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Digital Innovation and Migrants' Integration: Notes on EU Institutional and Legal Perspectives and Criticalities

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Abstract: These notes describe the evolution of the EU strategy for the integration of Third Country Nationals since the Tampere Program in 1999 until the second Action Program (2021–2027). It highlights the EU's endeavor to close the gap between migrants and EU citizens in compliance with the EU general anti-discrimination policy and, since the entry of the Lisbon Treaty into force, of the EU Charter of Fundamental Rights. Accordingly, the current integration strategy has a much wider legal and financial basis than the one described by art. 79.2 of the TFEU. This new individual-centered and wide-ranging public approach can now be strengthened through the new European Digital Agenda, whose aim is also to reframe and make the relations between the individual and public administration more user friendly. However, in the human mobility domain, the large EU acquis, which is currently focused on internal security, should be re-balanced from a legislative and operational point of view to avoid the risk of infringing on data protection principles and establishing a mass surveillance framework, which could be incompatible with the EU as a democratic society and a rule of law-abiding organization. Within this very complex framework, a promising development is the establishment of a new European Asylum Agency, which may pave the way for more consistent EU asylum and migration policies.

Keywords: migrants' integration; ICT impact; EU Digital Agenda; migration and Artificial Intelligence; non-discrimination principle; European Asylum Agency



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1. Introduction

On December 2009, with the entry of the Lisbon Treaty and the Charter of Fundamental Rights into force, the European Union entered a new phase of its transformation in the freedom, security, and justice area (art 3.2 of the TEU and 67 of the TFEU). This should have notably been the case for the creation of a Common European Asylum System (art. 78 TFEU); the establishment of an Integrated Border Management (art. 77 TFEU); and for “... a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of Third Country Nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings” (art 79.1 TFEU).

Unfortunately, twelve years later these objectives are still in the making, and even if the unanimous vote in the EU Council is no longer necessary, the EU still lacks a general consistent legislative framework. Even from a strategic point of view, there is still no consensus between the European Institutions and the EU Member States, notwithstanding the presentation of a new Pact of Migration and Asylum by the European Commission in September 2020.

The EU weaknesses were revealed starkly by the “migration crisis”, which erupted in 2015 and 2016 following the Syrian war and which still continues today, even if in a different context. At present, the EU is facing an increasing flow of migrants coming from Afghanistan or from Sub-Saharan Africa, no matter the political and diplomatic measures deployed by the EU towards the migrants’ countries of origin and transit. Inside the European Union, the Commission is supporting its Member States’ endeavors with organizational and financial measures, but integrating regular migrants and asylum seekers and returning people in no need of international protection remain big challenges.

This paper is focused on the legal, operational, and institutional aspects of the EU’s anti-discrimination policy and on the positive measures that can be taken, thanks to digital innovation, to achieve the integration of migrants.

This issue will be analyzed not only in terms of the interest and logic of the public administration, but also from their perspective.

This change in approach—placing the individual at the center of EU policies—is also foreseen at the primary law level in the Preamble of the Charter of Fundamental Rights. It was already an implicit objective in the 1999 Treaty of Amsterdam and for the first European Council in Tampere, wherein Third Country Nationals should have been granted rights and obligations comparable to those of EU citizens.¹

Some years later, in 2004 at the Hague European Council, the first “Common Basic Principles for Immigrant Integration”² were adopted, paving the way to a European “third way” between the French model of “assimilation” and the UK and Dutch model of a multicultural society (Taylor 1994).

At that time, and which is still the case today, the European Institution strategy was to de-ideologize and, as far as possible, depoliticize the asylum and migratory policy. To do so, the European Union tried to break down into specific functional activities the problems experienced by Third Country Nationals (TCN) when they try to access the social and economic structures of the EU Member States.

From 2005 until 2010, a Common Agenda for Integration was established and, after the entry of the Lisbon Treaty and the European Charter into force, a European Agenda for the Integration of Third Country Nationals (2011–2015) was adopted.³

2. Building Integration Policies Based on the Principle of Non-Discrimination between Citizens and Third Country Nationals (TCN)

In 2016, the first holistic Action Plan on the Integration of Third Country Nationals⁴ provided a comprehensive framework to support Member States’ efforts to develop and strengthen their integration policies.

Interestingly, the main idea behind this was to build an integration policy based on the principle of non-discrimination, as set out by the treaties and also in international law.

