THE ROLE OF COMPARATIVE LAW IN THE INTEGRATION OF MIGRANTS

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SUMMARY: 1. Introduction. - 2. European Union. - 3. Belgium. - 4. Denmark. - 5. Finland. - 6. France. - 7. Germany. - 8. Greece. - 9. The Netherlands. - 10. Spain. - 11. Sweden. - 12. United Kingdom. - 13. Italy. - 14. Conclusions.

1. The topic of integration of immigrants is today one of the most debated issues in the environment civil-comparative and assume various connotations depending on the social-economic-geographic-cultural context of the legal systems to be examined[1].

The decisional process in subject is concentrated, firstly, to communitarian level; indeed, the definition and the execution of immigration policies fall within the competence of the E.U., although lacking in exclusive character, having to practice sharing with Member States, to ensure a link between legal migration policies and integration strategies in accordance with real needs and structural characteristics at the national level.

In this context, the family and the school, together with the productive sphere, constitute a privileged socializing context in which the action of public authorities would have to be concentrate, both at EU level and at national level: Member States have the task of identify main initiatives and related implementing rules, in accordance with local characteristics and traditions, in order to promote the inclusion and the social integration of migrants and promote contact and confront between newcomers and the receiving society[2].

Therefore, the analysis must centralize on the delineation of the structure and objectives of the integration policies not only at European level, but also at national level, examining regulations, strategies, innovative praxis and actions undertaken in some Member States such as Belgium, Denmark, Finland, France, Germany, Greece, Netherlands, Spain, Sweden and United Kingdom and, obviously, Italy.

The individual issues analyzed in this report cover the following topics :

1) participation of the principal national laws with international conventions enacted on the subject ;

2) laws and regulations governing the admission of refugees in the various States;

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[1] See L. RINELLI, *African migrants and Europe. Managing the ultimate frontier*, London - New York, 2016, *passim*.

[2] See A. DI PASCALE, *Integrazione e mercato del lavoro: il modello proposto dal diritto comparato*, Milano, 2010, *passim*.

3) rules for the management, hospitality, housing and assistance for migrants arrive at the border;

4) the effectiveness of procedures to assess whether the applicant is entitled to refugee status, of iter for naturalization and of asylum policy, recently hit by international emergencies, such as, first and foremost , the current refugee crisis in Europe.

All Countries examined here have acceded to the 1951 Geneva Convention, relating to the Status of Refugees, and in particular its Protocol of 1967, on which is based the common European system of asylum; the States underwriters of the Convention are required to protect refugees on their territory in accordance with the principle of non-refoulement (non-return of refugees to places where their lives or freedom would be threatened for race, religion, nationality or membership of a particular social group or political opinion).

The Convention permits divergent practices in the processing of applications; so these Countries examined vary significantly discipline on their receptivity of asylum seekers, introducing many procedures to be applied to different categories of applicants, including, in particular, the inhabitants of the countries where the United Nations High Commissioner for Refugees (UNHCR).

Established that asylum seekers are required to submit an application for asylum to the competent authorities of the Country, this report must examine the different types of assistance provided to migrants in any jurisdiction, analyzing especially the issues of accommodation, food, access to medical care, education, employment, travel documents and information about their legal rights; moreover, in some States, the requirements for naturalization aren't different for refugees and ordinary immigrants, while, in others, certain criteria, such as the required length of residence, discern between refugees and other migrants.

Some Countries have provisions for family reunification by allowing those granted international protection to be applied for such protection for family members outside the country; furthermore, practices vary considerably regarding permission to travel within and outside the jurisdiction and the type of documentation required for travel permit.

2. The integration is an important aspect of the broader immigration policy of the European Union[3]; in fact, in recent years increased greatly the sensitivity in the field through the adoption both of legal instruments, both of non-binding acts.

Initially, the Tampere European Council in 1999, the first five-year programme of the new common immigration policy, stressed the "importance of arranging a more vigorous policy of integration of third-country nationals, aiming to ensure equality of rights and obligations than those that accrue to European citizens"; in 2004, the Hague programme remarked "the need for greater coordination between national immigration policies and European initiatives"; the subsequent Treaty of Lisbon expressly sanctioned the "existence of a competence in the field of integration in

[3] See C. COSTELLO, *The human rights of migrants and refugees in European law*, Oxford, 2016, *passim*.

the European Union", which aims to promote and support the action of Member States by means of soft-law.

The regulatory framework of the U.E. under topic grew slowly, but progressively, and is currently composed of: Common Basic Principles on integration; two manuals for the integration policy and organisations competent authorities; three annual reports on migration and integration; the creation of National Contact Points on Integration ("NCPI"); the establishment of a specific fund to support national initiatives on the topic and, more recently, a specific website and the European Forum on integration.

During the period 2011/2014, the European Union has introduced a Common European Asylum System (CEAS), attempting to remedy the current refugee crisis which has placed under extraordinary pressure especially the "States Members of first entry" (like Greece and Italy) and ensuring international protection not to migrants departed for economic reasons, but only to refugees fled to a well founded fear of persecution[4].

The CEAS is composed of a number of directives and regulations that require action by the EU Member States or are directly applicable within their national legal systems: at the center are the right to asylum and the prohibition of refoulement, which must also be in conformity with the case law of the European Court of Justice and the European Court of human rights.

During 2015, various EU agencies provided assistance, financing, training and experts to the Member States to implement CEAS and in November the Commission signed an Action Plan with Turkey, designed to reduce the migration flow entering EU through Greece; resettlement is deemed an integral part of CEAS.

Directive 2013/32/EU on Common Procedures for Granting and Withdrawing International Protection defined "international protection" as a request made by a third-country national or a stateless person who seeks refugee status or subsidiary protection; applications for international protection submitted by third-country nationals or stateless persons are governed initially by Directive 2011/95/EU, which establishes common standards to grant international protection to those who qualify, and by article 3(1) of the Dublin Regulation 604/2013, which is binding on Member States and Norway, Iceland, Liechtenstein, and Switzerland.

If article 47 of the Charter of Fundamental Rights of the European Union guarantees the right to an effective remedy to everyone, according to article 46 of the Common Asylum Procedures Directive European Union law requires that asylum seekers must have the right to request a review of a negative asylum decision before a court or tribunal in the case of

(a) an unfounded negative decision on the applicant's application for international protection;

(b) a decision that the application is inadmissible;

(c) a decision to withdraw international protection;

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[4] See G. CATALDI, *A mediterranean perspective on migrants' flows in the European Union. Protection of rights, intercultural encounters and integration policies*, Naples, 2016, *passim*.

(d) a decision taken at the borders or in a transit zone.

Applicants have the right to remain in the Member State where they applied until the competent authority decides on the case, but not the applicant to a residence permit; Member States must allow applicants to move freely within their territory, or within an area assigned to them, and give them permission to leave the assigned area.

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 requires EU Members to guarantee "material reception conditions" (i.e., housing, food, clothing) and health care to ensure an adequate standard of living and to guarantee the physical and mental welfare of applicants for international protection, as well as to provide applicants access to the labor market no later than nine months from the date when the application for international protection was made.

The rate of employment of third-country nationals (52.7%) is significantly lower than that of citizens of the Union (64.4%); this difference is unfortunately particularly marked among women.

Moreover, migrants are more present in the riskier sectors of employment, in undeclared work of low quality and population sectors most exposed to health risks and social exclusion; a specific issue is concerned, in addition, highly skilled migrants or educated, who are often unable to find a job that matches their qualifications and have to accept low-skilled and poorly paid jobs.

Diversity management is a key instrument for promoting the integration of migrants into the labour market; it may also prove to employers an effective strategy and beneficial for achieving the objectives of their business, because manage and adapt the organization of labour taking full advantage of the skills offered by employees of different origins and training (b.a., language skills and intercultural understanding[5]) can certainly increase the focus on business opportunities in foreign markets.

