dealt with within the national ambit. This means that EU action in this field is mainly based on the coordination of national policies.

With respect to the objective of granting comparable rights, the conclusions are in fact more narrow. Indeed, the scope of third country nationals who may be entitled to benefit from comparable rights is limited to the category of long term residents, i.e., those who have already resided for some years (almost five) in the EU Member State. Those rights, which should be as close as possible to those enjoyed by EU citizens, are to be granted in the fields of residence, education and work. In practice, the objective enshrined in the Tampere conclusions reflected an already existing situation where the idea of granting more rights to long term residents was shared by the vast majority of Member States.

To sum up, the Treaty of Amsterdam did not define any specific legal basis to act in the field of integration of third country nationals. On the other hand, the highest EU political body, i.e., the European Council, composed of heads of State and governments, called for further action in this field but in a restricted way. Indeed, and given the Treaty limitations, these actions should address the coordination of national policies in the field of racism, xenophobia and non-discrimination and enable the approximation of national legislations but with respect to long term residents in targeted fields (residence, education and working conditions).

This situation reflects a quite intricate picture which is basically grounded on the following question: how could the EU act in the field of integration without having received any clear-cut competence? From the outset, the role of the EU with respect to integration is unclear. This is somehow misleading as “legal migration and integration are inseparable and should mutually reinforce one another”.

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2 Article 13, paragraph 1: “Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation”.


The Lisbon Treaty, which entered into force in December 2009, brought some clarification in this policy field. Article 79.4 of the Treaty on the Functioning of the European Union (TFEU) states: “The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States”.

This provision is highly important because it indicates that the EU can intervene in the field of integration but only in order to support, or coordinate, national policies. This means that the competence in this field is limited to the minimum and may not in any case go further than the coordination of national policies, i.e., EU institutions are not entitled to adopt for instance a Directive, for which the transposition would impose the modification or adaptation of Member States legislations and/or regulations.

The solution developed in the Lisbon Treaty is consistent. Indeed, when considering the fields covered by integration policies and corresponding EU competences, it looks evident that the EU is not embedded with the appropriate legal means of action. Integration of third country nationals covers the following fields: access to employment, education, vocational training, healthcare, public services, housing and culture. While all of these fields are addressed by the Treaty, EU competence in all of these fields is limited to supporting or coordinating national policies and does not harmonise them.

This initial assessment is reinforced by another element: subsidiarity. Integration policies cover a wide diversity of fields but involve as well an impressive number of actors. In the Member States, these policies are defined and implemented by several levels of national, regional and local players. This then implies the involvement of a myriad of political, administrative and private actors. At the end of the day, one can wonder whether the European Union is the appropriate level to deal with the issue.

Finally, historical reasons may also be taken into consideration when it comes to considering how an EU integration policy could be set up. More precisely, it is not entirely clear whether Member States share the same history, views and experiences with respect to immigration and integration policies. Hence, some States may portray themselves as immigration countries whereas others consider themselves as emigration countries. This may consequently have an effect on integration policies as some States may have opted for a “multicultural” policy where others have opted for a so called “assimilationist” policy. In the end, could the EU find its way out in this system without breaching the principle of subsidiarity?

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6 According to article 5, paragraph 3, Treaty on European Union: “Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level”.


At first sight, the Lisbon Treaty has made things clear: the EU is entitled to intervene in the field of integration but only through coordination. However, when looking at several developments that have taken place at EU level in the last 10 years, this legal frame fails to convince for at least two main reasons.

First, the EU has adopted rules, the effects of which have been to force Member States to harmonise national rules and policies in fields which fall within integration policies. Second, in order to circumvent “the harmonisation prohibition”, the EU and Member States have developed a series of “soft law tools” which create the conditions of de facto harmonisation. At the end of the day, it is possible to claim that an integration policy is taking place at EU level which influences national policies.

This paper tries to give an overview of this blurred picture. It will first show that EU directives have been adopted with the effect of harmonising national policies linked with the integration of third country nationals (I). Second, the paper will enumerate the huge diversity of “soft law instruments” that have been put in place in the last couple of years (II). Finally, some conclusions will be drawn to try to outline trends that have been followed by some Member States with respect to integration in the field of immigration (III).

I. EU Rules Harmonising National Integration Policies

The entry into force of the Amsterdam Treaty gave the EU the ability to adopt EU rules, i.e., Directives and Regulations, in the fields of visa, asylum and immigration. While some rules are clearly devoted to border management, visa policy, irregular migration or asylum issues, others do concern integration of third country nationals.

Two categories of rules may therefore be identified. The first one is made of Directives that are clearly aimed at facilitating the integration of third country nationals (A). The second set of rules is composed of Directives that are initially aimed at defining rules of admission but contain also a series of rights which contribute to better integration of aliens (B).

A. Rules aimed at fostering integration of third country nationals

Two different instruments have been adopted in this field: the family reunification Directive\(^9\) (1) and the Long term residents Directive (2).

1. Directive 2003/86/EC on the right to family reunification

\(\text{a. Family reunification as a condition for integration}\)

Point 4 of the Directive’s preamble states: “Family reunification is a necessary way of making family life possible. It helps to create sociocultural stability facilitating the integration of third

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country nationals in the Member State, which also serves to promote economic and social cohesion, a fundamental Community objective stated in the Treaty”.

