

The Macrotheme Review

A multidisciplinary journal of global macro trends

THE IMPACT OF EUROPEAN UNION ON IMMIGRATION DISCIPLINE IN ALBANIA

Ervis Mocka*

*Ismail Qemali Vlora University**

ervismocka@gmail.com

Abstract

There are more than twenty years that EU countries are working to harmonize their policies on immigration and asylum. Based on the European Pact on Immigration and Asylum (2008), the EU should develop a policy on global and flexible immigration. It should also strengthen dialogue and partnership with third countries, in particular through further development of the global approach to the discipline of immigration, which provides the conclusion, at the community level or bilateral agreements with countries of origin and transit. Albania is currently a potential candidate country, after signing the Stabilization and Association Agreement with the European Community. This Agreement, besides the obligation for an approach with Community legislation, provides in articles 80 and 81 a collaboration obligation for the parties in border management, asylum, migration and visas. Inter alia the collaboration provides technical and administrative assistance in drafting legislation. This paper analyzes the evolution of the establishment of immigration policy in Albania. This paper, through analyzing the evolution of the discipline of immigration in Albania, aims to highlight the influence of EU legislation in the discipline of immigration, in the perspective of Albania's EU integration.

Keywords: Free movement of persons, Migration in the EU, Schengen agreement, No border area, Migration in Albania

1. Introduction

1.1 *Development of the immigration law in the European Union I*

The European Union today represents a major crossroads of migratory flows. In 2011 was estimated that in the EU territory lived about 20 million people of other nations who make up 4% of the total population of the (CE, 2013). Immigration offers advantages not only for those who emigrate to the EU, but also for communities that expect, but can have positive effects for countries of origin and taken into account that immigrants send to their homes a part of the financial incomes and transfer their acquired knowledge. One of the biggest problems is that immigration may be unlawful. In a Union with 28 members, who have eliminated internal borders and may be circulated freely, immigration cannot be administered from a single location,

but it is necessary that all Member States to cooperate. To integrate and harmonize national immigration policies, the European Union is developing a common normative framework; it should be recalled that development cooperation has taken only last 20 years.

Legal regulation of immigration discipline, that is to say the entry, residence and expulsion of citizens of third countries belonging to the internal jurisdiction of the Member States and therefore was subject to exclusive state sovereignty. Even at the community level, lacked provisions that could favour a minimum harmonization of the laws and policies of the Member States in the area of immigration.

European Community Founding treaties, did not foresee any legal provision, about immigration disciplinarian, the free movement of persons the objective foreseen by article 3, was interpreted as limited only to persons who possess the citizenship of one of the Member States, despite that the article, using the term "people", without any reference for citizenship (LANG. A, 2003, p. 698)¹. Until the Treaty of Maastricht, was excluded a real competence Community in the field of migration, this latest was included in the field of public order and safety, i.e. the "internal jurisdiction (B.Nascimbene, 1995).

A fundamental role in the definition of a Community competence although limited in the migration sector has played Court of Justice. In particular, the decision of July, 9, 1987, the Court dismissed the claims, of the complainant states that refuse any kind of intervention by the Commission in a sector which belonged to non-EU citizens, and for the public safety problems should remain an exclusive competence of the state.

The Court decided that the entire policy migratory sector, enter into public safety ", and ruled that the Commission's action regarding the coordination of migration policies in relation to non-EU nationals was legal because they influence on the community employment market. Also, was the decision of the Court of Justice in the "Demirel" case that recognizes the right of free movement in the territory of the Community for citizens of third countries, a right that is conditional on the existence of cooperation agreements with non-member countries of a family relationship, or work with a beneficiary of Communitarian law. However, despite the efforts of the Commission Member States prefer to use the forms of intergovernmental cooperation which on the one hand they allow to be realized even partially set goals, on the other hand have ruled out the possibility to find solutions through Treaty.

The most important result achieved in such a context is the "Schengen Agreement" on the gradual abolition of common border controls to 14 June 1985 and the Convention of the Application, 19 June 1990². The objective of these agreements is the realization of the free movement of persons inside the Schengen area formed by the territories of the signatory countries. Application of the Schengen Convention of 1990, in Sections 3-8 provides provisions regarding border crossing, while 28-30, dealing with powers to handle requests for the asylum.