However, the said integration into the labour market cannot be achieved in the long run if not relying on generalized integration of migrants in social, cultural and political life of the host country[6]; in this perspective, rightly and laudably, Member States are required to give to the minor children of applicants and to the applicants who are minors access to the state educational system under completely similar conditions as their own nationals within three months from the date the application was made and to provide preparatory classes, including language classes, to minors, if would be necessary to facilitate their participation in education.

Member States EU must guarantee the right to effectively make a claim for international protection without obstructions or undue delay; they are allowed to adopt or retain more favorable standards as to who qualifies as a person in need of international protection and on reception conditions, as long as such rules and standards are, in general, compatible with EU rules.

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[5] See F. FORSBERG LUNDELL - I. BARTNING, *Cultural migrants and optimal language acquisition*, Bristol, 2015, *passim.*

[6] See M. CROCK, *Migrants and rights*, Burlington, 2015, *passim.*

3. Belgium is a Country with a long tradition of immigration and, compared to the other States examined, the immigrant population is rather heterogeneous: in particular, migrants, arrived in several successive waves of immigration (the colonial history hasn't had an important effect on topic), only 45% came from the Member States of the U.E. (if in 1950's immigrants were mainly of Italian origin and had settled mainly in industrial areas of Wallonia and Limburg[7], the successive waves in the 1960's-1970's are came from Morocco and Turkey and settled mainly in the big cities of Brussels, Antwerp and Ghent).

The complex administrative structure, which generates considerable difficulties of management policy for lack of coordination and interaction between different actors, divide between the federal level, regions and linguistic communities (each with its own Government) also the specific skills in the area of immigration and integration: while the first is responsible for defining the rules on entry, residence and expulsion of migrants (in particular, the *Centre pour the égalité des chances et la lutte contre le Racisme*, created in 1993, watch over respect for fundamental rights of aliens, promotes equality of opportunity and the fight against all forms of discrimination, exclusion, restriction or preference based on nationality, support cooperation and dialogue between public and private actors involved in the policies of integration of immigrants), the seconds (Flemish, French and German) process integration policies.

Integration policies, totally lacking in 1970 (at that time the receive activities were guaranteed exclusively by local immigrant associations or Belgian organizations, although financed by the State) and launched only in 1984, introducing dual "jus soli" by "Citizenship Code", are divided into the following main profiles: simplification of the acquisition of citizenship; fight against racism and discrimination; specific measures against unemployment and social exclusion[8].

Notable is the difference of approach to defining new rules and criteria for the attribution of nationality between Flemish and French speaking communities: in the first is greater the influence of the Netherlands and is inevitable the support for minorities policy, promoting cultural diversity (indeed, the Decree for the civic integration, adopted by the Flemish Government on 2003 and entered into force on 2004, has introduced a mandatory path of integration, inspired by the Dutch model, aimed at all adult newcomers who settle in a town in Flanders, and at those who have arrived more than a year and have applied for welfare, which provides for a language course - between 90 and 180 hours - , a social orientation course - about 60 hours - and a job orientation course); in the second dominates a speech of inspiration to *républicanisme Français* (in Wallonia, after a decree was adopted in 1996 specifically to provide a legal framework for reception and integration of foreigners and their children that identify, inter alia, regional funding measures to support

[7] See N. PERRIN - M. POULAN, *Italiens de Belgique. Analyses sociodémographiques et analyses d'appartenances*, Louvain-la-Neuve, 2002, *passim*.

[8] See D. JACOBS - A. REA, *Construction et importation des classements ethniques. Allochtones et immigrés aux Pays-Bas et en Belgique*, in *Revue européenne des migrations internationales*, 2005, pp. 35-59.

associations and local authorities, were created in 2002 the Walloon Intercultural Forum and in 2003 the *Conseil consultatif wallon pour intégration des étrangères ou d'origine étrangère persons*, both coordinated with seven *Centres Régionaux d'Intégration des Personnes Étrangères et d'origine Etrangère* - CRI -) for ensuring the implementation of the different aspects of integration, including housing, health and education)[9].

The "Citizenship Code" on 2000 designated four ways to acquire Belgian nationality: by declaration of nationality, with the "easy option", by marriage to a Belgian citizen and by naturalization [10].

4. Denmark was the first signatory to the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol; ratification was made through the Danish Aliens Act, which gave asylum to those who qualify as refugees under the Convention (persons who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it").

Asylum seekers who don't qualify as refugees may receive the so-called "subsidiary protection" "if returning to their home country would mean they face capital punishment, torture or inhumane or degrading treatment or punishment" or the so-colled "temporary protection status" "to individuals who face capital punishment, torture or inhumane or degrading treatment or punishment due to severe instability and indiscriminate violence against civilians in their home country".

Denmark, signatory to the Refugee Convention, received refugees both through the U.N. High Commissioner for Refugees relocation program, both through application from persons arriving at the border, vetted by the Danish Immigration Service and by the police[11]; in rare cases, such as when an asylum seeker is suffering severe illness, asylum seekers may receive "humanitarian protection", temporary and only lasts as long as the humanitarian grounds for protection (e.g., the illness persists).

Unaccompanied minors have the right to special representation (through a guardian) and receive Danish temporary residence permits and, in this perspective, allows for family reunification; moreover, asylum seekers are housed in asylum centers and after six months of applying are allowed

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[9] See M. VAN MEETEREN, *Irregular migrants in Belgium and the Netherlands: aspirations and incorporation*, Amsterdam, 2014, *passim*.

[10] See D. TORTON - J. GONZALES, *Immigration in Europe. Issues, Policies and Case Studies*, Bilbao, 2003, *passim*.

[11] See J.S. NIELSEN, *Islam in Denmark. The Challenge of Diversity*, Plymouth, 2012, *passim*.

to find their own housing and receive cash benefits until their application has been processed, if they cannot support themselves (but, however, they can't buy real property).

Moreover, unlike asylum-center housing, which is financed by the State, an asylum seeker must finance his own housing, contract with the Danish Immigration Service, promise to leave the country if he or she is denied asylum and doesn't receive extra monetary benefits to cover his or her expenses in such housing; in addition, he or she may receive other benefits/assistance from the government, such as hygiene products or baby-care products, and have the right to urgent health care; in detail, asylum seekers under the age of eighteen have the same right to health care as Danish children, as asylum seekers aged seven to sixteen have the right to attend school free of charge either at the asylum center, remotely, or at local schools.

To receive Danish Citizenship through naturalization a person, habitually, must be a permanent resident of Denmark; in detail, refugees for receive citizenship after eight years of continuous residence (nine years for other foreigners) must pass a language test as well as history and civics tests, swear allegiance to Denmark, not have a criminal record and meet selfsufficiency requirements[12]; from 4 february 2016 eleven laws entered into force to stem the influx of asylum seekers and make Denmark a less attractive destination and they are applicable also to asylum seekers already arrived in the country.

The most relevant measures are the introductions of residence permits shorter, more strict policies on family reunification and the seizing of valuables from asylum seekers; the Danish Ministry of Immigration, Integration and and Housing justified this controversial initiative by noting that the Danish welfare is designed to help people who don't have the financial capacity to help themselves, but not those who, in contrast, may do so (and this principle also includes asylum seekers).

5. After that Finland acceded to the 1951 Geneva Convention Relating to the Status of Refugees (and its protocol), actually Finland's Aliens Act and special legislation prescribe how asylum seekers should be treated while they await a decision; moreover, Finland accepts "quota refugees" through a relocation program administered by the UNHCR as well as asylum applications from individuals arriving at its borders.

