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European Agenda on Migration – Assumptions and Implementation

Summary: In mid-October 2019, the European Commission presented a report on the implementation of *European Agenda on Migration of 2015* and indicated the areas that require further action mainly related to irregular migration, smuggling of migrants and trafficking. The EC emphasized that only by joining forces of all member states the European Union will be able to fight effectively and humanely with these problems. Irregular migration has become one of the EU most important problems since the 1990s, and the growing number of irregular migrants evoked the feeling that a single state is unable to control people arriving on its territory. The Europeans are terrified of the scale of migration. Conflicts and antagonisms between the local population and the rapidly growing number of migrants have begun to increase. The research goal of the article is to analyze the implementation of the 2015 *European Agenda on Migration*.

Keywords: migration policy, asylum policy, irregular migration, migrant smuggling, European Agenda on Migration, European Union

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Introduction – Legal Bases for Migration Policy

Migration is not a new phenomenon, but in recent years it has been seen by the European Union (EU) countries as a big problem that European politicians should address. For many centuries, Europeans have migrated to other continents and it was only in the 1950s that they became important host countries (Castles et al., 2011). After the end of the World War II, migration was seen as one of the most important drivers of economic growth, and a migrant status – legal or illegal – was not the subject of public debate. The attention was focused on the creation of migration policy in the area of influx of job seekers from abroad. The main receiving countries were former colonial empires – France, Great Britain, and Germany. Due to their economic potential, these countries were able to absorb a large number of newcomers (Koryś & Okólski, 2004, pp. 16–21). In the mid-1970s, due to the fuel crisis and economic downturn, the demand for labor decreased. European countries began to introduce a restrictive migration policy, which favored the reunion of workers' families, but prohibited the entry of many potential migrants. These activities did not reduce the number of migrants, because irregular migration became a well-organized illegal business. A large group of asylum seekers also appeared.

The first actions to harmonize migration policy took place in the mid-1980s, mainly due to the deepening of integration processes and the prospect of abolishing internal borders provided in the Single European Act (SEA) in 1986 (Pietrzyk, 2015, pp. 142–143). In October 1986, an *ad hoc* Group on Migration was set up in London to deal with basic issues related to migrants, followed by the Centre for Information, Discussion and Exchange on Asylum (CIREA) and the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (CIREFI), two forums of information exchange in asylum and migration matters (Noll, 2000, p. 130). The main decisions were made in the Maastricht Treaty, at the EU Council meeting in Tampere in 1999, in Laeken in 2001, in Seville in 2002, and the adoption of the Hague Program in 2004. However, the most important document shaping the directions of common migra-

tion policy for many years was the Amsterdam Treaty (https://www.europarl.europa.eu/topics/treaty/pdf/amst-en.pdf). The legal basis for EU migration policy are Articles 79 and 80 of the Treaty on European Union (https://www.europarl.europa.eu/factsheets/pl/sheet/152/immigration-policy). The main goal of the TEU is the sustainable management of legal migration and the fight against irregular migration, including trafficking and smuggling of migrants, by creating a homogenous rights and obligations for legal migrants. Moreover, migration policy should be based on the principle of solidarity and fair sharing of responsibility between the member states.

Under the migration policy, the EU has the power to determine the conditions of migrants' entry into the member states and obtaining legal residence and to specify the number of jobseekers. The EU provides support to its member states to promote the integration of legal migrants, but it does not ensure the harmonization of national laws and regulations. The EU committed itself to preventing and reducing irregular migration, mainly through a return process while respecting fundamental human rights. The European Union is also entitled to sign agreements with third countries on the readmission of migrants who do not meet the conditions of entry and residence – into the country of origin.

The Lisbon Treaty, which entered into force in December 2009, introduced into the migration policy, in relation to legal migration, the qualified majority voting procedure (https://www.europarl.europa.eu/factsheets/pl/sheet/5/traktat-z-lizbony). The Treaty states that the EU shares competences with the member states regarding the number of migrants who can legally arrive in search of work. It was also established that the Court of Justice has full powers in the field of migration and asylum.