¹ The Treaty of Rome in 1957, in art. 3, in letter c provided "*the abolition, as between Member States, of obstacles to freedom of movement for persons, services and capital*;

² The agreement entered applicable on 26 June 1997, although it was planned for 1 January 1993.

In particular Article 5 provides that, for the permit no longer than 3 months (residence permits with greater duration remain a national competence), entry into the Schengen area may be issued to a foreigner equipped with valid documents for border crossing, a visa and sufficient resources to extend the stay and for the return trip to the country of origin.

The "Entry" is refused to a foreigner who does not meet all the conditions, only if one of the parties' signatory decides to allow for humanitarian reasons or for international obligations. Schengen space has achieved a positive result, from the moment that has enabled the implementation of the first European politics of migration, although outside the community order.

On February 7, 1992, is approved in the Maastricht Treaty on European Union (EUT), which came into force on 1 November 1993. Such a legal instrument allowing forms coordination of cooperation in the field of migration in a single institutional framework, ensuring an alternative of system defined by the Schengen Agreement.

Article K.1 of the European Union Treaty, listed as a "matter of common interest" among others and asylum policy, norms on the passage of external borders and immigration policy, and policies that must be followed to the citizens of third States, namely the conditions of entry movement and residence of citizens of third States. It is always a form of intergovernmental cooperation but being developed under the Community.

With the Treaty of Maastricht will be communalisations only visa policy, through Section 100C. Section 100C gives the EU Council the power to determine on a proposal from the Commission and after consulting the European Parliament, non-member states whose citizens must be in possession of a visa, for crossing exterior Community borders. On the basis of Article 100C in 1995 the Council adopted two regulations: Regulation no.1683/95³ that creates a uniform model for visas, in order that they are suitable for use in all EU countries, and to provide security element, universally known and, Regulation no. 2317/95⁴ that defines citizens of non-member countries must be in possession of a visa to cross borders.

With the entry into force of the Treaty of Amsterdam on 1 May 1999, the scenario changes completely. Measures relating to immigration namely entry, stay and departure of citizens of third States included in Title IV, entitled "Visas, asylum, immigration and policies concerning the free movement of persons" and transferred in this way from third "pillars" to the first, thus entering into community competence.

³ Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas, *Official Journal L 164*, 14/07/1995 P. 0001 - 0004, modified by Council Regulation (EC) No 334/2002 of 18 February 2002 amending Regulation (EC) No 1683/95 laying down a uniform format for visas, later Council Regulation (EC) No 1791/2006 of 20 November 2006, Council Regulation (EC) No 856/2008 of 24 July 2008 amending Regulation (EC) No 1683/95 laying down a uniform format for visas as regards the numbering of visas in *Official Journal L 235*, 02/09/2008 P. 0001 - 0004.

⁴ Council Regulation (EC) No 2317/95 of 25 September 1995 determining the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States in *Official Journal L 234*, 03/10/1995 P. 0001 - 000.

Measures under Title IV placed in the context of the implementation of a more general purpose, such as the realization of a "space of freedom, security and justice". In order to achieve this objective Article 61 European Community Treaty (ECT) Council recognizes the power to adopt: 1) "Measures Aimed at ensuring the free movement of persons in ACCORDANC with Article 14", 2) "Measures with respect to external border controls, asylum and immigration, in ACCORDANC with the Provisions of Article 62.2 and Article 63.1 and 2 a) and 2 a).

In terms of art.62, the Community assigns three powers: 1) competence in the removal of internal borders controls; 2) regarding competence over external borders of the Community, that provides for the adoption of rules in the field of relative visa to the residence permission under three months "and finally, 3) a competency in circulation in the community of citizens of third States for a period not exceeding three months.

Terms of article 63, section 3, define community competence in the discipline of immigration, and particularly in the following sectors: a) Conditions of entry and residence, and Standards on the procedure for the issue by Member States of long-term Visas and residence permits, including those for the purpose of family reunion, b) illegal immigration and illegal residence, including repatriation of illegal Residents. Points 1) and 2) of article 63 give Community the competence in the discipline of asylum and refugees. The Amsterdam Treaty also sets integrate through an *ad hoc* protocol attached to the Treaty, the *Schengen acquis* in European Union law.