According to this point, family reunification serves integration in many different ways. Social stability is highlighted as the first point. Here, the sponsor, i.e., the migrant already residing in the EU and entitled to ask for his/her family to join, gains in social stability as his/her family joins. This creates a stable emotional environment. But this social stability focus may also be used to exercise some “social control” over migrants. This was for instance the case in some Member States where the possibility to benefit from family reunification was kept open in order to keep migrant workers “at home”. In these cases, family reunification aids the social inclusion of migrants.

The promotion of economic and social cohesion is also highlighted as an added value. The fact that migrants are able to live with their families releases emotional tensions and eases their ability or capacity to take part in social life. With respect to economic cohesion, the more people are entitled to reside legally in a country, the more they are also inclined to take part in economic life, such as using services or buying goods.

In this sense, family reunification should contribute to enhancing the integration of third country nationals legally residing in the EU Member States.

b. Integration as a condition for family reunification

The Directive contains several provisions which condition or make family reunification dependent on integration skills. These provisions are of three kinds.

For minors

Family reunification of minors may be limited in two specific circumstances. Article 4, paragraph 1, indicates: “where a child is aged over 12 years and arrives independently from the rest of his/her family, the Member State may, before authorising entry and residence under this Directive, verify whether he or she meets a condition for integration provided for by its existing legislation on the date of implementation of this Directive”. This derogation is explained as follows in the Preamble of the Directive (point 12): “The possibility of limiting the right to family reunification of children over the age of 12, whose primary residence is not with the sponsor, is intended to reflect the children's capacity for integration at early ages and shall ensure that they acquire the necessary education and language skills in school”.

This provision has been challenged before the European Court of Justice (ECJ) by the European Parliament (EP)\(^\text{10}\). The latter has considered that the provision “renders family reunification unachievable and negates this right”. The ECJ did not follow the EP. The possibility of limiting family reunification intends to reflect children’s capacity to integrate at early ages and to ensure they acquire the necessary education and language skills in schools. On the other hand, the Court stresses that Member States are not entitled to implement this derogation in a manner that would be contrary to the right to respect family life. This means that Member States are not able to use an “unspecified concept of integration” but have the duty to apply integration conditions provided for by existing laws. They also have to examine each specific situation with respect to the best interest of the child and the nature and solidity of the person’s family relationship. Such an assessment should make sure that the right to family life is respected.

\(^{10}\) ECJ, 26 June 2006, European Parliament vs. Council of the European Union, Case C-540/03.
Article 4, paragraph 6, states: “Member States may request that the applications concerning family reunification of minor children have to be submitted before the age of 15, as provided for by its existing legislation on the date of the implementation of this Directive. If the application is submitted after the age of 15, the Member States which decide to apply this derogation shall authorise the entry and residence of such children on grounds other than family reunification”.

According to the Council, the objective of this provision is to encourage immigrant families to have their minor children come at a very young age, in order to facilitate their integration. This article was also challenged by the EP. The ECJ dismissed the EP’s action. Following the lines previously drawn, the Court states that article 4, paragraph 6, should be read in the light of the principles to have due regard to the best interests of minors, and to take account of a number of factors, one of which is the person’s family relationships. As long as Member States proceed with an examination of the application in the interests of the child, and with the view to promote family life, the possibility to ask for the application to be introduced before the age of 15 does not run counter to the fundamental right to respect family life.

In both cases, integration concerns may allow the possibility for Member States to restrict the reunification of minors. This possibility is however framed by the ECJ. When using the derogation, Member States must proceed to an individual examination, and take into account the best interest of the child and the family relationship. In other words, the Court did not cancel the provisions of the Directive and has instead defined a framework within which the use of derogation is admissible. While in practice the Court’s decision has had little effect – as only two Member States are using the 12 years old derogation, and none is implementing the 15 years old one – it has shown how the ECJ has decided to interpret leeway given to the Member States by the Directive. In other words, the Court considers that Member States are allowed to use derogations insofar as those derogations are implemented with respect to strict requirements.

For the spouse

Article 8 of the Directive opens the possibility for Member States to "require the sponsor to have stayed lawfully in their territory for a period not exceeding two years, before having his/her family members join him/her". According to the Member States, a waiting period which may last up to two years pursues the objective of enhancing integration. Indeed, it ensures that "family reunification does not take place until the sponsor has found in the host State a solid base, both economic and domestic, for settling a family there"11.

This provision of the Directive was also challenged by the EP. The ECJ did not consider that this article runs counter to the right to respect family life. However, and as was already pointed out previously, the Court has underlined that the implementation of a waiting period does not preclude national authorities to take into account other relevant factors such as the family ties and the best interest of the child.

Here again, the Court dismissed the EP’s action but set clear lines within which national authorities actions should be conducted.

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11 ECJ, 26 June 2006, European Parliament vs. Council of the European Union, Case C-540/03.
Integration measures to be satisfied in the country of origin

Finally, Article 7, paragraph 2, of the Directive contains the option for Member States to accompany the family reunification procedure with the possibility of requiring applicants for family reunification to comply with integration measures. The fulfilment of such measures may be requested before entering the Member State, i.e., in the country of origin, or after.

The term "integration measures" is somehow misleading. It does not help to define the content of those measures. On the other hand, it does not define either the regime of those measures, i.e., does the requirement to comply with integration measures enable national authorities to refuse family reunification because the applicant did not properly fulfil the requirement?

In practice, such integration measures have been implemented by some Member States and have mainly been linked with language and civic knowledge. They have also been put in place in migrants' country of origin and have led to some legal problems, which we will come back to later.