Indeed, in addition to UNHCR refugees, Finland also grants asylum to migrants seeking subsidiary protective status – expressly, who "is subject to a real risk of serious injury (death penalty or execution, torture or other treatment or punishment that is inhumane or degrades human life, or serious or personal risk that stems from indiscriminate violence in connection with an international or internal armed conflict) if he or she is sent back to his or her home country or country of

[12] See J.H. FRIBERG, *Labour migrants from Central and Eastern Europe in the Nordic countries*, Copenhagen, 2013, *passim*.

permanent domicile, and he or she cannot or because of that risk does not want to avail him or herself of that country's protection" – .

In Finland may still receive asylum, as third category not qualified as refugees or persons in need of alternative protection, the migrants who search for humanitarian protection, who cannot return to their home country due to an environmental catastrophe, a violent conflict, or a serious situation threatening human rights; at last, a bona fide asylum seeker is a fourth category of persons who meet the criteria of refugee under the Convention Relating to the Status of Refugees.

Finland carries out background checks on all asylum seekers; it also analyses whether the asylum seeker could have sought refuge within his or her home country and also carries out medical testing to determine the age of asylum seekers; an asylum seeker can gain Finnish citizenship after four years as a continuous resident, followed by five years as a permanent resident of Finland: before attaining continuous residency, an asylum seeker receives temporary residency of varying duration[13].

A person must have been granted asylum before he or she can apply for family reunification, which is possible for legal guardians, spouses, children under the age of eighteen and in rare cases for other family members who are dependent on an asylum seeker who has been granted residence (proof of financial capacity to care for one's family members is not required for the reunification of immediate family members), but can be refused in cases where there is reason to believe that a person has received legal status by providing false information to the authorities.

Persons who seek asylum status can receive cash benefits, schooling, and health care provided by the government and migrants who are granted asylum receive social services from the local municipality where they live: indeed, asylum seekers arriving in Finland can receive a monthly cash benefit, which is meant to cover such things as the cost of clothing, minor health care expenses, personal expenses such as telephone service, social services and "urgent health care" (included "dental, health care, substanceabuse care and psycho-social support")[14].

Children who permanently reside in Finland are mandated to attend school starting the year they turn seven years old; asylum-seeking children (both unaccompanied minors and minors arriving with their legal guardians) have a legal right to attend school free of charge; schooling for persons who do not permanently reside in Finland may be carried out remotely.

By the fall of 2015 the number of asylum seekers in Finland had increased nearly tenfold from 2014 levels; because the largest increase was seen among Iraqi citizens, the Finnish government was prompted to negotiate a repatriation agreement with Iraq.

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[13] See E. NYKANEN - E. PIRJATANNIEMI - O. SORAINEN - I. STAFFANS, *Migrants law in Finland*, Alphen aan den Rijn, 2011, *passim*.

[14] See J.H. FRIBERG, *Labour migrants from Central and Eastern Europe in the Nordic countries*, Copenhagen, 2013, *passim*.

6. France is traditionally a country of immigration, both for its colonial past[15], both for the specific structure of the labour market, and has a long tradition of offering asylum to refugees; today the migrants amounts to about 5 million (nearly 60% is inserted into the labour market, especially on medium-low target).

The preamble to the French Constitution of 1946, which was incorporated by reference into the preamble of the current Constitution of 1958, declared that "any man persecuted in virtue of his actions in favor of liberty may claim the right of asylum upon the territories of the Republic": asylum applicants have a general right to stay in France until their asylum request has been processed and decided upon, and that, barring any threat to public order, all persons who qualify for asylum must be allowed to stay in France.

In addition to this constitutional foundation, French asylum law rests heavily on international and European law (of particular importance are the 1951 Geneva Convention Relating to the Status of Refugees, and the European Union Regulation of 26 June 2013, referred to as the "Dublin Regulation") and propose two types of asylum protection: refugee protection and subsidiary protection. An applicant for asylum must be either on French territory or at a French border crossing point to request asylum; before coming, however, an asylum seeker may request a special visa for the purpose of asylum from a French embassy or consulate for be authorized to work while his/her application for asylum is being processed and evaluated.

Once in France, asylum seekers must register at a local prefecture as the first step of the asylum application process and then must send his/her application form to the *French Office for the Protection of Refugees and Stateless Persons* (OFPRA), which determines who is eligible for refugee status or subsidiary protection within six months (the OFPRA's decisions may be appealed to the National Court for Asylum Law); being a refugee greatly shortens the naturalization process, should the person wish to obtain French citizenship.

Refugees and beneficiaries of subsidiary protection have the right to live and work in France, to bring their spouse and children, to obtain travel documents from the French government and to get financial assistance called the Asylum Seeker Benefit (ADA), if their monthly income is under a certain threshold. At the same time they are required to sign the most significant innovation introduced in recent years in France to ensure the integration: the "accommodation and integration contract" (*Contrat d'Accueil et d'Intégration* or CAI), made mandatory by 1 January 2007[16], proposed to every newcomer, who aspires to establish itself in a stable manner in French territory, for a period of one year and may be extended only in exceptional cases, signed on an individual basis, as a prerequisite for the issue of a residence permit and implying the fulfillment of the condition of Republican integration (since "choose to live in France means having the will to integrate into

[15] See N. MCMASTER, *Colonial migrants and racism. Algerians in France: 1900-62*, New York, 1997, *passim*.

[16] See A.G. HARGREAVES, *Multi-Ethnic France. Immigration, Politics, Culture and Society*, New York, 2007, *passim*.

French society and accept the fundamental values of the Republic", in addition to the oral and written knowledge of French, the CAI implies, therefore, the obligation for foreign nationals to respect the fundamental principles of French law including invoked), by which asylum seeker commit to attend a civic training program, an information session on life in France and, if necessary, language classes; moreover, asylum may be denied or revoked for individuals who have committed crimes or whose presence would be a threat to society or national security.

It was subsequently also introduced a "reception and integration contract" (CAIF), in force since 1 January 2009 and subscription jointly by family members, upon one or more children benefited from family reunification, which requires participation in a training course on the rights and duties of parents in France, as well as compliance with the obligation to attend school.

Refugees and beneficiaries of subsidiary protection have similar rights to social benefits as French citizens do (they are covered by the French universal health insurance scheme, for example, and they may get various social welfare benefits - guaranteed minimum income, family subsidies, access to social housing, etc. - under the same conditions as French citizens), but only have access to certain special aid programs during the time that their application for asylum is being processed, in order to facilitate their settlement into French society; specifically, asylum seekers may reside in special temporary housing facilities called Centers for the reception of asylum seekers (CADA) while their asylum applications are being processed.

In 2004, was introduced the High authority to combat discrimination and for equality (HALDE) with the aim of counteracting the work of all forms of discrimination prohibited by law (including racial or ethnic origin) and to provide the necessary information to assist the victims, identify and promote good practice; In addition, a law adopted in March 2006 and aimed at guaranteeing equal opportunities introduces a series of measures to strengthen the fight against all forms of discrimination, racial discrimination in particular.

The theme of the integration has become central to the political debate following the crisis of the suburbs in the beginning of this twenty-year period and terrorist acts of the last five years that have undermined French immigration policy, prompting the Government to rethink the whole system with the adoption of programmes to ensure appropriate integration of immigrants. [17]

Over the past several years have been attempts to understand the reasons for this failure: some have pinned ideological aspects, emphasizing in particular the defeat of the assimizionalista model, which had featured integration policies implemented in the country; others have pointed out the objective social marginalisation where immigrants and their children found themselves, because of the inadequacy of social facilities provided by the Government to reduce the disparities between social classes, such as public housing and education, which has compounded the problems rather than solving them[18].

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[17] See L.S. KULICK, *La France en tant que pays d'immigration*, Paderborn, 2009, *passim*.

[18] See D. THOMAS, *Black France. Colonialism, Immigration, and Transnationalism*, Indianapolis, 2007, *passim*.