In 2016, Professor Olivier De Schutter (De Schutter 2016), in his study on “Links between migration and discrimination”, highlighted that “the evolution of the International Covenant on Civil and Political Rights and the European Convention on Human Rights—the international human rights instruments most influencing EU law—are strikingly similar. Under both treaties, such differences of treatment are increasingly being treated as suspect and they now require particularly weighty justifications in order to be allowable. This fits within the broader development of international human rights” (p. 81).

Professor De Schutter reminds us that this is notably the case of the 1990 Migrant Workers Convention, which contains a number of provisions prohibiting discrimination between migrant workers and host state nationals. In 2020 Professor De Schutter developed the same concept in a wider study on the future of Europe, redacted for the UN Human Rights Regional Office for Europe (De Schutter 2020).

Additionally, the UN Committee for the Elimination of All Forms of Racial Discrimination⁵ declared that “differential treatment, based on citizenship or immigration status, will constitute discrimination if the criteria for such differentiation are not applied pursuant to a legitimate aim and are not proportional to the achievement of this aim”.

Non-discrimination has thus also become the legal basis justifying the adoption of EU-positive measures integrating Third Country Nationals (TCN) into EU host communities. Bringing together TCN and EU citizens at the same level, this policy may look to be a visionary strategy, even if some strategies cover both TCN and EU citizens. It could particularly be the case when EU institutions design and implement the new EU Social Agenda, EU Digital Compass, and e-Government Strategy.

An anti-discriminatory approach would also be consistent with the 2021 European Commission Commitment, aligning its internal policies with those set out by the 2030 UN Sustainable Development Agenda, whose objectives do not differentiate between citizens and Third Country Nationals.

3. Towards an Integrated Supranational–National Administrative Agenda

Understandably, the main EU focus for 2030 will remain the economic dimension, but this will be realized by a more proactive public policy and by strengthening the interaction between the individual, not only the consumer, and the public administration at the European, national, regional, and local level.

Building multi-layered public governance and implementing an EU individual-centric strategy will require a holistic approach and an assessment on the ground of the current legislative framework in the years to come.

This strategy should pave the way towards a consistent re-orientation of EU legislation in accordance with the principles of the Better Law-Making Agenda⁶ (which, until now, has mainly been focused on the competitiveness of the EU single market).

A pre-condition for a positive outcome will be multi-stakeholder collaboration, involving the migrants themselves in the definition of a human mobility integrated multilevel public administration, which may be built around the digitalization of public services.

Until now, the resistance of the EU Member States towards a supranational standard for the digitalization of public services has been dictated by the fact that the public administration is close to the core of the constitutional identity and is protected, as such, by art. 4.2 of the Treaty of the European Union.

However, even in this domain, things are slowly changing because of the increasing supranational administrative integration.

A clear example of this is the Schengen cooperation, which started in 1985 and has progressively framed European policies at a supranational level, such as the protection of the external borders, migration and asylum policies, and judicial and police cooperation in criminal matters. Inevitably, this progressive administrative integration has paved the way towards the adoption of dozens of EU legislative measures and to very detailed administrative procedures.

Moreover, the development of the EU as a “Freedom, Security and Justice Area” (FSJA), as foreseen by art. 3 TEU, has triggered the creation of dozens of quasi-federal Agencies, such as FRONTEX, EUROJUST, and EUROPOL as well as the new EU Agency for Asylum (EUAA)⁷, where all the national administrations work together on a daily basis and share huge volumes of data through several EU-wide networks and databases.

Some clear examples of these databases are:

- The Schengen Information System (SIS);
- The Visa Information System (VIS) and the recent European Travel Information and Authorization System (ETIAS), which deals with the prior authorization of travelers from countries not requiring a visa;
- The Entry–Exit System (EES), which keeps a record of Third Country Nationals (TCN) who overstay their 90-day visa;
- EURODAC (a database currently under revision), which collect asylum seekers fingerprints;
- The European Criminal Records Information System (ECRIS), which collects the criminal records of people convicted in the European Union.

These databases, which collect not only alphanumeric but also biometric data (such as fingerprints and facial images), are currently managed by a unique EU Large Information System Agency (EU-LISA), which is making all of them interoperable by also creating a common identity repository (CIR) and a multiple-identity detector (MID) to better identify individuals whose data have been dealt with.

These databases framing human mobility in the EU are also becoming the backbone of national administration activity and could also become a possible reference for future applications, whose end-user would also be EU citizens or TCNs. From this perspective, a general strategy based on improving the ICT skills of the public administration as well as those of the final user (whether they are a migrant or an EU citizen) will be essential.