With the Lisbon Treaty, changes the structure on "pillars", which was based in the European Union from the moment of his own creation and decisions on immigration policy already adopted with the ordinary legislative procedure. In the ranking of the objectives of the European Union, as defined in Articles 3 "*Common Market*" gives way to the "space of freedom, security and justice".

For the realization of this space, the Union provided the necessary powers. Pursuant to Article 67, 2, European Union, ensures that there are no checks at internal borders and develop a common policy in the field of asylum, immigration and external borders control, and it should be carried through the measures envisaged from Article 77. Treaty on the Functioning of the European Union (TFEU): a) the common policy on visas and other short-stay residence permits; b) the checks to which persons crossing external borders are subject; c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period; d) any measure necessary for the gradual establishment of an integrated management system for external borders; e) the absence of any controls on persons, whatever their nationality, when crossing internal borders. EU powers granted by the Treaty achieved through the adoption of binding normative acts, which under the provisions of Art. 68 TFEU must be kept within the strategic orientation of legislative programming set from the European Council who earlier in Tampere (1999), and later the Aja (2004) has adopted programs which define the priorities of the EU over the space of freedom security and justice for the period 2010-2014.

The Stockholm programme⁵ provides a further development of EU policy on integrated border management and visa, in order to make more efficient legal access in Europe for non-EU citizens, coupled with the strengthening of border controls and visa policy development.

2. The implementation phase

On the basis of the European Pact on Immigration and Asylum of 2008⁶, The European Union should develop a global and flexible migration policy. It should also strengthen dialogue and partnership with third countries (of origin and transit), in particular through further development of global access in the discipline of immigration that provides completion at the community or bilateral level agreements with countries of origin and transit, which contain elements about legal and illegal immigration, readmission and development of these countries. The Action plan⁷ which provides a roadmap for implementation of political priorities set out in Stockholm Programme for the period 2010 - 2014 provides a further development of the global approach to the Union, on immigration, to increase cooperation with non-EU countries, as one of the actions that the Commission should apply for the implementation of immigration policies. Immigration policy in the current phase is implemented on a global dimension within a context of partnership and cooperation with third countries.

3. The development of immigration discipline in Albanian legislation

During the communist period, Albania was an isolated place, where it was almost impossible to escape or enter the country. After 90 years, Albania will return to a country of emigration (ie country of origin). For this reason and policies will be more oriented to an immigration regulation and protecting the interests of Albanian citizens living abroad. In relation to foreign citizens Constitutional Law of 1991 after the 1998 democratic constitution, establish general principles, so that the fundamental rights and freedoms provided in the Constitution, shall be recognized foreign citizen, at the same value as for Albanian citizen (Article 16), thereby removing any discriminatory principle. It was sanctioned equality before the law and the prohibition of any kind of discrimination due of race or ethnicity.

In the Constitution of 1998, will be sanctioned and two principles that will serve as the basis for legislation on immigration and asylum, as are the prohibition of collective expulsion, and deportation of foreign individual, who will be allowed only in conditions prescribed by law (Article 39), and that foreigners have the right to asylum in Albania (Article 40). The immigration found adjustment by law no. 7939, 1995 "On Migration" that summed up in a single text provisions to regulate emigration, immigration, asylum and refugees.

The objective of the law was to regulate the entry of persons in the Republic of Albania, and their exit from it, as well as regulate the issuance of visas, residence permits and work, provision of shelter; conditions and procedures for admission and deportation of immigrants (Article 1).

⁵The Stockholm programme – Un'Europa aperta e sicura al servizio e a tutela dei cittadini [Gazzetta ufficiale C 115 del 4.5.2010].

⁶ Council of the European Union, *European Pact on Migration and Asylum*, Brussels, 24 September 2008.

⁷ Comunicazione della Commissione al Parlamento europeo, al Consiglio, al Comitato economico e sociale europeo e al Comitato delle regioni del 20 aprile 2010 - Creare uno spazio di libertà, sicurezza e giustizia per i cittadini europei - Piano d'azione per l'attuazione del programma di Stoccolma [[COM\(2010\) 171](#) definitivo]

Subject of the law were Albanian citizen and "foreign". Under Article 3, the law must respect the general principles of international acts. Law 1995 in Section 5 provide definitions of terms: the migration understood simultaneously two terms: emigration and immigration. The term immigration, meant entry and exit of foreign citizens in Albania. "Foreigner" means any person who is not an Albanian citizen.