The period 2003-2007 is characterized by a thorough review of legislation on immigration: seven regulatory reform the previous framework on integration, promoting *Code de l'entrée et du séjour des étrangers et du droit d'asile* (CESEDA) and concept of immigration choise, thus introducing an obligation for immigrants, aspiring to establish itself on French soil in a stable manner, to undertake a process of integration, with the aim of fostering the inputs of those professional groups whose French labour market show a real need statement (such a view has also inspired the European framework, culminating in the adoption of the European Pact on immigration and asylum).

The migration should be treated as a whole and in partnership with the main countries of transit and origin and must be handled by the Ministry of immigration, integration, national identity and co-development, which in turn coordinates with a public reception created in 2005 (*Agence nationale de l'accueil des étrangers et des migrations* (EDF ENERGY), today *Office Français de l'Immigration et de l'Intégration* - OFII -).

7. In Germany the right to asylum is a constitutional right granted to everyone who flees political persecution ("persecution that causes specific violations of individual rights and, due to its intensity, excludes the individual from the general peace framework of the state unit"), as stated in article 16a of the German Basic Law, for protect human dignity and reflect the view that any State hasn't the right to persecute an individual for his or her political or religious beliefs or other personal characteristics that mark him or her as different[19].

An asylum seeker is allowed to stay in Germany if he or she is granted political asylum, refugee status, or subsidiary protection, or if the agency declares a deportation prohibition, in accordance with the Asylum Act and the Residence Act, which are the two most important immigration laws in Germany that provide rules for the admission and handling of refugee claims and have endure recently several amendments due to the current refugee crisis.

In Germany, there are two categories of naturalization (naturalization by entitlement and discretionary naturalization): a refugee can obtain citizenship after six years of legal residence, rather than eight, and naturalization of refugees has also been deemed presumptively in the public interest for purposes of discretionary naturalization; in order to determine whether a person is entitled to refugee status, an in-person interview is conducted and country-specific resources and experts consulted and every applicant over the age of fourteen must submit to measures establishing his or her identity and provide fingerprints, which are cross-checked with national and European databases and the Visa Information System[20].

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[19] See D. COOPER, *Immigration and German Identity in the Federal Republic of Germany from 1945 to 2006*, Berlin, 2010, *passim*.

[20] See D.B. KLUSMEYER - D.G. PAPAPDEMETRIOU, *Immigration Policy In The Federal Republic Of Germany*, New York-Oxford, 2009, *passim*.

The Deutsche Alien Offices are responsible for all issues concerning residence law, such as accommodation, board, and other benefits; the Federal Office of Migration and Refugees, therefore, must inform the local agencies if an application for asylum has been made or an asylum procedure has been concluded.

Refugees are generally housed in reception facilities, which provide them with essential items like food, housing, heat, clothing, health care, and household items in kind or in the form of vouchers, whereas persons who are housed outside of reception facilities primarily receive cash allowances to purchase essential items; while an asylum application is pending, applicants are not allowed to leave the area of the reception facility without permission.

If an asylum application has been denied, the applicant is obligated to leave Germany and the local agencies monitor the departure and will instigate deportation proceedings if the applicant on purpose doesn't depart; all refugees considered for resettlement must have been registered and recognized by the Office of the United Nations High Commissioner for Refugees (UNHCR).

On 24 October 2015, the Act on the Acceleration of Asylum Procedures entered into force and amended several laws in order to accelerate the asylum process; substitute inkind benefits for cash benefits; reduce the financial burden on the German states and municipalities; reform integration policies for refugees; designate Albania, Kosovo, and Montenegro as safe countries of origin.

Additionally, on 1 August 2015, the Act to Redefine the Right to Stay and the Termination of Residence entered into force, amended the Residence Act by ordering a ban on entry and residence for applicants from safe countries of residence and in case of repeat follow-up applications and, furthermore, grants a residence permit to persons who can prove that they are wellintegrated after a period of eight years and to well-integrated minors after four years[21].

Subsequently, on 1 November 2015, the Act to Improve the Housing, Care, and Treatment of Foreign Minors and Adolescents entered into force: its goal is to improve the situation of young unaccompanied refugees and provide them with appropriate care[22].

At last, on 3 February 2016, the German government agreed on a set of stricter asylum measures (Asylum Package II), which accelerate the asylum application process; suspend family reunification for refugees with subsidiary protection status for a period of two years; decrease asylees' monthly cash benefits; facilitate deportation; establish a new Federal Police unit to help procure replacement documents; improve the safety of refugee minors; designate Algeria, Morocco and Tunisia as safe countries of origin.

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[21] See R.C.M. BEYER, *The Labor Market Performance of Immigrants in Germany*, Frankfurt, 2016, *passim*.

[22] See L. BLOCK, *Policy Frames on Spousal Migration in Germany. Regulating Membership, Regulating the Family*, Berlin, 2016, *passim*.

8. Greece has suffered the brunt of migratory flows during the refugee crisis due to its geographical location and as first country of entry, pursuant to the Dublin Regulation; its legal system on asylum is based on the Geneva Convention of 1951 and its Protocol, and on E.U. law on the Common European Asylum System.

In 2011, the European Court of Human Rights and the Court of Justice of the EU found that Greece's asylum system suffers from "systemic deficiencies", including lack of reception centers, poor detention conditions, and the lack of an effective remedy; so the European Commission has recommended a number of remedial measures for Greece, including efficient border management and implementation of the "hotspot" areas for the proper registration and fingerprinting of migrants.

Consequently, Greece adopted two action legislative plans to address the problems, but however significant gaps still remain, as exposed by the extraordinary migrant crisis of 2015[23] and as noted by the European Commission, which monitors closely Greece's compliance with EU asylum standards.

Greek asylum authorities attribute rights and benefits to persons granted refugee status or subsidiary protection and, particularly, ensure the family unity of those two category of migrants: indeed, the families of such persons acquire the same status as the applicant, unless they don't wish to have it; to those recognized refugees or beneficiaries of secondary international protection (and their family members) are granted a residence permit for three years, renewable at the request of the person concerned.

Recognized refugees take travel documents by the Passport Office of the Greek Police (required documents, duration and renewal are determined by Law 3103/2003) and are subjects to the Greek legislation on remuneration, terms of employment, training, and educational opportunities, while the persons recognized in need of international protection have access to employment, either salaried or independent, pursuant to Presidential Decree 189/1998.

Beneficiaries of international protection, recognized refugees or persons with subsidiary protection status have access to social welfare and have the right to health care under the same basis and conditions as nationals; therefore, those who have special needs, such as pregnant women, the elderly, unaccompanied children, people who have been subject to torture or other inhuman or degrading treatment, or persons with disabilities, as well as trafficking victims and those who come from conflict areas, are entitled to sufficient medical care, including psychological care and support, under the same conditions as nationals.

Furthermore, Presidential Decree 220/2007 provides for free healthcare services for all asylum seekers regardless of whether they are hosted in the reception facilities or not; however, access is conditioned depending on the economic status of the asylum seekers and, in the case of asylum seekers with disabilities, a monthly allowance is granted subject to Health Committee approval.

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[23] See N. TELLER, *The Chaos in the Middle East: 2014-2016*, Leicester, 2016, *passim*.

Minors who have been recognized as refugees must have access to education as well as adults have access to educational training and development under the same terms and conditions as nationals; in more detail, unaccompanied minors are provided with extra care and protection by the appropriate Greek authorities.

Recently, a joint ministerial decision, which was adopted in February 2016, provides the procedure to determine whether an applicant is a minor: a guardian or a representative is appointed to represent the interests of the child and accommodations are provided either with family members, foster families, or special hospitality centers for minors. In argument, the European Commission's 2016 Recommendation to the Greek government asserted that the current guardianship system is problematic, since public prosecutors are appointed to represent minors and don't have appropriate resources to handle the large number of minors who need a guardian, and also noted the lack of a guardianship system within the Greek legal system to enable prosecutors to appoint permanent guardians.