As a consequence, it will be necessary to redesign the existing networks and public databases by taking in account the principle of non-discrimination and the objective of integrating migrants into the host society.

4. The EU Digital Agenda as a Means for Reorienting the EU Mobility and Integration Policies

Re-framing human mobility in the European Union will not be an easy task because of the resistance of the EU Member States and because of the high complexity of the EU networks and databases.

Nevertheless, the European Union is currently also facing the challenge of reorienting most of its policies in view of the massive digitalization of the public administration at the European, national, regional, and local level.

According to the EU Strategy “2030 Digital Compass: the European way for the Digital Decade”,⁸ “most of the public services should be digitalized and by 2030, the EU’s objective is to ensure that democratic life and public services online will be fully accessible for everyone, including persons with disabilities and benefit from a best-in-class digital environment providing for easy-to-use, efficient and personalized services and tools with high security and privacy standards. Secured e-voting would encourage greater public participation on democratic life”.

In the same strategic document, the European Commission continues, underlining that “User-friendly services will allow citizens of all ages and businesses of all sizes to influence the direction and outcomes of government activities more efficiently and improve public services. Government as a Platform, as a new way of building digital public services, will provide a holistic and easy access to public services with a seamless interplay of advanced capabilities, such as data processing, AI and virtual reality” (p. 10).

Moreover, according to the European Pillar of Social Rights Action Plan, the digitalization of the public administration will be accompanied by projects whose target is to teach 80% of adults at least basic digital skills by 2030.

A digitally skilled population and highly skilled digital administration will also make it possible to build digital platforms, which should be user-friendly and, for instance, give concise information on the rights of migrants in a language that they can understand.

This ambitious program requires the full support of the Member States and of the public administration itself. However, this cooperation is still far from being achieved for economic, cultural, and even political reasons.

A possible outcome could be an infringement procedure before the Court of Justice and, in practical terms, a progressive segregation of these national administrations from others. This is already foreseen by the EU legislation dealing with the protection of the external borders when a national administration does not comply with the recommendations submitted by FRONTEX, the European Commission, and the EU Council.

5. Setting a Multi-Layered European Strategy of Integration

It is worth noting that the EU integration policy has already come a long way since the adoption of the Tampere Programme in 1999 and the entry of the Lisbon Treaty into

force in 2009. The latter established a specific legal basis for an EU integration policy (art. 79.4 of the Treaty of Functioning of the European Union).

A first European Commission Integration Action Plan 2016–2020⁹ was adopted with several organizational measures and the first financial support of Member States' Integration Programs for Migrants.

The 2016–2020 Action Plan established 16 priorities, which have been marked by some successes but also by some shortcomings, and was denounced in 2018 by the European Court of Auditors (ECA 2012a, 2012b, 2017). According to the court, the main weakness of the Action Plan was not being sufficiently strategic and depending too much on Member States' willingness, meaning that, in the end, it resulted in a patchwork of actions limited in scope. Moreover, the EU missed the opportunity to agree a legally binding updated version of the 2004 Common Basic Integration Principles with the Member States in light of the new EU Charter and the Lisbon Treaty.

To overcome these weaknesses, the recently adopted Second Action Plan on Integration and Inclusion 2021–2027 (European Union 2021a) covers not only the integration of migrants but also, more generally, the inclusion of EU citizens with a migrant background (not only first-generation migrants). It also empowers the host society when designing and implementing integration and inclusion policies. Last but not least, it strengthens the monitoring and assessment of the outcome of these policies.

The main innovation of the Second Action Plan on Integration and Inclusion 2021–2027 has been its synergy with other Action Plans, such as the one implementing the European Pillar of Social Rights; the EU's anti-racism Action Plan; the EU Roma strategic framework for equality, inclusion, and participation; the LGBTIQ equality strategy 2020–2025; the forthcoming strategy to combat antisemitism; and, last but not least, the EU citizenship report.

Widening the scope of the second Action Plan on Integration and Inclusion 2021–2027, the European Commission is aiming at creating a more inclusive society by building and strengthening contact and trust between different communities within society and fighting isolation and segregation, thus hoping to promote a more cohesive and inclusive society for all and prevent the spread of all forms of extremist ideologies that can lead to terrorism and violent extremism (Action Plan on Integration and Inclusion 2021–2027-COM/2020/758 final p. 5).