The Law, gives meaning of the terms "visa", "travel documents", "residence", "work permit", "self-employment permit" etc. To be noticed that a residence permit meant a foreigner granted authorization to stay in the territory of Albania, but did not give permission for employment. Authorization to work was granted by the Ministry of Labour, Immigration, Social Security, issuing employment permits. Entry and residence in Albania were disciplined in Chapter III, Articles 9-23. Articles from 9 to 12 determine how to enter the territory of Albania conditioning the right with possession of a visa, and determine the conditions which must be met for such a device. It is noted that the provisions leave a margin discretionary personally to Interior Minister, who may decide to prohibit the entry of foreigners, when he thought that the visa was obtained by fraud, or thought that could threaten the public order and security. Against decisions of the Minister, the foreigner could be appealed in court. Minister in turn recognized the right to accept an foreigner who does not meet the conditions provided from law, when he judged that this acceptance was in the interest of Albania (Article 23).

Then coming provisions regulate, residence permits and conditions that must be met to be equipped with one. In terms of time duration of residence permits permissions were divided in three months, and in one year, renewable. It is noted that there was not a kind of anticipated long-term residence permit, but the foreign national must demonstrate annually that meet the conditions laid down in law for position. Regarding the type of residence permit, except that permits for employment were issued residence permit issued for study, for foreigners who invest in the country, for family reunification, asylum seekers and refugees. Article 29, provided that the violations of the provisions of law, constitute an administrative offense, and punished with a fine. Article 33 stipulates that the expulsion from Albanian territory, could be done only on the basis of decisions made in accordance with the law, the foreigner recognized the right of appeal against expulsion, except when expulsion was necessary for reasons of public order or national security.

Law of 1995, is credited for the first time, regulates the regime of foreigners in the territory of Albania. This law based on important principles international conventions but not observed the impact of Community law on this because: i) immigration, was still an unknown phenomenon in Albania ii) EU-Albania relations were in first steps iii) political self EU immigration was in its infancy recalling that harmonization was still limited only in the sector of uniform visa and in determining the states whose citizens, did not need a visa to enter the territory of the Community for a period not to exceed three months.

Discipline of foreigners as conditions of admission expulsion and stay for a period that exceeds three months the questions remain the competence of member states. Community competence in the field of immigration would only come out by the Amsterdam Treaty in 1999.

After the adoption of the Constitution of 1998, and due to developments migration phenomenon, the 1995 law was repealed and divided discipline was conceived, where regulated by special

laws: emigration⁸, asylum and foreigners⁹. The immigration will be regulated from law "On Foreigners" of 1999, and from normative acts in accordance with it, such as the Council of Ministers Decision no. 439/2000, "the entry, stay and treatment of foreigners in the Republic of Albania"¹⁰ and Decision of the Council of Ministers for issuing work permits to foreigners nr.262/2002.

4. The approximation of legislation in the process of integration

European Union, at the Zagreb Summit of November 2000, launched the Stabilisation and Association Process for five countries of Southeast Europe, including Albania. Negotiations with Albania, for signing the Stabilisation Association Agreement, were officially opened in 2003. At the summit of Thessaloniki in June 2003 the EU officially confirmed the prospect of EU membership for all countries participating in the Stabilisation and Association.

A key element of this process is the Stabilisation and Association Agreement, which was signed on June 12, 2006. Entry into force of this Agreement on April 1, 2009, marks new more advanced stage Albania's relations with the EU conceived as a contractual relationship with reciprocal rights and obligations between the parties.

This Agreement supersedes the temporary agreement which was in force for the parties since December 2006, and aims a gradual approach to political, economic and social future of Albania to the EU. On 28 April 2009 Albania submitted to the Council of EU membership application.