In 2011, the European Commission (EC) adopted a document entitled *Global Approach to Migration and Mobility* (GAMM) and thus established a general framework for the EU relations with third countries in the field of migration. This framework was based on four main pillars: legal migration and mobility, irregular migration and human trafficking, international protection and asylum policy, and optimization of the impact of migration and mobility

on economic development. It aimed to present a comprehensive strategy to address irregular migration and human trafficking on the one hand, and to manage migration and asylum through the cooperation with third countries (origin and transit) on the other hand (Martin, statewatch.org).

In June 2014, the EC published a communication entitled *An open and secure Europe: realizing the goals* (https://eur-lex.europa. eu/legal-content/PL/TXT/PDF/?uri=CELEX:52014DC0154&from =PL). It was the proposal of a new programme, which was to replace the *Stockholm Program in the area of freedom, security and justice* adopted in 2009, which in turn replaced the Tampere programme of 1999 and the multi-annual Hague programme of 2004 (https:// eur-lex.europa.eu/legal-content/PL/TXT/PDF/?uri=CELEX:5201 4DC0154&from=PL). The 2014 Communication set out strategic guidelines for legislative and operational planning in the area of freedom, security and justice for 2014–2020 (https://eur-lex.europa. eu/legal-content/PL/TXT/PDF/?uri=CELEX:52014DC0154&from =PL). These guidelines highlighted the need to develop a global approach to migration, provide protection to people in need, combat irregular migration and manage the EU borders effectively.

As regards the EC directives, in the case of legal migration in the Directive 2009/50/EC (https://eur-lex.europa.eu/legal-content/ PL/TXT/?uri=celex:32009L0050) on the conditions of entry and residence of third-country citizens for the purposes of highly qualified employment, the EU Blue Card procedure was established[2]. In 2011, the EC presented the Single Permit Directive (2011/98/ EU), which established a simplified procedure for third-country citizens who apply for a residence and work permition in a member state and a set of rights granted to legal immigrants (https://eur-lex.europa.eu/legal-content/PL/ALL/?uri=CELEX:32011L0098). In February 2014, the EC adopted a directive regulating the conditions of entry and residence of third-country citizens for the purposes

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[2] It is an accelerated procedure for issuing a special residence and work permition on more attractive terms.

of seasonal employment (2014/36/EU)[3]. In the same year, in May, the EC adopted a directive (2014/66/EU) establishing the conditions of entry and residence of third-country nationals as a part of the transfer of a company in order to facilitate multinational corporations with a temporary transfer of employees to the UE territory. In May 2016, the EU adopted a directive on the conditions of entry and residence of third-country citizens for the purposes of scientific research, study and training, volunteering, youth exchange programmes (2016/801/ EU) (https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=CELEX:32016L0801). As regards migrants' integration, the 2003 Directive (Council Directive 2003/86/ EC) established the right to family reunification. The EU competences in the field of migrants' integration are limited. In July 2011, the Commission adopted the *European Program for the Integration of Third-Country Citizens* (https://eur-lex.europa.eu/legal-content/PL/TXT/PDF/?uri=CELEX:52011DC0455&from=PL), and in June 2016, it presented an action plan including specific initiatives supporting efforts to integrate approximately 20 million third-country citizens legally residing in the European Union.

In the area of combating irregular migration, the EU adopted several very important documents. In 2002, the Council Directive (2002/90/EC) was adopted, which contained a definition of the offense of facilitating illegal entry, transit and stay. In the same year, the EC adopted the Framework Decision 2002/946/ JHA (Department of Justice and Home Affairs) to establish criminal sanctions for such proceedings. Trafficking of human beings was addressed in 2011 in the Directive on preventing and combating trafficking in human beings and protecting victims (2011/36 /EU) (https://eur-lex.europa.eu/legal-content/PL/TXT/PDF/?uri=CELEX:52015DC0285&from=PL). In the 2008 Return Directive (2008/115/EC), the European Commission defined common EU standards and procedures for the

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[3] Migrant seasonal workers have the right to stay legally temporarily within the EU for a maximum period of five to nine months (depending on the Member State) in order to carry out activities that depend on seasonal rhythm, while maintaining their main residence in a third country.

return of illegal migrants to their homeland. In September 2015, the Commission published the *European Union Action Plan on Return* and in September 2017, it published a *Common Return Handbook* containing guidelines for the competent authorities of member states responsible for returns. In September 2018, the EC proposed a new border procedure for asylum seekers, more transparent procedures and rules to prevent abuse, effective voluntary return programmes to be introduced in member states, and clearer detention rules (https://eur-lex.europa.eu/legal-content/PL/TXT/PDF/?uri=CELEX: 52015DC0285&from=PL).