Moreover, by bringing together these Action Plans, the EU Commission could also submit organizational and financial measures and legislative measures harmonizing the national legislation. This holistic approach was confirmed in 2021 with the adoption of the "Common Provision" Regulation covering the multiannual financial framework (2021–2027). When implementing and using the EU structural funds,¹⁰ the EU Member States should comply with the principle of the rule of law, as well as with the principle of non-discrimination and the protection of fundamental rights.

The Second Action Plan on Integration and Inclusion 2021–2027 seeks to ensure people's access information about their fundamental rights. Moreover, this plan calls for addressing the inequalities in access to health services. It is also focused on inclusive education and the training of migrants by improving employment opportunities and skill recognition. In addition, it promotes access to adequate and affordable housing. This strategy may be funded through the European Regional Development Fund (ERDF), the European Social Fund Plus (ESF+), the Asylum and Migration Fund (AMF), and Invest EU at the local and regional level by preventing discrimination in the housing market and segregation. From an operational point of view, the projects aiming at better integration and inclusion will be carried out directly by the Commission or through Members States' programs, under the so-called shared management tactic, as well as with the help of specialized technical support.

6. Integrating Migrants (and People of Migrant Origin) in the EU Digital and e-Government Agenda

One of the main priorities of the Second Action Plan on Integration and Inclusion 2021–2027 is the digitalization of public services. Clearly, technological innovation and the digitalization of governments at all levels can facilitate access to digital public services. However, if not used in an inclusive and accessible way, the digitalization of services can widen inequalities instead of narrowing them.

According to the EU Commission, the COVID-19 crisis has shown the potential of digitalizing services because Member States had to adapt their integration services following social distancing measures and transfer integration and language courses online. However, this shift also made it clear that migrants and EU citizens with a migrant background often face obstacles in accessing digital courses and services because of a lack of infrastructure, language barriers, a lack of means of electronic identification, problems with digital trust services (such as electronic signatures), or a lack of the digital skills needed to use these services.

According to the Second Action Plan on Integration and Inclusion 2021–2027, these problems can be addressed by developing online services, as well as in the pre-departure phase. These services will help migrants to learn the language and acquire skills that can speed up their integration after arrival, connecting them with the communities that will welcome them. These online services will require migrants to have the digital skills to fully benefit from them.

On the other hand, the public administration should design digital public services in collaboration with citizens, including migrants, to make them human-centric, easily accessible, and adapted to suit a diverse population.

To achieve these objectives, the European Commission will support Member States in assessing digital integration services by identifying and exchanging good practices through mutual learning activities within the European Integration Network. It will also promote and finance projects aiming to improve digital skills among migrants. As part of the Digital Education Action Plan, the Commission will make the most of EU support regarding internet access, the purchase of digital equipment, e-learning applications, and platforms for schools (in particular, for students from disadvantaged groups and for students and educators with disabilities).

All these initiatives of the Second Action Plan on Integration and Inclusion 2021–2027 are also consistent with a wider, inclusive EU e-government Action Plan that promotes human-centric digital public services for citizens, including migrants, and the engagement of migrants in the creation and delivery of digital public services.

In this area, since 2020, the progress made by the European Union has been extremely promising at the supranational and national level from both a legal and financial perspective. It is worth noting that the new EU Digital Agenda covers several legislative proposals already on the table of the co-legislator, such as the Data Governance Act,¹¹ the Digital Market Act,¹² and the Data Service Act,¹³ as well as the new EU Digital Identity Act.¹⁴

The outcome of these measures, if adopted, will be a wide-ranging legal framework for private and public authorities, and the outcome will inevitably have an impact on the daily lives of everyone within the EU territory (migrants included). Not covering migrants when delivering public services such as health, housing, training, or employment will amount to a discriminatory practice forbidden by EU law.¹⁵

The EU Digital Agenda (EU Agenda 2020) is extremely challenging and, for this reason, is already one of the most financed priorities of the 800 billion “Next Generation Fund”, whose aim is re-launching the EU economy after the COVID-19 pandemic.

Its implementation at the national level is already being closely monitored by the European Commission in the framework of a country-based report adopted under the so-called “European Semester” procedure.

The EU Digital Agenda could make reality the visionary e-Government Agenda which was adopted by the EU Member States in Tallin in 2017.

The e-Government Agenda will go further than creating new tools, involving rethinking organizations and processes and changing behavior so that public services are delivered more efficiently to people. Implemented well, e-Government enables citizens, enterprises, and organizations to carry out their interactions with governments more easily and quickly.