The Directive on the right to family reunification is a legal instrument which principally aims to facilitate the integration of third country nationals legally residing in the EU Member States. However, this Directive bears in its own provisions a paradox: the main derogations are based on the purposes of integration. In other words, the right to family reunification may be refused or limited due to considerations based on integration. This portrays a certain ambiguity with respect to integration.

2. Directive 2003/109/EC concerning the status of third country nationals who are long term residents

In the Tampere conclusions, the paragraph devoted to integration of third country nationals paid specific attention to long term residents. The long term residents were quoted as a category of persons who should be granted “rights and obligations comparable to those of EU citizens”. This objective is linked to the shared idea of enhancing the rights of migrants with respect to the length of their stay in the Member States.

Where presenting the legislative proposal, the Commission emphasised: “with this proposal, the Commission is giving practical expression to its intention and to its commitment to a matter that is crucial in terms of securing the genuine integration of third-country nationals settled on a long-term basis in the territory of the Member States”. In other words, the improvement of migrants’ rights with respect to employment, education, vocational training, social protection and assistance as well as enhanced protection, as opposed to expulsion, contributes to their better integration.

Directive 2003/109/EC follows that path in its articles 11 and 12, respectively dealing with “equal treatment” and “protection against expulsion”. In order to give long term residence added value, the Directive organises also the conditions under which long term residents

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acquire the right to reside in another Member State for a period exceeding three months in order, for instance, to exercise an economic activity in this second State.

In short, holders of an EU long term residence permit are granted a reinforced status and enhanced freedom of movement. This confirms the long-standing idea that the more people reside in a country, the more their rights are reinforced and the more their integration into that society is secured. The long term resident Directive gives this idea an EU echo as intra-EU mobility is open to this category of migrants which was not the case beforehand.

However, and along the same line as what has been said for the family reunification directive, the procedure for a migrant to be granted an EU long term residence status, and therefore enter the process of enhanced integration into the society, may be conditioned to the fulfilment of integration requirements.

Article 5 of the Directive, establishing the conditions for acquiring long term resident status, contains a second paragraph which reads as follows: “member states may require third-country nationals to comply with integration conditions, in accordance with national law”.

This provision is different from the ones laid down in the family reunification directive. The text deals with “conditions”, whereas it was dealing with “measures” with respect to family reunification. This entails major consequences as it derives from this provision that the EU long term resident status may be conditioned to the fulfilment of integration requirements. The latter are, most of the time, linked, as previously underlined, with language and civic knowledge as well as knowledge of the receiving country’s values.

Such a requirement is also applicable for the exercise of the right to reside in another Member State. But here requirements related to “integration” are worded in a different manner and has a different effect. As a principle, any long term resident wishing to reside in another Member State has to apply for a residence permit in the second State. Within this procedure, authorities of the second States may ask the applicant to fulfil some conditions among which the fulfilment of “integration measures” could be requested. Article 15, paragraph 3, nevertheless indicates that this condition is not applicable where the persons concerned have been required to comply with integration conditions in order to be granted the long term residence status in the first Member State. Nevertheless, the provision adds that the applicant may in any case be required to attend language courses.

To sum up, persons holding an EU long term residence status in one Member State can apply for a residence permit in another Member State. The application can be accompanied with the obligation to fulfil “integration measures” insofar as the applicant has not previously been requested to comply with “integration conditions” where he/she applied for the EU long term status. But, the second Member State may ask the applicant to attend language classes despite the fact that attendance of such classes was already mandatory in the first State…

This looks quite intricate. In order to clarify things, the situation may be summarised as follows: integration requirements may condition the granting of the long term residence status in the first Member State but the application for a residence permit in the second State may not be dependent on the fulfilment of such conditions. The only possibility left to Member States is to ask applicants to comply with measures, i.e., actions that may not hamper the right to reside in the second State.

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The idea that the longer and more secure the stay in a State is, the more integration is improved, is reflected in the long term residents Directive. It grants additional rights to migrants and improves protection against expulsion. However, the possibility to benefit from enhanced protection is conditioned by integration requirements, i.e., proving that the applicant for the status and resulting rights has the required skills and/or knowledge (language, civic, etc.). Where he or she is not able to fulfil integration conditions, the possibility to continue the path towards better integration on the basis of a reinforced status will not be awarded. Here again, the Directive seeks to enhance integration but contains integration provisions aimed at limiting this process.

The family reunification directive and the long term residents Directive both pursue the objective of enhancing integration of third country nationals legally residing in the Member States. This therefore shows that the EU has been able to adopt rules directly linked with integration, despite the limitation now introduced in the Lisbon treaty.

It should be emphasised that EU action in this field is not limited to these Directives. Other legal instruments do have an indirect effect on foreigners’ integration in the Member States.

B. Rules helping integration of third country nationals

The action of the Union in the field of immigration and asylum is mainly devoted to the adoption of rules defining conditions of entry and residence of specific categories of persons, i.e., migrants, asylum seekers or beneficiaries of international protection. In all of the Directives adopted in this regard, one can find provisions which help to improve the integration of third country nationals in the Member States. These provisions are mainly related to the status of admitted persons and concern mainly the possibility for migrants to have access to work (1) and to have access to a series of rights (2).

1. Access to work

Access to employment and self-employment is an important part of integration into the receiving society. With this in mind the Common Basic Principles for Integration, adopted by the Justice and Home Affairs Council in November 2004, designate access to employment as a top priority. Employment is described in this political document as “a key part of the integration process and is central to the participation of immigrants, to the contributions immigrants make to the host society, and to making such contributions visible”.