To ensure that the Common European Asylum System applies properly, on 10 February 2016 the Commission urged Greece to take additional measures to enable the eventual resumption of Dublin transfers, including bringing the reception conditions up to EU standards, ensuring effective access to the asylum procedures throughout Greece and resuming the operation of appeal committees.

The appropriate Greek authorities are required to provide assistance to those refugees and those who possess subsidiary protection to return to their countries of origin, if they so wish; in argument, the Commission has urged Greece to comply fully with the Returns Directive in order to ensure the return of those who do not qualify for international protection back to their country of origin and to utilize the maximum allowed detention of eighteen months to avoid a situation where detention ends before migrants are effectively returned[24].

9. The Netherlands stands out as a pioneer country in Europe for the attention to the issue of integration of minorities and the introduction of specific policies and since the 1960's has been the recipient of massive migratory flows, although in recent years we have introduced a more restrictive policy in connection, in particular with regard to family reunification, based on a model where evidence of adequate integration becomes assumption to access and stay in the country[25].

Among the foreign immigrant population larger components are the Turk (11%), Moroccan (10%), those from the former colonies (10%) and the Netherlands Antilles (5%) and, above all, that coming from other OECD countries (35%, Germany, Belgium and United Kingdom in particular);

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[24] See H. O'NIONS, *Asylum - A Right Denied. A Critical Analysis of European Asylum Policy*, New York, 2016, *passim*.

[25] See M. VAN MEETEREN, *Irregular migrants in Belgium and the Netherlands: aspirations and incorporation*, Amsterdam, 2014, *passim*.

however, the majority of migrants has made entry into the country in recent decades as a result of family reunion or on humanitarian grounds (from Iraq, Afghanistan and Iran in the first place).

Starting 1970's the Ministry of culture and social work developed a policy to address the needs of the groups identified as vulnerable (guest workers, asylum seekers, immigrants from former colonies - Suriname, Netherlands Antilles and Moluccas -); in particular, the increasing concentration of migrants and their families in specific urban areas urged local authorities to take action, by taking initiatives in the area of housing, education, healthcare, and pushing the national authorities to recognise - and funding - these measures the most important of which was the adoption of mother tongue and culture program (1974), for facilitate the reintegration of the children of guest workers to their countries of origin.

The report presented in 1979 by the Scientific Council for government policies "Ethnic Minorities" supported the need to fully recognise a number of immigrants have settled definitively in Holland and then start a policy aimed at integration; in response, the Government accepted the suggestion of creating a policy for ethnic minorities and developed in the 1980's a strong coordination structure to the implementation in the Ministry of the Interior (the Minority Policy Coordination Department), in order to avoid the risk of marginalization for groups with low socio-economic status and promote gender equality in socio-economic and religious equality, ensuring priority routes of the autonomy of these groups.

If in 1980's, in the field of public housing, it was permitted to foreigners legally staying full access to "social housing", the discipline on citizenship was modified to include more elements of ius soli, making entry requirements for immigrants and their children and the promotion of the culture of migrants was left to the same groups and their organizations, while the role of the Government has been promoting opportunities for minorities, such as the special programmes in the languages of immigrants in the media, in 1990's the policy for minorities began to enter into crisis becoming subject to political debate, determining a location of afterthought that led to the adoption in 1994 of the document *Contourennota* that defines a new integration policy focused mainly around two new concepts of "good citizenship" and "self-responsibility"[26].

The political climate and the debate in the media put into question the idea of a multicultural society even in the 2000's; a series of violent actions committed by immigrants in 2003, which received great media hype, and then several events around the theme of fundamentalism and preaching a radical islam, whose were accused some imams, have helped strengthen the image of political failure; as a result, a special parliamentary Commission of investigation on integration policies was created, the integration policy coordination was moved from the Ministry of the Interior (of which had been a member for 22 years) to the Ministry of Justice, in the context of a new Ministry for foreigners and immigration and, since 2003, a "new policy of integration" has increased emphasis on the cultural adaptation of immigrants in Dutch

[26] See E. VASTA, *From minorities' policy to majority's policy*, in *Journal for Ethnic and Racial Studies*, 2007, pp. 713-740.

society[27] and has introduced a language testing of integration to deal with overseas for the purposes of issuing visas for family reunification to make the process of integration of newcomers in the Netherlands more efficient and effective (however, in general it does not cover those people who need to emigrate to Holland for other commercial purposes (subordinate or autonomous), highly skilled workers, asylum seekers and those who require a temporary visa (study, medical care etc.), in addition, be exempt citizens of Suriname who completed at least one year of elementary education in the Dutch language in Surinam or the Netherlands in the case of family reunification (also excluded are EU citizens and the European economic area, as well as from Australia, Canada, Japan, New Zealand, South Korea, Switzerland and United States)[28].

Later, the Civic Integration Act (*Wet inburgering*), adopted on 20 November 2006 and entered into force on 1 January 2007, aims to ensure that foreigners residing permanently in the Netherlands acquire sufficient knowledge of the Dutch language and values and enable their effective participation in society, thereby increasing the speed and effects of the integration process; it identifies three groups of people who must maintain a civic integration path: the "old" arrived (*oudkomers*), newcomers (*nieuwkomers*) and the religious authorities (*geestelijk bedienaren*) and, in implementing the new system integration, recognizes a central role to the municipalities who have to organize various activities to ensure the effective implementation of the new system, such as courses or regional roundtables aimed at ensuring the exchange of information and training.

Finally, the economic and Social Council in 2007 he addressed specifically to the theme of the high level of unemployment of young foreigners, linked in particular to their low level of schooling/training; to this end, proposed measures especially to reduce early school leaving and to improve the labour market position of the children of immigrants (the second generation), which appear quite disadvantaged compared with young Dutch, despite the second generation is now relatively well integrated in the public sector, to an extent far greater than many other OECD countries.

Finally, in recent years has been paid particular attention to making better use of immigrants' qualifications by introducing transparent procedures for the recognition of foreign degrees by a specific organism specially created: the Center for evaluation of credentials.

10. The Spanish Constitution provides that the terms under which citizens from other countries and stateless persons may enjoy the right to asylum in Spain will be determined by law; in furtherance of the constitutional mandate, Law 12/2009 Regulating the Right of Asylum and

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[27] See H. ENTZINGER, *Changing the rules while the game is on. From multiculturalism to assimilation in the Netherlands*, in M. BODEMANN - G. YURKADUL, *Migration, Citizenship, Ethnos. Incorporation regimes in Germany, Western Europe and North America*, New York, 2005, pp. 121-144.

[28] See D. JACOBS - A. REA, *Construction et importation des classements ethniques. Allochtones et immigrés aux Pays-Bas et en Belgique*, in *Revue européenne des migrations internationales*, 2005, pp. 35-59.

Subsidiary Protection (LRASP) was adopted to provide the legal framework applicable to refugees and stateless persons who seek asylum in Spain and applies to those who qualify as refugees under the definition provided by the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol.

Spain's Law Regulating the Right of Asylum and Subsidiary Protection provides three types of international protection (conventional asylum for refugees, subsidiary protection, and exceptional protection for humanitarian reasons) and also has a program for resettlement of refugees.; as required by the LRAS, the Ministry of Interior examines the application and must render a decision within a deadline of six months, or three months in some circumstances, and the Office of Asylum and Refuge (OAR) within the General Sub-Directorate of Asylum of the Ministry of Interior is the authority on asylum matters.

Are excluded from refugee status individuals already protected under United Nations agencies other than the United Nations High Commissioner for Refugees (UNHCR); individuals whose country of residence has given them the rights and obligations inherent to the nationals of such country; individuals who have committed or instigated the perpetration of a crime against peace, a war crime, a crime against humanity, or a serious crime under Spanish law, or have engaged in organized crime; individuals guilty of acts contrary to the principles and purpose of the United Nations and its founders.