The process of integration sets clear obligations for states that have made the membership request. The approximation of legislation with the Community acquis is one of the conditions to be met by these countries and this obligation is expressly defined in Article 70¹¹ of Stabilization and Association Agreement between Albania and European Union. Article 80 and 81 of agreement determines an obligation of collaboration in the field of migration, respectively, article 80 determines "*The Parties shall cooperate in the areas of visa, border control, asylum and migration and shall setup a framework for cooperation,...* Cooperation shall be based on mutual consultations and close coordination between the Parties and shall include technical and administrative assistance for: the drafting of legislation; the security of travel documents and detection of false documents and the border management.

The collaboration should be focused in the field of asylum, in the field of legal migration, on admission rules and rights and status of the person admitted. In relation to migration, the Parties agree to the fair treatment of nationals of other countries who reside legally on their territories and to promote an integration policy aiming at making their rights and obligations comparable to those of their citizens.

⁸ Law no. 9034/2003 "On the immigration of Albanian citizens for employment purposes", Constitution of Republic of Albania

⁹ Law no.8942 date 27. 09.1999 "for foreigners"

¹⁰ Changed with the decision of 532/2001, 669/2001, 253/2002, 220/2003, 670/2004,146/2005.

¹¹ Article 70 ASA: "*The Parties recognize the importance of the approximation of Albania's existing legislation to that of the Community and of its effective implementation. Albania shall endeavor to ensure that its existing laws and future legislation shall be gradually made compatible with the Community acquis. Albania shall ensure that existing and future legislation shall be properly implemented and enforced*".

Article 81 determines a collaboration to prevent and control illegal immigration. *“To this end, the Parties agree that, upon request and without further formalities, Albania and the Member States:*

- shall readmit any of their nationals illegally present on their territories;

– shall readmit nationals of third countries and stateless persons illegally present on their territories and having entered the territory of Albania via or from a Member State, or having entered the territory of a Member State via or from Albania”.

Special procedures for the reacceptance of citizens, citizens of third countries and persons without citizen, are determined in the framework of agreement between European Community and Albania on the readmission of persons residing without authorization, signed on April 14, 2005¹². Albania accepts to finish the agreement for readmission with country of stabilization association process, and take responsibility to take all necessary measures to ensure the flexible and fast implementation for all agreements referred to in this article readmission. The Stabilisation and Association Council undertake other joint efforts that can be made to prevent and control illegal immigration, including trafficking networks and illegal migration.

Regarding the discipline of immigration law nr.8942 of 1999 and other normative acts in pursuance of his own present major deficiencies as noted in the Stabilisation and Association Report 2003 for Albania¹³. In this report the Commission has suggested possible harmonization of legislative changes, institutional strengthening, in particular, through a clear definition of main institutions roles and appropriate training regarding migration issues.

As deficiency of Albanian legislation we can mention: i) as regards the list of documents required Albanian legislation does not contain a complete list of acceptable documents to travel in a special legal act. Information on the subject is distributed in various acts also does not define specifically that travel documents and ensure the return of the foreigner an element required by the acquis. ii) About visas Albanian list of countries whose citizens do not need a visa, did not comply with the EU list. Albanian visa types are not similar with those of the Schengen¹⁴. Albanian transit visa may be with multiple entries, while the acquis, allows this only in special cases, short-term visa is not provided, such as visas and airport transit is not provided at all. Visa at the border, has been designated as a special category visa, while the acquis, visas issued at the border, do not constitute a specific category, but a transit visa or short-term visas, which are given in the limit in special circumstances.

¹² Agreement between the European Community and the Republic of Albania on the readmission of persons residing without authorization in *Official Journal L 124, 17.5.2005, p. 22–40*

¹³ Commission of the European Communities, *“Report from the Commission - The Stabilisation and Association process for South East Europe - Second Annual Report.”* COM/2003/0139 final, Brussels, 2003.

¹⁴ For Schengen visa types see Article 11 and 18 of the Schengen Convention and Section I, Paragraph 2 and Section VI, paragraph 1 (7) of the Common Consular Instructions. Article 18 of the Albanian Law "for Foreigners", determines that simple visas, divided into the following categories: tourist visas, study visas, work visas, visas for medical treatment, transit visas to 48 hours and visas with a term up in 72 hours given to foreigners undergo preliminary application for a visa but due to objective reasons they presented at Border Crossing Points.