It is clear that access to work allows migrants to gain in autonomy and independence and enhances their ability to interact with other individuals at work as well as in society as a whole. In this view, employment or self-employment is to be considered a principle to be put into action ahead of language, history knowledge, education, and even access to institutions.

The question relating to the adoption of EU rules related to the admission of migrant workers has always been and remains highly sensitive. In practice, Member States have proven reluctant to adopt general EU rules in this field. Desiring to keep control over the admission of migrant workers, Member States have opted for the development of a limited and piecemeal approach. Existing directives in this field are related to specific categories of

migrants – such as students\textsuperscript{19}, researchers\textsuperscript{20}, highly skilled workers\textsuperscript{21}, seasonal workers\textsuperscript{22}, intra-corporate transferees\textsuperscript{23} and remunerated trainees – and have a low harmonising effect over Member States rules\textsuperscript{24}.

However, it would be limiting to consider that access to employment is, with the exception of the abovementioned Directive, only regulated by national legislation. When looking more closely to the enormous number of rules adopted at EU level, it can be seen that some of them deal with migrants’ status and therefore define rules regarding their access to employment and self-employment.

Hence, family members, asylum seekers, refugees and beneficiaries of subsidiary protection have the right to have access to work under EU law and under defined conditions. In some cases, access to work is automatic, as in the case of refugees. In other cases, access to work is made conditional upon a labour market test or a waiting period, or both.

With respect to family members for instance, the exercising of an employed or self-employed activity may be conditioned by a time limit which shall in no case exceed 12 months. The Directive adds that during this time frame Member States may examine the situation of their labour markets before authorising family members to exercise an employed or self-employed activity.

Directive 2003/9/CE, laying down minimum standards for the reception of asylum seekers, contains a provision on employment. It states as a principle that Member States determine a period of time, starting from the date on which an application for asylum was lodged, during which an applicant shall not have access to the labour market. The Directive adds however that access to the labour market should be allowed where no decision on the application has been taken after one year and where this delay cannot be attributed to the applicant.

In the end, both examples show that EU rules impose specific conditions on Member States to open access to their labour market to some categories of legally residing third country nationals. Under such a scenario, it can hardly be asserted that EU law does not concern migrants’ access to labour market. As a consequence, EU laws have also had an impact on the ability of third country nationals to properly integrate into the labour market and society\textsuperscript{25}.

2. Access to rights

Directives adopted in the field of asylum and immigration consider various scenarios where third country nationals, according to their specific needs and condition, are entitled to benefit from rights which contribute to the integration of third country nationals.


\textsuperscript{25} For an overview, see K. Groenendijk, "Access of Third-Country Nationals to Employment under the New EC Migration Law" in F. Julien-Laferriere, H. Labayle, Ō. Edström (sous la direction de), La politique européenne d'immigration et d'asile : bilan critique cinq ans après le traité d'Amsterdam, Bruylant, Bruxelles, 2005.
A first series of rights comprises access to education and vocational training. Access to education is recognised in almost all of the Directives. It is mainly addressed to children of migrants legally residing in the member states. Alongside access to education, Directives recognise the right to have access to vocational training.

Other social rights are also recognised in different Directives. These rights depend on the specific situation of the persons concerned as they may be applicable to asylum seekers, family members, refugees or workers. Hence, different rights are open to third country nationals such as inter alia access to medical screening, social assistance, equal treatment covering working conditions, recognition of diplomas and qualifications, branches of social security, tax benefit, access to goods and services and the supply of goods and services made available to the public.

All of these rights contribute to the sound integration of third country nationals in the receiving society. They serve the purpose of including migrants into society.

When analysing the potential number of persons covered, from family members to refugees and workers, the existence of EU rules obliging Member States to grant equal treatment or other rights to foreigners is significant. EU law may be considered an important framework granting third country nationals with basic rights which they would perhaps not benefit under national law. Hence, EU law is not disconnected from the possibility of harmonising national rules related to the integration of migrants.

The assertion included in article 79, paragraph 4, from the Lisbon Treaty may therefore be reconsidered. More precisely, it looks like the EU will not develop a specific and defined set of rules related to access to healthcare or social services. However, when it comes to determining the conditions of entry and in particular residence of third country nationals, it may prove difficult to ignore individuals’ basic rights. Indeed, in the framework of common rules and in the perspective of the single market and the establishment of a single European labour market, EU law may not leave the decision to grant full or partial social protection and inclusions rights solely to the Member States. Therefore, minimal harmonisation is in this context needed. In the end, the EU is intervening in the field of integration.

The possibility to grant a set of rights to legally residing migrants must be put into perspective with respect to the global discussions around migration policies. Indeed, in the last couple of years the idea to develop temporary migration, or circulation migration schemes, has gained in importance. But this project runs counter to the basic philosophy of Member States in the field of immigration, where they have agreed to award basic rights to migrants, such as family reunification and long term residence status, the effect of which is basically to incentivise for permanent migration. Put differently, it is unlikely that migrants will decide to move when their family has joined and where children are registered at school. Moreover, the possibility of obtaining a long term residence permit after five years of legal residence is also an encouragement to settle for some time in a Member State.