7. The New EU Digital Agenda: Extending the Digital Identity to People of Migrant Origin

Identification is an obvious precondition of a swift interaction between an individual and a public administration. In this domain, the EU has already established some legislative building blocks, such as Regulation (EU) No. 910/2014 on electronic identification and trust services for electronic transactions in the internal market (EIDAS).¹⁶ This regulation already aims at ensuring secure electronic interactions between citizens, businesses, and public administrations and will be strengthened by a new text,¹⁷ which is already on the negotiation table of the European Parliament and Council. The new amended proposal aims to provide access to highly secure and trustworthy electronic identity solutions that public and private services can rely on. Furthermore, natural and legal persons will be empowered to use digital identity solutions which will allow a targeted sharing of identity data (limited to the needs of the specific service requested).

Digital identity will make interaction with the public administration's digital platforms possible, and these platforms should comply with the Directive (EU) 2016/2102 on the accessibility of the websites and mobile applications of public sector bodies.¹⁸

8. Re-Orienting the Existing EU Large Databases Framing Human Mobility

As cited above, human mobility is already covered by several large EU-wide databases dealing with the movement of citizens and Third Country Nationals (TCNs). Unfortunately, a common feature of all these EU mobility-related databases is that they have been framed over the years in different constitutional landscapes and were mostly designed considering the interests of the Member States' Home Affairs Ministers and their public administration. Their main focus remains internal public security and, with the exception of data protection rules, the current legislation allows only very limited external control by the data subjects (no matter whether the latter are EU citizens or Third Country Nationals).

The challenge will then be reorienting these security-related databases by amending their founding regulations from a more migrant and individual-centered perspective. Moreover, even if public security should be granted, more attention should be given to fundamental rights, freedom of movement, and the principles of data protection and non-discrimination.

This is required by the European Court of Justice Jurisprudence in this domain.¹⁹ It is worth recalling that the main focus of the Luxembourg Judge, as well as of several National Constitutional Courts, is not only protecting personal data but also preserving the EU as a democratic society (an objective that is incompatible with mass surveillance initiatives).

9. The Challenge of Artificial Intelligence When Designing and Implementing EU Policies Framing Human Mobility in the European Area of Freedom Security and Justice

Since the Snowden revelations, avoiding "mass surveillance" is no longer a rhetorical issue in the EU. In Europe, the risk arises from the fact that, since 9/11, the EU has also embraced the US's choice of an "intelligence led" and "predictive" anti-terrorism security policy. This policy requires filtering huge amounts of personal data in search of behaviors or persons which, according to pre-defined algorithms and criteria, could be considered potentially dangerous. The sticking point is that this kind of practice, where everyone could be considered a "suspect", may, under certain conditions, be considered legitimate in the US Constitutional Framework but, according to the EU Court of Justice, is hardly acceptable in the EU.²⁰

These security-related practices should already comply with the General Data Protection Regulation (European Union 2016b) and with the EU law enforcement directive (European Union 2016a). These practices should now also be re-evaluated in regard to the emerging trend of the use of Artificial Intelligence (AI) applications by public administrations.

AI is a promising technology that combines machine-learning techniques, robotics, and automated decision-making systems. AI has already had a wide range of positive impacts on society and the economy in very diverse domains such as healthcare; transport; or, from a wider perspective, social media. In the coming years, AI will play an even greater role in the way that governments and public institutions operate, as well as in the way citizens interact and participate in the democratic process.

As described in a recent Fundamental Rights Agency (FRA) Report (FRA 2020), this evolution may also entail serious risks due to the intrinsic operational opacity of AI (the so-called “black box effect”) and its partially autonomous behavior.

According to the Fundamental Rights Agency inquiry, there is a growing risk of biased decision-making or discriminatory practices threatening the protection of fundamental rights, most notably in the context of the public administration’s activity relating to law enforcement or the control of borders and migration policies. In addition, inaccuracy and data re-identification seem to be recurring common risks when using AI. For example, interviewees working on social benefits algorithms have stated that incorrect results in general are a risk. These can potentially occur due to rare issues which are not well identified by the algorithm or due to errors in the input data. The difficulties associated with moving from testing to deploying a system, including technical challenges, the resources required, and potential different results when deployed, have also been highlighted.