Nr.8942 Law for Foreigners determines ninety days from the date of first entry the total period of stay allowed for the foreigner who enters the territory with a visa, but did not specify who should be ninety days within any half-year from the date of first entry. Some of the reasons for refusal of visa referred to in Article 5 of the Law on Foreigners are vague and do not comply with the *acquis*.

Albanian legislation does not specify all the reasons and procedure for cancellation of visa. iii) Regarding the reasons for the refusal of entry into Albanian territory article 5 of the Law on Foreigners¹⁵ at some point is not in line with the *acquis* as they cannot be considered indicator of a threat to public safety health or foreign relations as these terms are interpreted by the *acquis* legislation and practices of Member States¹⁶. In terms of acceptance in the territory of Albania, Article 25 of the Law on Foreigners determines that a work permit may be granted to natural persons and legal entities. This contrasts with the *acquis* for admission to employment which applies only to natural persons. Juridical regime in the EU is not part of immigration policy but is regulated by Articles 43-48 treaty of the European Community.

As it noted the Albanian law nr.8942 in 1999 did not comply with the Community *acquis* not only in the aforementioned cases but present deficiencies in all discipline areas (visa, entry, exit, acceptance, and attitude of foreign citizens)¹⁷.

In an effort to aligning the legislation with European and international standards, and the implementation of Migration Strategy and its Action Plan (approved in 2005), is designed New Law on Foreigners on July 17, 2008¹⁸ that would invalidate the law of 1999 and all existing bylaws and will bring a new normative basis for foreigners. Law no. 9959 divided into 11 chapters has 153 articles and has as its object the regulation of entry, residence, employment regimes, and treatment and exit of foreigners in the Republic of Albania¹⁹. With the approval of the legal basis, Albania intends to fulfill required standards provided in the framework of the European Union *acquis*. Law no. 9959 respectively approximates Albanian legislation is in accordance with Council Directive 2005/71/KE²⁰, Council Directive 2004/82/KE²¹, Council Directive 2004/81/EC²², Council Directive 2004/114/EC²³, Council Directive 2003/109/EC²⁴,

¹⁵ Article 5 of Law for Foreign: "The request for entry visa and residence permit may be refused in cases of foreigners when they: 1. Are drug users; 2. Are chronic users of alcohol, (...) 3. Exercise or propagate prostitution or other acts which are contrary to public morality and punishable by law; 11. Have severe psychological problems and are accompanied by their guardians. "

¹⁶ Article 5 of Schengen Convention and Council of Directives 64/221/EEC e 25 February 1964.

¹⁷ For a full analysis of the gaps, see report prepared by independent consultants of the International Organization for Migration (IOM). "Analysis of the Albanian Legislation and Practice of Immigration compared with EU and those International standards " Tirana, January 1, 2004.

¹⁸ Law no. 9959, datë 17. 7. 2008 "Për të huajt" hyri në fuqi në 1 dhjetor 2008.

¹⁹ Article 1, of Law "For the foreigners"

²⁰ Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research. CELEX 32005L0071, Official Journal, L 289, 3.11.2005, p. 15–22.

²¹ Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data CELEX 32004L0082, Official Journal, L 261, 6.8.2004, p. 24–27.

²² Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities. Official Journal L 261 , 06/08/2004 P. 0019 - 0023

Council Directive 2003/86/KE²⁵, Council Directive t 2000/78/ EC²⁶ and Council Directive 96/71/ EC of European Parliament and the Council²⁷. The law came into force in December 2008 while in 2009 the EU acquis will be enriched with three Directives²⁸ and the Regulation of European Parliament and Council no. 810/2009²⁹.

For fully approximation of Albanian legislation with the aforementioned acts and other acts adopted after 2008 by the EU and by following the suggestions of Experts on the EU and international organizations as PAMECA and OIM on March 28, 2013, Albania adopts new law no. 108 "On foreigners". The new law repeals the law 9959 of 2008 and all acts that were contrary to it and brings a comprehensive approach to legislation with community acts and filling some deficiency or discordance that were from law no.9959.