Article 79.4 should therefore be understood as preventing the Union from adopting specific rules on integration which would for instance harmonise conditions for accessing education or healthcare systems. This situation is nonetheless circumvented as the Union has developed an impressive number of soft law instruments, the effect of which is to coordinate national integration policies.
II. The Development of Soft Law Instruments

Alongside EU legal instruments that, directly or indirectly, address issues related to migrants’ integration, the EU has developed an impressive series of soft law instruments aimed at better coordination of national policies. These instruments could be divided into two categories: instruments and tools setting up the political orientations (A) and instruments and tools enhancing the exchange of information between stakeholders or a wider audience (B).

A. Political orientations

As the issue of migrants’ integration falls primarily within the remit of the Member States competence, orientations are defined in political documents adopted during meetings where Member States are represented (1). The European Commission is not side-lined in this process. Its contribution is linked with the putting into effect of these orientations (2).

1. Member States in the driving seat

The coordination of integration policies on the basis of EU guidance has been framed in three main types of documents.

a. Common basic principles of integration

The first document, which remains a basis in this field, is the Common Basic Principles of Integration. Adopted by the Justice and Home Affairs Council in November 2004, these principles pursue three main objectives. First, to assist Member States in formulating integration policies by offering a non-binding guide of basic principles against which they can judge and assess their own efforts. Second, to serve as a basis for Member States to explore how EU, national, regional, and local authorities can interact in the development and implementation of integration policies. Third, to assist the Council to reflect upon and, over time, agree on EU-level mechanisms and policies needed to support national and local-level integration policy efforts, particularly through EU-wide learning and knowledge-sharing.

The document then defines a series of 11 Common Basic Principles to be developed in this perspective. The 11 Common Basic principles are:

1. Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of member states.
2. Integration implies respect for the basic values of the EU.
3. Employment is a key part of the integration process.

4. Basic knowledge of the host society’s language, history and institutions is indispensable for integration.

5. Efforts in education are critical for preparing immigrants to be more successful and active.

6. Access to institutions for immigrants, as well as to public goods and services, on a basis equal to national citizens and in a non-discriminatory way is an essential foundation.

7. Frequent interaction between immigrants and member state citizens is a fundamental mechanism.

8. The practices of diverse cultures and religion as recognized under the Charter of Fundamental Rights must be guaranteed.

9. The participation of immigrants in the democratic process and in the formulation of integration policies, especially at the local level, supports their integration.

10. Integration policies and measures must be part of all relevant policy portfolios and levels of government.

11. Developing clear goals, indicators and evaluation mechanisms to adjust policy, evaluate progress and make the exchange of information more effective is also part of the process.

It derives from these principles that national authorities as well as migrants have together in their respective capacities a duty to improve migrants' integration into the receiving society. While those principles are still quoted on a regular basis, documents adopted afterwards and developments at national level have shown some modifications aimed at increasing the burden on migrants' shoulders rather than on the State. This is for instance the case with language knowledge which has become mandatory in some Member States and conditions the residence of migrants. In the same vein, some Member States are requesting migrants to take language classes but do not provide for any financial or material support.

b. Ministerial conferences

Ministers in charge of integration issues has met on a regular and informal basis since 2004 to discuss integration issues. The first conference of that kind was organised in Groningen under the Dutch presidency in November 2004. Entitled "Turning Principles into Actions", this two-day conference aimed to give practical relevance to the vision for integration in two areas: introductory programmes and youth with a minority/migrant background.

The second conference was held in June 2007 in Potsdam under the German presidency. During this conference, ministers were invited to discuss how European cooperation and the exchange of experience within the EU regarding integration policies can be improved and how the intercultural dialogue can be strengthened.

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The third conference was organised by the French presidency in November 2008 in Vichy. This conference was devoted to specific concerns shared by several Member States, i.e., language learning, promoting Member States values and access to employment.

A fourth conference took place in 2010 under the Spanish presidency in Zaragoza. Discussions during this conference encompassed several issues, such as the development of human capital through employment and education, social cohesion in neighbourhoods and areas with a high rate of immigrant population, the role of civil society in the mutual adaptation process that the integration of immigrants entails, and the general evaluation of integration policies.

The Conferences’ conclusions were adopted by the Justice and Home Affairs Councils respectively in November 2004, June 2007, November 2008 and June 2010. These conferences are designed to ease the debate among ministers on integration issues. In this regard, they might improve common understanding or, conversely, serve some States running the six months' presidency to highlight some issues they would like to discuss and push forward on the agenda.

c. European Council Conclusions: The European pact on immigration and asylum

Normally, heads of States and governments intervene in this field to define multi-annual orientations once every five years on the basis of programmes (Tampere 1999, The Hague 2004 and Stockholm 2009). In each of these multi-annual programmes, Member States have devoted some sections to integration issues.

The French presidency of the Council of the European Union made clear that migration-related issues were on the top of the presidency's agenda. After negotiations that were at times hard, French authorities successfully convinced their counterparts to adopt the European Pact on Immigration and Asylum during the October 2008 European Council30.

Focused on migration management issues, the European pact did address integration issues in a quite detailed manner. It stated on the one hand, that the European Council agreed "to invite Member States, in line with the common principles approved by the Council in 2004, to establish ambitious policies, in a manner and with resources that they deem appropriate, to promote the harmonious integration in their host countries of immigrants who are likely to settle permanently; those policies, the implementation of which will call for a genuine effort on the part of the host countries, should be based on a balance between migrants' rights (in particular to education, work, security, and public and social services) and duties (compliance with the host country’s laws). They will include specific measures to promote language learning and access to employment, essential factors for integration; they will stress respect for the identities of the Member States and the European Union and for their fundamental values, such as human rights, freedom of opinion, democracy, tolerance, equality between men and women, and the compulsory schooling of children. The European Council also called upon the Member States to take into account, through appropriate measures, the need to combat any forms of discrimination to which migrants may be exposed".