Asylum seekers are excluded from subsidiary protection if have committed or instigated the perpetration of a crime against peace, a war crime, a crime against humanity, or a serious crime under Spanish law, or have engaged in organized crime, if have been guilty of acts contrary to the principles and purpose of the United Nations and if have constitute a danger to the internal or external security of Spain.

The Law provides for the rights and obligations of international protection for applicants and those granted refugee status to include identity cards and travel documents, legal residence and work permits, social services benefits, education, health care assistance, social integration programs and family reunification[29]: while the state has authority over asylum, international protection, and refugee resettlement, the autonomous communities (Spanish regions) and local authorities are responsible, in their respective jurisdictions, for the implementation of social integration policies on employment, education, culture, health, welfare and housing for immigrants, including refugees; the government will set up social integration programs for protected people under equal opportunity and nondiscrimination standards.

Those granted international protection as refugees or beneficiaries of subsidiary protection have the right to apply for international protection of their family members, including spouses or partners in a permanent partnership or union, dependent parents, and minor children. Other family

[29] See A. GEDDES - P. SCHOLTEN, *The Politics of Migration and Immigration in Europe*, London, 2016, *passim*.

members may be reunified upon proof that they were dependent on the applicant in the country of origin[30].

The OAR may reject any application for international protection if Spain doesn't have jurisdiction to process the petition in accordance with international agreements; when the application doesn't meet the legal requirements for its processing; when the applicant already has refugee status in another state; when the applicant comes from a safe third country; when the application is a resubmission of a previous one already denied; and when the applicant is a national of another EU country (the nonadmission or rejection of applications for international protection results in the return, expulsion, or compulsory departure of the applicant from Spain).

11. Sweden was the first country in Europe to grant asylum seekers from Syria permanent residence permits and, during the Iraq war, Södertälje, a small swedish municipality, took more Iraqi refugees than the United Kingdom and the United States combined (from 2012 to 5 December 2015, asylum seekers arriving from Syria were automatically given permanent residence, but on 22 October 2015, the government signed a deal with the opposition that only family members and unaccompanied minors would continue to receive permanent residence permits)[31].

Refugees are defined in Swedish law as persons who are refugees according to this Protocol, that is, a person who, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, sex, sexual orientation or membership of a particular social group or political opinion, is outside the country of his nationality and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it".

A persons in need of subsidiary protection is "a foreigner who does not qualify under the Ch. 4 § 1 Aliens Act definition as a refugee, and who is outside of his or her country of citizenship because there is a well-founded reason to believe that the foreigner would be at risk of being punished by death or be subject to corporal punishment, other inhumane or degrading treatment or punishment, or [being] a civilian, be in serious risk of injury due to an armed conflict, and the foreigner cannot, or because of the risk mentioned above, does not want to avail himself to the home country's protection"; the same test applies to a stateless person who is outside a country where he or she has previously had his or her residence.

Sweden has revised its asylum policies considerably following the refugee crisis of 2015: today asylum seekers are given free housing, health and dental care and schooling for children ages

[30] See D.L. LEAL - N.P. RODRÍGUEZ, *Migration in an Era of Restriction and Recession*, Austin, 2016, *passim*.

[31] See E. FRIPP, *Nationality and Statelessness in the International Law of Refugee Status*, Portland, 2016, *passim*.

pre-kindergarten to twenty, but family reunification has become more restrictive (after November 24, 2015, however, only UNHCR quota refugees qualify for permanent residency: to become a citizen through naturalization a person must have been a permanent resident of Sweden for four years if he or she is a refugee).

There are also special rules for the acquisition of citizenship that apply to young adults: a young adult (between eighteen and twenty-one years of age) can acquire Swedish citizenship through notification if he or she has a permanent residence permit and has lived in Sweden since the age of thirteen, or fifteen if he or she is stateless; in addition to being a permanent resident, naturalization also requires that the person seeking citizenship be at least eighteen years old and prove his/her identity.

Persons arriving in Sweden as asylum seekers receive free housing and monetary support while their application is pending: while financial support is made up of a daily sum meant to cover the personal expenses of asylum seekers (such as clothing and telephone costs), they have the right to health care and dental care under the Health Care Act and the Act on Health Care for Asylum Seekers (also undocumented immigrants have the right to urgent health care at the cost of the municipality - county council -). Upon arriving in Sweden asylum seekers are either provided housing or are responsible for finding housing themselves; persons who find their own housing must provide the address to the Migration Authority.

Minors who are asylum seekers have the same right to health care as Swedish citizen children living in Sweden and have a legal right to attend school (ages pre-kindergarten to completion of high school) while awaiting asylum, but, on December 5, 2015, the government announced that unaccompanied minors who seek asylum in Sweden will be required to undergo medical testing unless they can prove their age: these medical age tests have been a controversial issue in Sweden[32], because, after that in 2012 the National Board of Health and Welfare (*Socialstyrelsen*) published a report in which it criticized age determination through medical testing as unreliable, the Swedish Bar Association has also published ethical guidance stating that licensed attorneys should not participate in medical age determinations of their clients; in addition, the Swedish Supreme Migration Court (*Migrationsöverdomstolen*) found in September 2015 that the Migration Authority only needed to inform an asylum seeker of the possibility of undergoing medical age testing and that a decision on the asylum-seeker's application can be made without medical testing having taken place.

12. Since 1891, the UK common law has provided that no alien has any right to enter this country except by leave of the Crown; in this perspective, the Aliens Restriction Act 1914, the Aliens Restriction (Amending) Act 1919 and the Rules and Orders made under these Acts gave the

[32] See P.W. VAN ARSDALE, *Global Human Rights: People, Processes, and Principles*, Long Grove, 2016, *passim*.

common law rule a statutory basis and formed the restrictions on immigration. The statutory regime governing immigration in the UK is currently contained in the Immigration Act 1971 and the Immigration Rules, made under it, are a very fluid set of rules that change frequently by a Statement of Changes which is laid before Parliament[33].

The UK has extensive provisions in place to provide protection to persons seeking asylum while protecting the public from individuals who may exploit the asylum system; if the law requires individuals who are not British or Commonwealth citizens with the right of abode in the UK or members of the European Economic Area to obtain leave to enter the UK from an immigration officer upon their arrival, recently, a program has been introduced in response to the Syrian crisis, which accepts selected refugees from the Syrian region.

The Home Office is the government department with primary responsibility for almost all aspects relating to immigration, including asylum, nationality and border control laws; UK Visas and Immigration, acting on behalf of the Home Secretary and Minister for Immigration, is responsible for processing asylum applications; Immigration Enforcement ensures that immigration laws are complied with, such as the prohibition on working without proper authorization, and also works to remove individuals that do not have permission to remain in the UK; the Border Force is responsible for immigration and customs controls at UK ports and airports and has recently been given the duty of conducting exit checks; HM Passport Office is responsible for processing applications for British passports, both overseas and in country.

Asylum is the term given to the protection offered to individuals who are fleeing persecution in their own country; as a general rule, asylum seekers may apply for asylum only after entering the UK and, if they meet the application criteria, receive refugee status. Decisions for asylum and humanitarian protection claims are considered on an individual, objective, and impartial basis: immigration officers don't take part in determining asylum applications but pass them on to UK Visas and Immigration, which makes a decision on behalf of the Secretary of State for the Home Department and must have knowledge of the "relevant standards applicable in the field of asylum and refugee law" issued by the Asylum Policy Instructions.

Applicants who don't receive refugee status may still be granted leave to remain in the UK for humanitarian or other reasons if there is a real risk that they would suffer serious harm after returning to their country of origin, but the nature of this harm isn't specified in the UN Convention and Protocol Relating to the Status of Refugees.

Refugee status and humanitarian protection provide the individual with permission to reside in the UK for an initial period of five years, with the right to work and access welfare benefits; lawful residence in the UK for a continuous period of five years generally qualifies an individual to apply for UK citizenship.