Thus, for example, in relation to residence permit law no. 108, brings changes for the denominates kind of residence permits, residence permits forecast "blue card" for highly qualified employees, improving the provisions for issuing residence permits to victims of human trafficking, and trafficking but at work, for the issuance of residence permits for investors, for the issuance of residence permits for volunteer workers, youth exchanges, researchers etc, (Articles 33-70).

According to the employment of foreigners the law regulates access to the labour market for EU citizens to be employed without applying for permits and their treatment as well as Albanian citizens in terms of employment, conditions of employment, reward, study, vocational training³⁰. Facilitating the procedures associated with the criteria and procedures for documentation or renewal of work permits³¹. Law harmonized visa types and procedures for issuance, refusing or revocation of visas under the new code Schengen visa and visa issuance procedures at the border, but under this Code³². Provisions on refusal of entry, is fully approximated with EU standards. Guarantees for citizens of the EU or other countries, that in a given moment, without the need for intervention in the law, but based on reciprocity express in agreement or unilaterally

²³ Council Directive 2004/114/EC of 13 december 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service. CELEX 32004L0114, *Official Journal L 375*, 23.12.2004, p.12–18.

²⁴ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents CELEX 32003L0109, *Official Journal L16*, 23.1.2004, p. 44–53.

²⁵ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification CELEX 32003L0086, *Official Journal L. 251*, 03.10.2003p. 12–18.

²⁶ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. CELEX 32000L0078, *Official Journal, L 303*, 02.12.2000, p.16–22.

²⁷ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services. CELEX 31996L0071, *Official Journal L 018*, 21/01/1997 P. 0001 – 0006.

²⁸ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals²⁸.

²⁹ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), *Official Journal L. 243*, 15.9.2009, p. 1–58.

³⁰ Article 72 Law no. 108/2013 datë 28.3.2013

³¹ Article 76 Law no. 108/2013 datë 28.3.2013

³² Article 20-31 Law no. 108/2013 date 28.3.2013

expressed by the Council of Ministers, be guaranteed the opportunity to stay for citizens of these countries equal to Albanian citizens, ie without conditioning 90 to 180 days know³³.

Defines in a detailed way the types of residence permits, wherein for the first time provided a residence permit for highly skilled workers, as well as recognition of such residence permits in other countries, based on possible agreements. For the first time, determined the residence permits for volunteer workers, youth exchanges, researchers, etc.

Provisions on law about residence permits for family reunification provide the possibility of family reunification and to a foreigner who live and gives the opportunity to any foreigner who is registered as resident in Albania to seek family reunification (articles 47-59).

Also articles 6 of Law No. 108, performs a comprehensive approach to criteria for entrance and residence in the Republic of Albania, with those of the Schengen Code, and specify the criteria for specific categories, like sailors, pilots or railroad employees.

In the travel documents for foreigners for the first time is known the group passport (Article 15), according to EU standards. For the first time the bill establishes clear who would be considered illegal entry into the territory (Article 7) and that when a foreigner is considered to come out from the territory of Albania, and specifying cases when the foreigner will not be allowed to leave the territory of Albania³⁴.

5. Conclusions

Discipline of immigration in Albania has developed only 20-year-old recently. In the development of this discipline observed two periods: the first begins with the first law of 1995 and continuing until 2008. During this period Albanian immigration law has no impact from the European Union legislation this primarily to the fact that the Albanian legislator was concerned discipline Albania immigration being a massive emigration country and secondly the integration process was early stages. It should also recall that self discipline level harmonization of community was in its initial stages. The first norms of the immigration discipline just try to meet certain international standards on immigration and asylum.

The second period begins with the law of 2008, this phase marks the beginning of the harmonization of Albanian legislation in the discipline of immigration with *acquis* communitarian, and this came as an obligation of integration process that had begun and obligations arising from ASA.

To fulfil these obligations and owing to the development of the *acquis* of the European Union on March 28, 2013, Albania will approve a new law on immigration discipline. This law is perfectly compatible with the *acquis* of the European Union and makes Albania one of the countries with the most advanced legislation in immigration discipline.

³³ Article 39 Law no. 108/2013 date 28.3.2013

³⁴ Article 8 Law no. 108/2013 date 28.3.2013

References

B.Nascimbene. (1995). *Libertá di circolazione delle persone, diritti dei cittadini dell'Unione europea e dei Paesi terzi*, in *Da Schengen a Maastricht*, . Milano, : Milano, .