On the other hand, the European Council emphasized "the importance to promote information exchange on best practice implemented, in line with the common principles approved by the Council in 2004, in terms of reception and integration, and on EU measures to support national integration policies".

30 European Pact on Immigration and Asylum, Doc. 13440/08
The Pact portrayed concerns shared at that time by a number of Member States, principally by France, the Netherlands and Germany, to enhance the focus of integration policies on migrants’ knowledge of the host country language and values. To put it differently, the two-way process called for by the Common Basic Principles is endangered by the willingness of some States to link the migrant's status, i.e., the security of his/her residence, to his/her capacity to prove his/her language or civic skills. In this view, migrants are becoming ever more the main actors of the integration process and States are more engaged in an evaluation of their willingness or capacities to properly show active integration through language and civic knowledge.

All in all, these documents, the Common Basic Principles, the informal ministerial conferences and the European Pact are several steps which enable Member States to discuss integration issues but also to highlight priorities. The analysis of the documents and the priorities deriving from them highlight a shift in the sphere of integration towards greater demands on migrants. This is more precisely the case regarding the development of language learning duties which are becoming more and more important in Member States’ schemes.

2. Implementing orientations

There are two main ways to put into effect orientations agreed upon by Member States. The first one is to leave the European Commission the duty to precisely define the steps to be taken on the basis of so-called “Integration Agendas”. The second way is to allocate specific funding, managed by the European Commission, in order to reach targeted objectives.

a. Commission’s agenda on integration

The Commission has adopted two communications dealing respectively with a common  and an European agenda for integration.

The first communication, adopted in September 2005, followed the adoption of the Common Basic Principles less than one year earlier. Hence its main objective is to present concrete measures to put the Common Basic Principles into practice together with a series of supportive EU mechanisms.

The document takes the 11 Common Basic Principles one after the other, and provides some guidance, i.e., proposes actions to be undertaken, for both EU and Member State’s integration policies. For instance, the communication puts an emphasis on integration programmes as

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well as pre-departure measures such as information packages and language and civic orientation courses in the country of origin.

The second “Integration Agenda” was published nearly six years later, in July 2011. Recognising that all EU actions presented by the Commission in the 2005 Common Agenda for Integration had been completed, the Communication also highlights that not all integration measures have been successful in meeting their objectives and that integration policies also require the will and commitment of migrants to be part of the society that receives them. The Commission also points out that some pressing challenges need to be addressed, such as:

- the prevailing low employment levels of migrants, especially for migrant women,
- rising unemployment and high levels of “over-qualification”,
- increasing risks of social exclusion,
- gaps in educational achievement, and
- public concerns with the lack of integration of migrants.

On this basis, the Commission identifies three key areas of actions: integration through participation; more action at local level; and involvement of countries of origin. All of these key areas are covered by the Communication and accompanied with specific recommendations.

In addition to this, the Agenda also underlines the necessity to intensify the coordination between Member States’ policies. To do so, it proposes to develop a flexible European toolbox which should allow Member States to choose the measures which are most likely to prove effective in their context. This “Toolbox” should be made of “European Modules” which would constitute a European reference framework for the design and implementation of integration practices in Member States. “European Modules” are developed in three thematic areas: 1) introductory and language courses; 2) strong commitment by the receiving society; and 3) active participation of migrants in all aspects of collective life.

The Commission’s Agendas for Integration are important documents for at least two main reasons. First, they translate the orientations agreed upon by Member States into concrete actions. Second, these concrete actions should, in a coherent framework, receive financial support from the European Integration Fund.

b. European Integration Fund

The EU has created a European Integration Fund for Integration\(^\text{35}\). This Fund, which benefits from a budget of 825 million Euros for the period 2007-2013, aims at assisting Member States in their effort to support third country nationals’ integration. The Council decision establishing the Fund defines the objectives of the Fund, the available funding, as well as conditions under which funding is awarded.

Alongside the substantial amount of money made available for migrants’ integration, the Fund underlines where priorities are identified. In this view, pre-entry measures and integration

programmes for newly arrived migrants including language and civic acquisition are high on the list of priorities. In other words, funding also point to political priorities which are outlined by Member States and then implemented by the European Commission on the basis of financial support.

Guidelines adopted by Member States are reflected in the series of implementing instruments adopted and/or managed by the European Commission. This consistency also reflects issues which are becoming even more important in Members States’ views, i.e., pre-entry measures and introductory programmes. This trend is also fully taken into account in the development of new tools such as the “European Modules”, one of which is devoted to introductory and language courses.

Alongside political orientations, an impressive number of tools have been set in motion at EU level in order to enhance exchange of information between stakeholders.

B. The exchange of information between stakeholders

The field of migrants’ integration has seen the creation of an impressive network of bodies and tools aimed at enhancing exchange of information to serve a wide spectrum of stakeholders. Exchange of information may take two different routes: a formal one where stakeholders meet and discuss integration issues (1); and an informative one where good practices could be brought to the attention of anybody interested in, or who is dealing with the issue (2).

1. Exchange of information based on formal meetings

The EU has developed two types of formal “arenas” where relevant stakeholders meet to exchange knowledge about integration rules and practices.

a. National contact points on integration

Regular meetings are organised between national officials, also called “national contact points on integration”. The network of national contact points on integration was set up by the Commission as a follow-up to the Justice and Home Affairs Council conclusions of October 2002.