If a person does not qualify for refugee status or humanitarian protection but removal would breach the UK's human rights obligations, a situation that typically arises when a person has

[33] See C. HARVEY, *Seeking Asylum in the UK: Problems and Prospects*, Oxford, 2000, *passim*.

strong private and family ties to the UK, he or she may be granted temporary permission to remain in the UK.

The determining factor for receiving asylum is whether the individual meets the criteria contained in article 1 of the Refugee Convention and Protocol, which defines a refugee as a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country".

In cases where the asylum applicant is not eligible for asylum, he or she may be entitled to stay in the UK on humanitarian grounds if he's in the UK, or has arrived at a port of entry in the UK, and doesn't qualify as a refugee under regulation 2 of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006; the key criterion to a grant of humanitarian leave is the existence of substantial grounds for believing that if the applicant returned to the country of origin he or she would face a "real risk of suffering serious harm" and the applicant is therefore unable to return to that country" (he or she must also not fall within a category of persons who are to be excluded from humanitarian protection)[34].

In an attempt to remove the perception that the United Kingdom is a "soft touch" for asylum seekers and the public perception that asylum seekers are taking away money from benefits that citizens of Britain are entitled to, the early 2000's saw the government introduce a number of controversial new laws with the objective of not permitted to work, allow for administrative detention, limit the benefits provided and enable benefits to be withdrawn[35].

However, individuals lawfully present in the UK for specified periods of time, including those granted refugee status, may be eligible for naturalization if they meet additional criteria, in accordance with the British Nationality Act 1981, as amended; refugees may be able to obtain British citizenship through naturalization but this isn't granted automatically to individuals who have legally resided in the United Kingdom for any period of time or to individuals who marry British citizens or babies born in the UK (such individuals must meet specific criteria contained within the British Nationality Act 1981 and apply for citizenship).

Citizenship through naturalization is not an entitlement or right: certain legal requirements must be met and the Home Secretary must "see fit" to grant citizenship (having ability to communicate in English, Welsh, or Scottish Gaelic; being of sound mind; having a good character)[36].

In more detail, in all cases where children are involved Citizenship and Immigration Act 2009 requires the Home Office to safeguard and promote the welfare of children in the UK; in

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[34] See M. SYMES - P. JORRO, *Asylum Law and Practice*, London, 2010, *passim*.

[35] See L. FRANSMAN, *British Nationality Law*, London, 2011, *passim*.

[36] See T. BROOKS, *Becoming British. UK Citizenship Examined*, London, 2016, *passim*.

addition, individuals who obtain permanent leave to remain or citizenship are entitled to bring their immediate family members, defined as their spouse and any children under the age of eighteen.

Parents and grandparents of settled persons or citizens are permitted to join their children or grandchildren in the United Kingdom but only if they are over the age of sixty-five and have no other relatives to support them in their home country; other close relatives, such as aunts, uncles, brothers, and sisters may be eligible "if living alone outside the United Kingdom in the most exceptional compassionate circumstance" (there are financial requirements that the British citizen or UK resident must meet in order to ensure their family migrant).

13. Italy is among the few European countries to proclaim a right to asylum in their Constitution ("[a] foreigner who, in his home country, is denied the actual exercise of the democratic freedoms guaranteed by the Italian constitution shall be entitled to the right of asylum under the conditions established by law"); in addition, Italy has adhered to or ratified the most important international treaties providing for the protection of refugees and their families and also for an abbreviated procedure for the review of asylum requests under certain conditions (the Universal Declaration of Human Rights of 1948, the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, the International Covenant on Civil and Political Rights of 1966 and, especially, the UN Convention Relating to the Status of Refugees of 1951)[37].

Italy's legal system provides for a complex framework of assistance to asylum seekers and creates several government agencies at the national and regional levels to provide their assistance, including the review of their applications, financial and material help, and the monitoring of their activities within the country[38]: except in limited circumstances, refugees and protected persons may circulate freely in the national territory and the Italian law promotes appropriate initiatives to remove all obstacles for their integration.

Italian law defines "refugee" as "a foreign citizen who, on the basis of on a well-founded fear of being persecuted by reason of race, religion, citizenship, belonging to a particular social group [or holding a particular] political opinion, is found outside of the territory of his/her country of citizenship and cannot or, on the basis of such fear, is unwilling to avail him/herself of the protection of his/her country."

Moreover, for Italian law persons eligible for "subsidiary protection" are foreign citizens who do not qualify to be recognized as refugees but with respect to whom there are reasonable grounds to consider that, if they return to their country of origin or, in the case of stateless persons, if they return to their country of previous usual residence, they would face a serious risk of suffering

[37] See P. MOROZZO DELLA ROCCA, *Immigrazione, asilo e cittadinanza*, Santarcangelo di Romagna (RN), 2015, *passim*.

[38] See C. HEIN, *Rifugiati. Vent'anni di storia del diritto d'asilo in Italia*, Roma, 2010, *passim*.

serious harm and, as a consequence of such risk, they may not avail themselves of the protection of that country.

Furthermore, "claim for international protection" is one aimed at obtaining the status of refugee or the status of person eligible for subsidiary protection and a "requester of international protection" is a citizen of a third country or a stateless person who requests to be admitted to an internationally protected category; instead, "humanitarian protection" is the protection granted to citizens of a third country who are found in objective and serious personal conditions that do not allow their removal from Italy and whose request for international protection is denied, while "unaccompanied minors" are those foreigners younger than eighteen years of age who are found, for whatever reasons, in the national territory, deprived of assistance or legal representation and, at last, "international protection" consists of the adoption of adequate measures to prevent the persecution of or infliction of serious harm on the affected persons[39].

In Italy asylum seekers may be granted either refugee status or subsidiary international protection status, while deportation and repatriation proceedings are also regulated in national legislation (however, asylum-related administrative decisions are subject to judicial review)[40]; once granted protected status, refugees may avail themselves of all the education, work, health care, housing, and other benefits established by law for Italian citizens, and, finally, protective measures are established for unaccompanied minors found in the country.

Asylum requests must be submitted to the border police or to the office of the respective *questore* (head of the provincial police) with jurisdiction according to the requester's residence, as well as asylum seekers must reveal all pertinent facts to the authorities and must produce all necessary documentation; the National Commission for the Right of Asylum leads and coordinates the Territorial Commissions for the Recognition of International Protection, update their composition, and gather statistical information; residence permits granted to persons who hold refugee status are valid for five years and are renewable[41].

Refugees and persons receiving subsidiary protection have the right to the same treatment established for Italian citizens who work for others or are self-employed and who register with professional entities, as well as may also access both to public-sector employment under the conditions and limitations established for E.U. citizens, both to the Italian general educational system and professional training, both to the same treatment afforded to Italian citizens in matters of social and health assistance, including psychological treatment for previous torture and suffering experienced by them.

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[39] See C. COMMANDATORE - A. DI GAETANO, *Codice dell'immigrazione, dell'asilo e della cittadinanza*, Roma, 2014, *passim*.

[40] See F. SCUTO, *I diritti fondamentali della persona quale limite al contrasto dell'immigrazione irregolare*, Milano, 2012, *passim*.

[41] See M. ASPRONE, *Il diritto d'asilo e lo status di rifugio*, Roma, 2012, *passim*.

Italian law protects the family unity of those receiving refugee status and the status of subsidiary protection; therefore, family members who aren't entitled to the status of international protection enjoy the same rights afforded to their family member who enjoys such status, while family members of persons who are granted international protection status who are present in the national territory and aren't individually entitled to that right may obtain a residence permit on the basis of "family reasons" as provided in the law; instead, family members who are or would be excluded from refugee status or subject to subsidiary protection status aren't eligible to receive these benefits.