To overcome these possible shortcomings, several initiatives have already been taken by the Organization for Economic Co-operation and Development (OECD), the Council of Europe, the Fundamental Rights Agency (FRA), and the European Commission. The latter decided in 2018 to develop a human-centric approach to AI that is respectful of European values and principles by avoiding the fragmentation of national approaches.

The result has been the new “horizontal” proposal for a regulation laying down harmonized rules on Artificial Intelligence (AI Act).²¹ It is worth noting that the new proposed regulation is inspired by the Product Liability Directive and harmonizes national liability rules to cover risks created by the use of AI systems and ensure compensation in the case of damage. By doing so, the new regulatory framework for Artificial Intelligence complements the applicable legislation for consumer protection and data protection. The key issue will be how to differentiate “low-risk” and “high-risk” AI applications.

Regarding fundamental rights, Article 5 of the draft regulation prohibits certain AI systems (manipulation of human behavior, exploitation of information to target vulnerabilities, and social scoring). Notably, Annex III of the draft regulation lists eight sensitive areas, three of which are also relevant for Public Administrations when dealing with human mobility and internal security (biometric identification and categorization of natural persons, law enforcement, migration, asylum, and border control management).

Under this perspective, certain systems and tools of the Justice and Home Affairs Area, at the national and EU level, would fall under the scope of the proposed AI regulation. The categorization of certain systems and tools as high-risk will thus also affect them (a case could relate to the AI crime analytics tools used by Europol or by Frontex in the border security context, or by the new European Asylum Agency—formerly EASO—when dealing with asylum management).

It follows that a close analysis of the implications of the categorization of large-scale IT systems as high-risk in the Justice Home Affairs (JHA) area will be mandatory. This analysis could also be an opportunity for the EU co-legislator to reorient the founding legal acts in a more individual-centered way. In the asylum domain, there is already a specific measure detailing the procedures to be followed when examining an asylum request. The same approach could also be followed in the migration domain by determining the form to be filled by the migrant. This form may describe the services needing to be contacted, and,

if necessary, the persons who can help the migrant in his/her contact with the national, regional, or local administration. This level of detail at the EU level is already a common feature of other EU legislation in domains such as agriculture, fishing, and transport. It would be even more justified when dealing with migration and asylum to overcome the current discrepancies at the national level when transposing EU law.

It is worth noting that this operational framework should not amount to building a surveillance regime, as denounced by a recent Organization for Security and Co-operation in Europe (OSCE) Report ([OSCE 2021](#)), which urged Member States to put in place a robust legislative framework to regulate the use of new technologies at borders and provide strong human rights safeguards.

According to the OSCE Report, due diligence in human rights is mandatory and should be granted when deploying and operating these systems. Moreover, effective and independent external oversight mechanisms should be established.

Last but not least, border guards and others using new technology systems should receive adequate human rights training (see p. 32 of the OSCE Report).

10. Conclusions

As described above, the European Union is currently facing increasing external pressure from people who, for different reasons, want or need to reside in EU territory. The only way to overcome such pressure is to build a legal, operational, and political framework, which can become a win-win operation for both the EU and the people pushing on its doors. Focusing only on walls and fences will only increase the human and financial costs of everything without addressing the real issue.

An approach based on the recognition of the fundamental rights of migrants and their smooth integration into European society seems to be the only sensible way to address these problems. It will also create an opportunity for improving the quality of services offered by the public administration.²²

This approach is already present in the Second Action Plan on Integration and Inclusion 2021–2027, but it is necessary to transform these words into deeds. This can happen by redesigning, through the Digital Agenda, the work of the public administration at the national and supranational level.

What is necessary, according to the Lisbon Treaty and the EU Charter of Fundamental Rights, is an individual-centered and “human rights-oriented” approach. This was also foreseen by the Constitutions of the EU Member States and by the EU since the Tampere Programme of 1999. According to all these legal texts, each migrant with a regular residency permit should also have the same rights of access to public services as European citizens.

Consistent with this new approach, ICT instruments should be used to facilitate inclusion and integration.