The main objective of the network is to create a forum for the exchange of information and good practice between Member States at EU level, with the purpose of finding successful solutions for integration of immigrants in all Member States and to ensure policy coordination and coherence at national level and with EU initiatives.

b. The Integration Forum

The European Integration Forum is a platform for dialogue involving all stakeholders active in the field of integration. The objective of the European Integration Forum is to provide a voice for representatives of civil society on integration issues, in particular relating to the EU agenda on integration, and for the Commission to take a pro-active role in such discussions. More precisely, the integration forum provides an opportunity for civil society organisations
to express their views on migrant integration issues and to discuss the challenges and priorities with the European institutions.

The development of the European Integration Forum is undertaken in co-operation with the European Economic and Social Committee and financed by the European Fund for the Integration of Third Country Nationals. The Common Basic Principles on Integration, agreed by the Council in 2004, serve as a reference for the activities of the Forum.

Eight forum sessions have been organised so far. While the three first meetings addressed different issues, the following ones have focused on one specific topic. Issues discussed within the eight meetings were the following:

- **Integration – an EU approach:** What consequences can the economic crisis have on the integration of immigrants? & What could be the European Integration Forum’s working methods and how can civil society organisations and migrants’ associations be better involved at EU level? (April 2009)

- **Taking stock and looking ahead:** working together for Integration, Common EU priorities for a cross-cutting integration policy & The European Integration Fund: progress to date and future developments (November 2009)

- **The Civil Society Input to the Second European Agenda for Integration & The Relation between Migrants and the Media** (June 2010)

- **Active participation of migrants and strong commitment by the host society:** The two-way process beyond words (December 2010)

- **Integration through local action** (May 2011)

- **The involvement of countries of origin in the integration process** (November 2011)

- **Public hearing on the right to family reunification of Third Country nationals living in the EU** (May/June 2012)

- **The contribution of migrants to economic growth in the EU** (October 2012)

The integration forum should help the EU institutions engage in discussions with a broad spectrum of civil society representatives deeply involved in integration-related issues. It allows the European Commission to get feedback from “the ground” and assess whether the policy choices meet the needs of the integration process.

2. Exchange of information on the basis of various tools

Last but not least, the exchange of information, which forms the basis of policy coordination, is ensured through the publication of integration handbooks, the creation of a specific website and the development of integration indicators.

**a. Integration handbooks**

Integration handbooks are primarily a source of information for policy-makers and practitioners. The main objective of the handbooks is to act as a driver for the exchange of
information and good practice between integration stakeholders in all Member States. So far three handbooks on integration have been published.


b. The Integration website

The European Web Site on Integration36 was created with the view to becoming a unique EU-wide platform for networking on integration through exchange about policy and practice. It aims especially at integration practitioners and policy-makers in both governmental and non-governmental spheres and offers a series of inputs:

- A vast document library containing reports, policy papers, legislation, impact assessment and evaluations
- A collection of good practices, presented in a clear and comparable way for easy extraction and import
- Country information sheets, with the latest information concerning national legislation and policy programmes
- A repository of links to external websites
- Community tools such as the “find-a-project-partner-tool”, which supports networking between stakeholders and the development of common projects
- Information on financial opportunities through grants and public tenders
- Regularly updated news and events

By acting as a bridge between integration practitioners and policy-makers, the Web Site should help to overcome the vertical fragmentation that exists between actors at different levels. It aims to provide high-quality content from across Europe that responds to actors' needs and builds a community of integration practitioners.

c. Integration indicators

The Stockholm Programme adopted by the Heads of State and Government in 2009 emphasised the need to establish core indicators to help monitor the results of integration policies and also increase the comparability of national practices. Such indicators, established in a limited number of relevant policy areas such as employment, education and social inclusion would also strengthen the coordination process taking place at EU level.

Following these orientations, the Swedish presidency organised an experts’ meeting at the end of 2009 where the results of a process identifying European core indicators were presented. In

April 2010, EU ministers responsible for integration issues adopted the Zaragoza declaration which was further approved at the Justice and Home Affairs Council in June 2010\textsuperscript{37}.

More precisely, ministers agreed "to promote the launching of a pilot project with a view to the evaluation of integration policies, including examining the indicators and analysing the significance of the defined indicators taking into account the national contexts, the background of diverse migrant populations and different migration and integration policies of the Member States, and reporting on the availability and quality of the data from agreed harmonised sources necessary for the calculation of these indicators".

The aim of the proposed common indicators of migrant integration is to support the monitoring of the situation of immigrants and the outcome of integration policies. Policy areas identified are: employment, education, social inclusion, and active citizenship.

On the basis of the initiative, Eurostat prepared a first pilot study on “Indicators of Immigrant Integration” in 2011\textsuperscript{38}. The report consists of methodological notes, a synthetic description of the results and a tabular section with calculations of indicators. To maximise the added value of the indicators, information for different target populations has been provided for broad groups of country of birth and citizenship, different age groups and gender.

The development of integration indicators between member states is a key tool for enhancing the coordination of national policies. This will enable Member States to learn from each other, allows for the evaluation of those policies, and consequently, promotes the development of useful measures.

The extraordinary development of tools and places promoting exchange of information and practices between Member States' experts and other relevant stakeholders plays an important role in establishing a framework for further coordination in the field of integration. This enables national and European actors to develop benchmarking strategies in order to define where convergences between national policies are possible and needed.