Residence permits for family reasons, from which refugees may benefit, are granted to

• foreigners who have entered the national territory with an entry visa for family reunification or for reunification with minor children;

• foreigners regularly residing in Italy on other grounds for at least one year who have contracted marriages within the national territory with Italian or European Union citizens, or with foreign citizens residing regularly in the country;

• foreign family members regularly residing in Italy who are in the process of complying with requirements for reunification with Italian or European citizens residing in Italy, or with foreigners regularly residing in Italy (in such cases, the family permit is transformed into a residence permit for family reasons); and

• foreign (including natural) parents of Italian minors residing in Italy (in such a case the residence permit for family reasons is also granted regardless of the possession of a valid residence permit, provided that the requesting parent has not been deprived of parental rights according to Italian law).

Unaccompanied minors found in the national territory who request international protection may benefit from the services provided by local entities specializing in that type of assistance and are placed in the care of an adult family member who is a regular resident and present in Italy; if that is not possible, judicial authorities may adopt other measures aimed at protecting such minors[42].

In detail, when unaccompanied minors are involved, the border police or the office of the respective *questore* must immediately inform the System for the Protection of Asylum Seekers and Refugees (SPRAR) and the respective tribunal of minors for the adoption of appropriate measures; SPRAR's duties include monitoring the whereabouts of asylum requesters, refugees, and foreigners with humanitarian permits in the country, creating a database concerning interventions at the local level for the benefit of these persons; and promoting repatriation programs in conjunction with the Ministry of Foreign Affairs.

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42 See R. PISILLO MAZZESCHI - P. PUSTORINO - A. VIVIANI, *Diritti umani degli immigrati. Tutela della famiglia e dei minori*, Napoli, 2011, *passim*.

14. Among the main challenges that the European Union and its Member States are facing in these early years of the century in which we live, the integration into society of new individuals is undoubtedly one of the most difficult and ambitious reflecting on current notions of meaning collection goes political community, of belonging and participation of new individuals to communities that receive them; it's closest the bond that exists between integration and citizenship, in a relationship of mutual influence and conditioning[43].

From the analysis in this paper appear various ways of thinking about integration and its relationship with citizens, but, above all, the difficulty of rethinking and adopt new effective models: in Europe, the choice of soft-law instruments, non-binding, but which provide for the direct involvement of government agencies, associations and civil society as a whole, was basically forced and dictated by the lack of specific expertise in the field and from aberrant excluding of any harmonisation between E.U. law and national rules.

The recent Stockholm programme, which defines the priorities for the areas of freedom, security and justice for the period 2010-2014, reaffirmed the centrality of integration policies, declaring that "a successful integration of third-country nationals is the key to maximizing the benefits of migration" and promoting exchanges between the different levels of the agencies involved, better interaction in all areas concerned and the establishment of consultation mechanisms to involve civil society and promote intercultural dialogue; moreover, the immigration policy debate is still focused on issues related to the fight against irregular immigration and the consequent introduction of more restrictive access mechanisms[44].

In detail, for the individual migrant current policies seem to focus primarily on the first phase of the integration process, by implementing specific programmes for the newcomers (for example, France, the Netherlands and Belgium offer language courses, civics courses to acquaint foreigners with the main RuleSet, history and values of the host country and sometimes even the training/orientation to the labour market); in other countries it is assumed that migrants should have access to certain services/rights fundamental (Denmark, Finland and Sweden, but this type of initiative has recently found consensus also in Italy, so that changes made in recent years to the discipline of immigration have introduced an integration agreement focuses on credits, with a commitment to underwrite specific integration objectives, to be achieved within the period of validity of the residence permit).

The welcome is a very important element of the integration process of migrants, which, just arrived, need to familiarise themselves with the wider social and cultural context of the host country through the exchange of information achieved through local or regional programs involving civil society, fundamental funding (including co-financing by the immigrant), compulsory elements and

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[43] See K. HAILBRONNER - D. THYM, *EU Immigration and Asylum Law. A Commentary*, Oxford, 2016, *passim*.

[44] See V. CHETAIL - P. DE BRUYCKER - F. MAIANI, *Reforming the Common European Asylum System (Immigration and Asylum Law and Policy in Europe)*, Leiden, 2016, *passim*.

related sanctions; the participation of immigrants in civic life, culture and politics plays an essential role because it creates a sense of belonging and integration with regard to the community and society at large that encourages migrants to engage in community life and other social, cultural and political activities.

The exchange of information should cover a number of key issues, such as:

a) political rights, civic citizenship and nationality;

b) structures at national, regional and local level aiming at the participation of migrants, including the level of participation, on how to deal with religious and cultural differences within society;

c) definition of benchmarks and indicators in order to measure the level of integration in these areas.

As expressed in the Commission communication "A Common immigration policy for Europe: principles, actions and tools" adopted in June 2008, "well managed immigration can contribute to economic growth" and to enhance the guests "companies" integration at both European and national levels is necessary to consolidate "the common Agenda for the implementation of the basic principles".

The European Union also seems aware of the problems facing the European labour market as a whole, in relation to the employment of foreign workers, and has attempted to identify some guidelines which should then be translated into concrete operational initiatives and tools; some of them are designed specifically to promote the strengthening of the integration of migrants into the labour market:

1) developing national "immigration profiles", which serve to provide an integral vision of the situation of immigration within each Member State at any given time, in particular with regard to national labour market participation and composition, in terms of qualifications, of migratory flows;

2) improving the effectiveness of policies and instruments for meeting between supply and demand for labour, which promote better education and training for third-country workers in order to adjust the qualifications of immigrants to the characteristics of national labour markets, creating appropriate mechanisms for the recognition of professional qualifications acquired outside the U.E. and dispensing information and training in the countries of origin;

3) analyzing the current situation and future trends, examining the business skills of immigrants and barriers legislative and operational that might hinder the attempt to build a business in the E.U., based on this assessment encourages the introduction of measures to support the entrepreneurship of migrants;

4) increasing investment to provide employment to citizens of third Countries who are already legally in the E.U. and who are unemployed and economically inactive, with particular attention to women[45];

5) supporting the development of specific integration programmes for newly arrived immigrants, which, for example, facilitate the acquisition of language skills and promote the practical skills necessary for an authentic intercultural adaptation and commitment to fundamental European values.

Therefore, at this stage of conception and reconsideration of integration policies in Europe, one of the main recommendations is perhaps to pick up the invitation of the E.U. to strengthen the mechanisms of involvement of the various actors involved at the national level and, above all, to participate actively in platforms specifically designed to encourage exchanges between the authorities of different countries[46].

Migrants in the E.U. in general have lower educational attainment levels than natives; access to education is as good as universally guaranteed for migrant children across the Member States, but they have the right to access to good education proposal for their specific needs and for discover and develop their talents.

Several Countries, to impede social and ethnic school segregation, have bilateral agreements on teaching in the language and culture of origin of migrants; an overview is needed of the adaptation of sending society educational and administrative systems to the needs and challenges of emigrating pupils and adults.

Above all for pragmatic reasons, a focus on initiatives by State actors and non-State actors in sending States express the need to complete agreements between E.U. actors and third Countries actors for the development of academic and scientific research cooperation in areas of common interest, joining implementation of content and curricula and promoting the mobility of teachers; the idea would be to join efforts in order to provide scientific and educational services throughout the world that are up to date with the fast development imposed by the digital age, by introducing a new model of university, a global "Smart University": jointly with universities in countries of different cultures, religions and politics would it be possible to democratize access to knowledge in order to shape the future of the younger generation[47].

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[45] See T. SPIJKERBOER - SARAH VAN WALSUM, *Women and Immigration Law: New Variations on Classical Feminist Themes*, London, 2006, *passim*.

[46] See J. NIESSEN - T. HUDDLESTON, *Legal Frameworks for the Integration of Third-Country Nationals (Immigration and Asylum Law and Policy in Europe)*, Leiden, 2009, *passim*.

[47] See M.A. GARITO, *L'università nel XXI secolo tra tradizione e innovazione*, Roma, 2015, *passim*.