Assumptions of the 2015 *European Agenda on Migration*

The unprecedented influx of refugees and migrants to Europe, which reached its summit in 2015, required a multi-faceted response from the European Union ranging from managing legal migration, defining the EU asylum rules, ensuring border security and fair distribution of asylum seekers. In 2015, the EU faced the most serious migration challenge since the end of World War II. Many asylum seekers fled to Europe from armed conflicts, terror and persecution in their countries – mainly from the war-torn Syria, Afghanistan and Iraq. In all these countries, civilians are at risk because of armed conflicts, human rights violations or persecution (https://www. europarl.europa.eu/news/pl/headlines/society/20170629STO78631/ kryzys-migracyjny-w-europie). In 2015, 1,250 million asylum seekers were registered in the EU for the first time, and one million reached Europe by sea (https://www.europarl.europa.eu/news/pl/ headlines/society/20170629STO78630/azyl-i-migracja-w-ue-fakty-i-liczby). For comparison, in 2018 the number of asylum seekers amounted to 581 000, about 117 000 people reached Europe by sea, and a total number of irregular border crossings fell to 150 000, the lowest level in five years and was 92% less than during the 2015 crisis peak. In 2015 and 2016, over 2,3 million irregular migrants were detected (https://www.europarl.europa.eu/news/pl/

headlines/society/20170629STO78630/azyl-i-migracja-w-ue-fakty-i-liczby).

The migration crisis exposed the weakness of the EU migration policy in two important areas – the asylum system and border control system. Responding to the great migration crisis in May 2015, the European Commission published the *European Agenda on Migration* in which it proposed immediate measures to prevent the crisis in the Mediterranean Sea and actions to be taken in the coming years to better manage migration in the future. The European migration programme focused on four priority areas: reducing the incentives for irregular migration, border management related to saving lives and securing external borders, developing a stronger common asylum policy and introducing a new policy on legal migration, i.e. updating the Blue Card system, defining new integration policy priorities and optimization of benefits of migration policy (communication_on_the_european_agenda_on_migration_en.pdf).

The first priority was entitled *Reducing the incentives for irregular migration*. The attention to this area was caused by the fact that in 2014, 283 532 cases of irregular border crossing were detected (an increase of 164% compared to 2013). The EU announced that it would improve the fight against smugglers, prosecute them, bring them to justice and confiscate their property. Another proposal in this regard was the development of a Return Handbook to adapt activities in all member states, strengthen cooperation with third countries on smuggling and return issues, greater involvement of delegations in regions with major migration routes, and strengthening the Frontex (frontex.europa.eu) role in operations regarding returns (communication_on_the_european_agenda_on_migration_en.pdf).

The second area was related to *Border management – saving lives and securing external borders*. The EU announced closer cooperation with partners outside Europe (North African countries) to address the root causes of irregular migration, protect refugees and migrants, and support host communities. The EU decided to strengthen its external borders, plan the creation of the European border guard system and strengthen the role of Frontex.

Another priority entitled *Europe's duty to protect – a strong common asylum policy* resulted from the fact that in 2014, applications for asylum were submitted by 626 715 people, which was an increase of 45% compared to 2013. The EU proposed a new mechanism to monitor a common asylum policy to fight against abuses of the asylum system. Member states were to be responsible for applying the Dublin system (asylumineurope.org). They had also to implement fully the rules of taking migrants' fingerprints at the borders in full respect of fundamental rights.

The fourth priority area of *A new policy on legal migration* concerned the review of the Blue Card directives, the creation of a special platform for cooperation with the member states, enterprises and trade unions in relation to economic migration, faster and safer transfers of funds (summary_european_agenda_on_migration_pl.pdf).

As for more specific actions, regarding actions against criminal groups smuggling migrants, the EC called for action against criminals who use vulnerable migrants by systematically identifying, intercepting and destroying smugglers' ships according with international law. The EU ensured that greater efforts were made to acquire and use information to identify and locate smugglers. The MARE operational team (JOT MARE) was to be strengthened by Europol (europol.europa.eu) in the fight against migrant smuggling. Frontex and Europol were also to develop ship profiles that could be used by smugglers[4].