From an operational point of view, a possible roadmap could therefore be built based on the analysis and recommendations developed in the framework of the Horizon 2000 Research Programme by the Joint Migration Policy Roundtable.²³

In 2020, the Roundtable authored a White Paper ([European Union 2020](#)) bringing together the objectives of six research projects: MIICT, REBUILD, NADINE, MICADO, EasyRights, and WELCOME.²⁴

The 2020 White Paper intended to improve, through digitalization, the effectiveness and accessibility of public services for migrants and, in doing so, ease their integration into their host societies. From this perspective, according to the EasyRights Project recommendations, an important role could be played by improving the awareness of people interacting with migrants and establishing digital platforms that are practical and user-friendly; contain concise information; and detail, in a language understandable to migrants, the services they need to access ([The Easy Rights Deliverable 2021](#)). Most of these ideas were recently mirrored in the mandate of the new European Asylum Agency ([European Union 2021b](#)), which came into force on 19 January 2022. This new EU Agency is intended to become a central hub for European and national administrations dealing with refugees

and asylum seekers and could represent a significant step forward in the modernization of the EU's asylum and reception practices.

Accordingly, the new European Union Agency for Asylum (EUAA) is focused on strengthening the quality of public administrations by providing compulsory broader asylum training for national officials. This training will not be limited to the public officials in direct contact with migrants and asylum seekers but will also be provided to Member States' experts from all national administrations, courts, tribunals, and national authorities responsible for asylum matters (art. 2 and art. 8—Regulation 2021/2303). Considering the content, this training should mainly be focused on the European Charter of Fundamental Rights, as well as on the EU law on asylum, including specific legal issues and case law. Accordingly, a complaints mechanism will be established to ensure recourse for anyone who considers their fundamental rights to have been breached. Moreover, the civil servants interacting with asylum seekers should be trained on all the specific needs of migrants, such as medical issues, interpretation and cultural mediation issues, and the specific needs of minors and vulnerable persons.

The new agency should also establish an ambitious monitoring mechanism focusing on the application of EU and international law by national administrations before the end of 2023. Interestingly, the future EUAA monitoring mechanism should be “comprehensive” and based not only on the information provided by the Member States concerned, but also on other sources (including the agency's on-site visits; short-notice visits; and information provided by intergovernmental organizations or bodies—in particular, the UNHCR and other relevant organizations—on the basis of their expertise). The new EU regulation foresees that, in the case of weaknesses or shortcomings at a national level, specific formal recommendations could be addressed to the Member States related to the EUAA Executive Director; the EUAA Management Board; the Commission; and, last but not least, the EU Council itself.

On the operational side, the new EUAA Regulation 2021/2303 foresees that the EU Asylum Agency should enable “the production of more practical guides, recommendations, tools and analysis which support the work of national asylum and reception authorities” (art. 2—EU Regulation 2021/2303). The explicit reference to “tools” could pave the way towards the establishment of a digital platform making the interaction between migrants and public administrations easier.

Thanks to this new regulation and the finalization of the other legislative negotiations cited in this article, the EU will finally make reality the treaty's provision of common supranational asylum and migration policies.

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Notes

- ¹ It is worth recalling that the EU Integration policy dates back to the entry into force of the Treaty of Amsterdam, and the Tampere Programme, on the transformation of the EU in an Area of Freedom, Security and Justice, wherein third-country nationals could be granted rights and obligations comparable to those of EU citizens. Followed from 2005 until 2010 a Common Agenda for Integration and, after the entry into force of the Lisbon Treaty, a European Agenda for the Integration of Third-Country Nationals (2011–2015). The first holistic Action Plan on the Integration of Third-Country Nationals was adopted in 2016 and provided a comprehensive framework to support Member States' efforts in developing and strengthening their integration policies).