EU rules and soft law instruments form the pieces of an outstandingly intricate puzzle relating to integration policy at EU level. However this intricate picture does not prevent the identification of some of the strong trends that accompany the development of integration issues at EU and national level.

### III. Conclusions

This overview of EU integration policy illustrates how the EU and its Member States have overcome legal limitations deriving from a lack of competence, which were confirmed by the Lisbon Treaty.

On the one hand, some EU rules do have a direct or indirect effect on Member States’ integration policies as they impose the harmonisation of national rules. In other words, EU Directives have been adopted with the effect of imposing upon Member States the requirement to adapt, and sometimes modify, their national rules in fields which are directly or indirectly linked with the integration of third country nationals.

On the other hand, an impressive set of soft law instruments has been developed in order to facilitate the coordination of national policies. This coordination is based, firstly, on common

\textsuperscript{37} Conclusions of the Council and the Representatives of the Governments of the Member States on Integration as a Driver for Development and Social Cohesion, doc. 9248/10, 4 May 2010.

\textsuperscript{38} http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-RA-11-009/EN/KS-RA-11-009-EN.PDF
orientations adopted by the Member States and put into effect by the European Commission and, secondly, on an extensive network of tools and bodies enabling the exchange of knowledge and practices which facilitate coordination strategies among Member States.

These phenomena frame the emergence of an “EU” integration policy taking place alongside the EU immigration and asylum policy. Initial commitments regarding integration looked quite balanced as they underlined the role of every key actor in the process, i.e., migrants, authorities and citizens, as well as the importance of granting rights to migrants and their family members in order to assist social integration. However, some trends have taken place in certain Member States and at EU level showing an increasing tendency to put the burden of integration on migrants rather than authorities\textsuperscript{39}.

Some examples demonstrate how the two-way process, which formed the basis of this policy, has progressively shifted towards a policy where migrants have been asked to carry the biggest part of the burden of integration requirements. One of the most topical examples is the emphasis put on language and civic requirements since 2005. The obligation for migrants to prove language and civic skills has become widespread throughout the migration process. From requesting family members to take the language test in the country of origin in order to benefit from family reunification to the increasing number of language requirements attached to citizenship procedures, these requirements have become one of the cornerstones of national and European policies\textsuperscript{40}.

This movement triggers a set of questions and concerns. First, it has overturned the logic governing integration. Indeed, and for a long period of time, equal treatment, secure residence, family reunification and access to employment and education were considered as elements helping migrants' integration. Now, integration skills, such as language and civic ones, are required to allow migrants to have access to the territory or a secured legal status, i.e., when language requirements condition the renewal of a residence permit\textsuperscript{41}. The linkage between integration and the loss or the preservation of the legal status of migrants makes the migrant's status far more fragile and aims at creating the conditions for facilitated exclusion of migrants from the national community\textsuperscript{42}. Here, the rules have a radically different purpose.

Put differently: “it is at this point that the nexus between the two policy fields of migration and integration becomes clear. Previous assumptions about restrictive immigration being a necessary precondition for success of integration policies have been joined by new ways of thinking: integration policy measures are used to select those immigrants that are able and willing to integrate and deter those who are not. Making first admission dependent on tests in the country of origin, extension of residence permits on success in integration courses, and naturalisation on ever more elaborate requirements of integration are examples of measures that fit this inversion\textsuperscript{43}.

\textsuperscript{43} R. Penninx, D. Spencer & N. Van Hear "Migration and Integration in Europe: the State of research", COMPAS, 2008.
Second, these rules are mainly directed towards a specific category of migrants, i.e., low skilled migrants coming from countries with different cultures. This clearly derives from certain national rules where some specific "western" citizens are exempted from taking language or civic test\textsuperscript{44}. On the other hand, the growing emphasis on Member States and/or European values, among which equality between men and women is often underlined, demonstrates that these rules are applicable to migrants coming from countries where the overall culture is different from the European one. Muslims fall within the category of migrants to whom such schemes are implemented for.

Finally, the development of schemes where integration duties are borne by migrants has the effect of portraying a negative picture of Europe. In other words, EU countries do not appear as welcoming countries – in fact the opposite is true. It is not sure whether this option is suitable in the medium and long term. Indeed, the EU and its Member States will need, in the short run, to have recourse to an external workforce due to shrinking demographic trends\textsuperscript{45} and growing labour and skills shortages in some specific sectors. In a context where the EU is showing a reluctance to openly welcome migrants, will the latter prefer to avoid the European labour market? In the end this could run counter to the EU’s interest in social, economic and political terms.

In the end, questions related to integration policies are really difficult ones from a technical point of view and a political one. While the EU has apparently limited powers in the field, Member States have demonstrated a growing willingness to use integration schemes to make immigration more difficult. Such a phenomenon is now being echoed at EU level due to the increasing importance of migration issues and the development of instruments and bodies where integration is discussed. This trend is also fuelled by the development of anti-immigrants discourses and policies in some Member States\textsuperscript{46}.

The possibility of addressing integration issues at EU level could have been an opportunity to move ahead and to provide for greater inclusion of migrants into European societies. The content of the emerging EU integration politics looks rather different. The growing linkage between immigration and integration plays into the favour of a selective policy where integration requirements weigh on migrants’ shoulders. Such a movement may run counter to integration expectations and help to create the conditions for social exclusions. Is this really what an integration policy should look like?


\textsuperscript{45} J. O. karlsson & L. Pelling (eds), \textit{Moving beyond Demographics. Perspectives for a Common European Migration Policy}, Global Utmaning, 2011.

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