Another problem contained in the *European Agenda on Migration* was a relocation related to a large number of people arriving in the EU territory. Member states' asylum systems faced an unprecedented influx of people into their territory. To remedy the situation in the Mediterranean, the EC proposed to launch an emer-

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[4] The Joint Operational Team (JOT) Mare was launched on the 17th of March 2015. It is an intelligence-led, European response to the development of organized criminal groups facilitating the transport of irregular migrants across the Mediterranean, hosted at Europol headquarters in Hague. The exploitation of migrants by criminal groups is one of the reasons why there has been a growing number of fragile boats coming to the EU and, consequently, more accidents and deaths – newslettereuropean.eu

gency response system in accordance with Art. 78 section 3 TEU. It was proposed that the host member state would be responsible for examining migrants' applications according to the established principles and guarantees. The redistribution key was to be based on criteria such as GDP, population, unemployment rate and the number of asylum seekers and refugees in the past. Such a solution was to be temporary, preceding a permanent system of responsibility for a large number of refugees and asylum seekers between member states. This system was to consider actions already taken by member states on a voluntary basis (communication_on_the_european_agenda_on_migration_en.pdf).

Another issue discussed in the Agenda on migration was a problem of resettlement. In addition to the relocation of migrants who were on the territory of the EU, member states were obliged to help refugees in need of international protection. The EC was to submit recommendations for a resettlement programme in the EU for 20 000 people a year by 2029. An additional 50 million euro was to be allocated from the EU budget to support the programme in 2015–2016. The EC also called on member states to create further resettlement sites under their national programmes and to use funds available under the Asylum, Migration and Integration Fund (communication_on_the_european_agenda_on_migration_en.pdf).

Another important issue was the cooperation with third countries to control migration in the countries of origin and transit. The cooperation between the EC, the European External Action Service (EEAS) and partner countries was recommended to develop measures to prevent risky travels. It was proposed to create, or deepen, regional development programmes in North Africa and the Horn of Africa, and to expand the existing programme in the Middle East. 30 million euros were allocated for this purpose in 2015–2016. By the end of 2015, it was planned to create a multifunctional pilot center in Niger, which, in cooperation with the International Organization for Migration (IOM), the United Nations High Commissioner for Refugees and Niger authorities, was to combine the task of providing people in need of information, local protection and resettlement opportunities. The EU proposed also its assistance to strengthen the

border management in Niger and Mali. The 2015 Agenda mentioned a conference to be organized in Malta, dedicated to the fight against irregular migration involving third countries, including the African Union. In addition, the EC sought to resolve the crisis in Syria and supported these actions with 3,6 billion euros for humanitarian, stabilization and development assistance in Syria and for Syrian refugees in Lebanon, Jordan, Turkey and Iraq. These were just some of the most urgent political problems that were thought to have a profound impact on migration to the EU in the coming months of 2015 and 2016 (https://ec.europa.eu/neighbourhood-enlargement/ neighbourhood/countries/syria_en).

In the 2015 Agenda, the EC pointed to the effective use of the EU tools to help member states on the frontlines of the influx of migrants. The Agenda presented a new *Hotspot* approach, in which the European Asylum Support Office (EASO), Frontex and Europol would work in the field with frontline member states to quickly identify and register arriving migrants. Asylum seekers were to be immediately referred to the asylum procedure and the EASO support teams would assist in dealing with cases as quickly as possible. Frontex was to assist the member states by coordinating the return of irregular migrants. Europol and Eurojust were to assist host member states in investigations to break up smuggling and trafficking networks. The EC was to allocate an additional 60 million euros to the emergency fund to support the reception system and provide healthcare for migrants in member states under particular pressure (easo.europa.eu).

Progress in the Implementation of the *European Agenda on Migration*

When it comes to solidarity with and support for the member states, the EU planned a closer cooperation with them. Thus, the EU agencies posted around 2 300 employees to work on the territory of member states to manage migration in the best way, strengthen external borders, save migrants' lives, reduce the number of irregu-

lar migrants and ensure that they could return to their homeland. The most important achievements in this area include the development and implementation of coordination processes and operational structures that can also be used in the future (https://ec.europa.eu/ commission/presscorner/detail/pl/IP_19_6075).