- 2 See The 2004 Common Integration Basic Principles. link: https://ec.europa.eu/migrant-integration/library-document/common-basic-principles-immigrant-integration-policy-eu_en (accessed on 2 February 2022).
- 3 Communication from the commission to the European parliament, the council, the European economic and social committee and the committee of the regions European Agenda for the Integration of Third-Country Nationals. Link: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A52011DC0455> (accessed on 2 February 2022).
- 4 See: https://ec.europa.eu/migrant-integration/news/europe-integration-action-plan-third-country-nationals-launched_en (accessed on 2 February 2022).
- 5 See <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx> (accessed on 2 February 2022).
- 6 See the European Commission “Better Regulation: Guidelines and Toolbox”—https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-guidelines-and-toolbox_en (accessed on 2 February 2022).
- 7 See the FSJA inter-Agency Internet page: <https://www.europol.europa.eu/partners-collaboration/justice-and-home-affairs-jha-agencies-network> (accessed on 2 February 2022).
- 8 See: https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age/europes-digital-decade-digital-targets-2030_en (accessed on 2 February 2022).
- 9 See: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016DC0377&qid=1632298272980> (accessed on 2 February 2022).
- 10 See the European Court of Auditors (ECA) briefing “The integration of migrants from outside the EU” as well as the previous ECA special report No 6/2017, ‘EU response to the refugee crisis: the hotspot approach’ and the ECA Special Report No 22/2012 ‘Do the European Integration and European Refugee Fund contribute effectively to the integration of third-country nationals?’ and the ECA 2012 Report on the implementation of the Asylum, Migration and Integration Fund (AMIF).
- 11 Legislative Procedure 2020/0340 (COD). Updated information on the main events and current negotiations of this legislative procedure are accessible on the European Parliament Legislative Observatory. See <https://oeil.secure.europarl.europa.eu/oeil/search/search.do?searchTab=y> (accessed on 2 February 2022).
- 12 Legislative Procedure 2020/0374 (COD) See above.
- 13 Legislative Procedure 2020/0361(COD) See above.
- 14 Legislative Procedure 2021/0136 (COD) See above.
- 15 Migrants have been recently covered by the Regulation 2021/953 on the so called “Digital Green Certificate” even if its legal basis is art. 21.2 of the TFEU covering “implicit” powers granting the freedom of movement.
- 16 OJ L 257/73 of 28.8.2014 link: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2014.257.01.0073.01.ENG (accessed on 2 February 2022).
- 17 See: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity (SEC(2021) 228 final)—(SWD(2021) 124 final)—(SWD(2021) 125 final).
- 18 See the Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies. Link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L2102&qid=1633263609614> (accessed on 2 February 2022).
- 19 See the Joined Cases C-293/12 and C-594/12 Digital Rights Ireland (2014); Case C-362/14 “Scherms I” Scherms v Data Protection Commissioner; Joined Cases C-203/15 and C-689/15 Tele2 Sverige AB v Post (C-203/15) and Secretary of State for the Home Department v Tom Watson and Others (C-689/15), Case C-623/17 Privacy International v Secretary of State for Foreign and Commonwealth Affairs and Others, Joined Cases C-511/18, C-512/18 and C-520/18 La Quadrature du Net and Others v Premier Ministry and Others, “Scherms II’ case C-311/18 dealing with the Commission Decision 2016/1250 on the adequacy of the protection provided by the so called EU-US Privacy Shield and last but not least the Court of Justice Opinion 1/15 on the draft EU-Canada Agreement on exchange of PNR Data.
- 20 Already in 2013 the European Parliament commissioned a Study on “National Programmes for Mass Surveillance of Personal Data in eu Member States and Their Compatibility with eu Law (<https://info.publicintelligence.net/EU-MassSurveillance.pdf>, accessed on 2 February 2022) and in 2014 adopted a wide ranging Resolution on the US NSA surveillance programme, surveillance bodies in various Member States and their impact on EU citizens’ fundamental rights and on transatlantic cooperation in Justice and Home Affairs (2013/2188(INI)) see https://www.europarl.europa.eu/doceo/document/TA-7-2014-0230_EN.html?redirect (accessed on 2 February 2022).
- 21 See the Proposal for a Regulation of the European Parliament and of the Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) and Amending Certain Union Legislative Acts com/2021/206 Final Link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0206> (accessed on 2 February 2022).
- 22 See 18th IMISCOE Annual Conference (7–9 July 2021, Luxembourg)—Giuliana COSTA, Maryam KARIMI, Grazia CONCILIO, Paola REGINA—The governance of migration-related services: Does Human Rights literacy matter?

- ²³ On the structure and nature of the Migration Roundtable, see: https://ec.europa.eu/home-affairs/news/dg-home-jrc-roundtable-eu-labour-migration-policy-briefing-paper-2021-01-22_en (accessed on 2 February 2022).
- ²⁴ See the 6 research Projects funded under Horizon 2020 program at this link: [https://ec.europa.eu/cefdigital/wiki/display/CEFDIGITAL/2021/01/27/How+the+Building+Blocks+can+improve+migrant+integration?preview=/340526787/340526786/Joint%20Migration%20Policy%20Whitepaper%201.1%20\(002\).pdf](https://ec.europa.eu/cefdigital/wiki/display/CEFDIGITAL/2021/01/27/How+the+Building+Blocks+can+improve+migrant+integration?preview=/340526787/340526786/Joint%20Migration%20Policy%20Whitepaper%201.1%20(002).pdf) (accessed on 2 February 2022).

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