In another priority area – a closer cooperation with partner countries – the EU announced a closer cooperation with partners outside Europe to eliminate the most important causes of irregular migration, protect refugees and migrants, and support host communities. The EC allocated 9,7 billion euros for this purpose. The money is channeled primarily through the EU Trust Fund for Africa, the Regional Trust Fund in Response to the Crisis in Syria, and the Refugee Facility in Turkey (https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20191016_onepager.pdf). It also improved its cooperation with partner countries in the field of return by signing the agreements regarding return and readmission with 23 countries (https://ec.europa.eu/neighbourhood-enlargement/sites/ near/files/20191016_onepager.pdf).

As for asylum issues, the 2015 crisis highlighted the need to reform the Common European Asylum System. The EC made all necessary legislative proposals to create a comprehensive and sustainable EU framework in the field of migration and asylum. Progress has been made on five of the seven proposals submitted, but reform is still ongoing and a common approach is needed to ensure a fair, more effective and sustainable asylum system.

As for safe and legal migration, over the past five years, member states made the largest joint effort and resettled nearly 63 000 people. What is more, confirming their commitment and determination to ensure the continuity of EU action in this area in the future, member states declared to resettle about 30 000 people by 2020.

As for the need for further work and immediate action in key areas, the overall migration situation on all migration routes returned to pre-crisis levels, and the number of people arriving in the EU in September 2019 was around 90% lower than in September 2015. However, the situation remains unstable and geopolitical changes resulted in new challenges for the EU. Further efforts are needed

to address the most urgent key challenges and to make progress on on-going work. The EC pointed to urgent measures to improve the situation in the Eastern Mediterranean. In the last few months of 2019, Greece adopted a new strategy for the reception of migrants and new measures on asylum.

The findings of the EU-Turkey statement continue to produce tangible results. However, the reason for concern are renewed migratory pressure in Turkey and the unstable situation in that region. That is why urgent actions are needed to improve reception conditions, increase the number of transfers from the islands to mainland Greece and the number of returns. The EC is also increasing aid to Cyprus, which is facing an increasing number of migrants (https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-financial-assistance/which-eu-countries-have-received-assistance/financial-assistance-cyprus_en).

The EC noted that despite search and rescue operations, fatal accidents still occurred at sea and *ad hoc* relocation solutions, which were coordinated by the EC, did not provide a long-term solution. The EC maintained its commitment to cooperate with the member states and to assist them in agreeing on temporary arrangements to bring migrants ashore following the search and rescue operations in the Mediterranean. The EC also encouraged those member states that were not involved in such activities to join them. These findings could serve as an inspiration to address the issue of migration flows in other parts of the Mediterranean. There is still an unsolved problem with the trail south of the Iberian Peninsula. This is the path of irregular migrants from fragile Sub-Saharan African countries who are storming the fortified Spanish cities of Ceuta and Melilla. For example, Senegalese people are trying to cross the EU borders in the Canary Islands. In 2019, 1,2 thousand people came there. The Greek Islands (Lesbos, Kos, Chios) are another destination for irregular migrants. At the end of 2019, the new center-right Greek government intended to send 10,000 refugees to Turkey. (https://ec.europa.eu/commission/presscorner/detail/pl/IP_19_6075).

The situation in Libya is a serious concern. Following the outbreak of a conflict in Tripoli and the surrounding area in April 2019,

the intensified efforts of the Tripartite Task Force of the AU, the EU and the UN should be continued to help free migrants from detention centers, facilitate voluntary returns (so far 49 000 returns have been organized) and evacuate the most vulnerable people (over 4 000 were already evacuated). The EU states must urgently increase the resettlement rate in Niger under the crisis transit mechanism with the UNHCR Office and support the newly created crisis transit mechanism in Rwanda (https://ec.europa.eu/commission/press-corner/detail/pl/IP_19_6075).

Uncontrolled migration flows revealed weaknesses in the management system of the EU external borders. The operational support under the Hotspot system is a key element of the EU assistance to its member states. It includes identifying and registering the arrival of all asylum seekers, as well as ensuring the appropriate conditions and reception capacities of them. Although the taking of fingerprints from migrants is progressing, and according to the EC data is already taking place in almost 100% of cases, the admission conditions remain a serious problem. In 2017 and 2018, the number of detected cases of irregular crossings of the EU external borders dropped significantly, mainly on the migration routes of the Eastern and Central Mediterranean, but overall pressure on Europe's external borders remains relatively high. In addition, travelling to the EU can be extremely dangerous, and smugglers often expose migrants to life-threatening risks. Prevention of fatalities, especially in the Mediterranean, requires search and rescue, as well as combating trafficking and smuggling networks. It should be mentioned that in the years 2014–2019 over 19,000 irregular migrants drowned in the Mediterranean Sea (https://ec.europa.eu/commission/presscorner/detail/pl/IP_19_6075).

Unfortunately, despite many efforts to address the issue of irregular migration and the allocation of large financial resources for this purpose, the EU is still facing enormous problems, mainly in the area of illegal border crossing. All of Europe witnessed the great tragedy that took place on October 23, 2019 in Grays, Essex, east of London. That day, a refrigerated truck was found with bodies of 39 people who died of suffocation. They were irregular migrants from

China and Vietnam who wanted to cross the UK border. And the next day, on October 24, the European Parliament rejected a plan to intensify the search and rescue of refugees in the Mediterranean. Therefore, contrary to the assumptions of the Agenda on Migration, the UE limits search and rescue operations.

Conclusion

Migration is one of the fundamental issues of macroeconomic policy on a global scale. According to the United Nations Development Program (UNDP), under the zero migration scenario, until 2025, in developed countries the number of people of working age will continue to increase only in New Zealand and Ireland, while in all other countries there will be a significant decline. The way to manage the decline or stagnation of population growth is, among other things, to open legal migration channels, which requires a global solution. There is also an urgent need to replace irregular migration flows, which caused a lot of suffering and extreme human rights violations, by legal migration channels. As Jean-Claude Juncker, the former President of the European Commission, said in his 2017 State of the EU message, *irregular migration will only be stopped if there is a real alternative to dangerous travel*. That is why migration has been a priority policy for many years. The Eurobarometrer survey published in May 2018 showed that 72% of Europeans want the EU to be more active on migration (https://www.europarl.europa.eu/at-your-service/pl/be-heard/eurobarometer/eurobarometer-2018-democracy-on-the-move). The June 2019 survey showed that migration was the fifth most important issue that influenced Europeans' election decisions in the May European Parliament elections – 34% of EU citizens voted with migration as a major EU problem. The most important issues were: the economy, climate change, human rights and democracy, and the future of the EU (Post-election survey 2019 – First results – https://www.europarl.europa.eu/at-your-service/pl/be-heard/eurobarometer/post-election-survey-2019-first-results).

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„Europejski program w zakresie migracji" – założenia i realizacja

Streszczenie: W połowie października 2019 roku Komisja Europejska przedstawiła sprawozdanie dotyczące realizacji działań w ramach „Europejskiego programu w zakresie migracji" z 2015 r. i wskazała na obszary wymagające dalszych działań związanych głównie z nielegalną migracją, przemytem migrantów i handlem ludźmi. KE podkreśliła, że Unia Europejska będzie w stanie skutecznie i humanitarnie walczyć z tymi problemami tylko wtedy, jeśli wszystkie państwa członkowskie wspólnie wezmą udział w tej walce. Nielegalna migracja stała się jednym z najważniejszych problemów UE już w latach 90. XX w., a wzrastająca liczba nielegalnych migrantów zwiększyła poczucie, że pojedyncze państwo nie jest w stanie kontrolować osób przybywających na jego terytorium (Boswell, 2003, ss. 618–620). Europejczycy przerazili się skalą migracji. Zaczęły narastać konflikty i antagonizmy między ludnością miejscową i szybko rosnącą liczbą migrantów. Celem artykułu jest analiza dotychczasowej realizacji postanowień „Europejskiego programu z zakresu migracji" z 2015 roku.

Słowa kluczowe: polityka migracyjna, polityka azylowa, nielegalna migracja, przemyt migrantów, Unia Europejska