CE. (2013). *Le politiche dell'Unione europea. Migrazione e Asilo*. . Bruxelles, : Commissione Europea.

LANG. A. (2003, p. 698). *La politica comunitaria in materia di immigrazione*”, in *Diritto Pubblico Comparato ed Europeo*, . Milano: Milano.

Official Journal, Agreement between the European Community and the Republic of Albania “*On the readmission of persons residing without authorization*” L 124, 17.5.2005, p. 22–40

Article 1, of Law “*For the foreigners*”, Constitution of Albania

Article 20-31 Law no. 108/2013 date 28.3.2013

Article 39 Law no. 108/2013 date 28.3.2013

Article 5 i Konventës së Schengenit si dhe Direktiva e Këshillit 64/221/EEC e 25 Shkurtit 1964.

Article 76 Law no. 108/2013 datë 28.3.2013

Article 8 Law no. 108/2013 date 28.3.2013

Article 72 Law no. 108/2013 datë 28.3.2013

B.Nascimbene, *Libertá di circolazione delle persone, diritti dei cittadini dell'Unione europea e dei Paesi terzi*, in *Da Schengen a Maastricht*, Milano, 1995.

CELEX 32004L0082, Official Journal, L 261, 6.8.2004, p. 24–27.

Changed with the decision of 532/2001, 669/2001, 253/2002, 220/2003, 670/2004, 146/2005.

Commission of the European Communities, “*Report from the Commission - The Stabilization and Association process for South East Europe - Second Annual Report*.” COM/2003/0139 final, Brussels, 2003.

Comunicazione della Commissione al Parlamento europeo, al Consiglio, al Comitato economico e sociale europeo e al Comitato delle regioni del 20 aprile 2010 - Creare uno spazio di libertà, sicurezza e giustizia per i cittadini europei - Piano d'azione per l'attuazione del programma di Stoccolma [COM(2010) 171 definitivo

Council Directive 2000/78/EC of 27 November 2000 “*Establishing a general framework for equal treatment in employment and occupation*”. CELEX 32000L0078, Official Journal, L 303, 02.12.2000, p.16–22.

Council Directive 2003/109/EC of 25 November 2003 “*Concerning the status of third-country nationals who are long-term residents*” CELEX 32003L0109, Official Journal L16, 23.1.2004, p. 44–53.

Council Directive 2003/86/EC of 22 September 2003 “*On the right to family reunification*” CELEX 32003L0086, Official Journal L. 251, 03.10.2003p. 12–18.

Council Directive 2004/114/EC of 13 December 2004 “*on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service*”. CELEX 32004L0114, Official Journal L 375, 23.12.2004, p.12–18.

Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate

illegal immigration, who cooperate with the competent authorities. Official Journal L 261 , 06/08/2004 P. 0019 – 0023

Council Directive 2004/82/EC of 29 April 2004 “*On the obligation of carriers to communicate passenger data*”

Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research. CELEX 32005L0071, Official Journal, L 289, 3.11.2005, p. 15–22.

Council of the European Union, “*European Pact on Migration and Asylum*”, Brussels, 24 September 2008.

Council Regulation (EC) No 1683/95 of 29 May 1995 ,”Laying down a uniform format for visas”, Official Journal L 164 , 14/07/1995 P. 0001 - 0004, modified by Council Regulation (EC) No 334/2002 of 18 February 2002 amending Regulation (EC) No 1683/95 laying down a uniform format for visas, later Council Regulation (EC) No 1791/2006 of 20 November 2006, Council Regulation (EC) No 856/2008 of 24 July 2008 amending Regulation (EC) No 1683/95 laying down a uniform format for visas as regards the numbering of visas in Official Journal L 235 , 02/09/2008 P. 0001 - 0004.

Council Regulation (EC) No 2317/95 of 25 September 1995 determining the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States in Official Journal L 234 , 03/10/1995 P. 0001 – 000.

Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals”.

Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services. CELEX 31996L0071, Official Journal L 018 , 21/01/1997 P. 0001 – 0006.

International Organization for Migration (IOM). January 1, 2004. “*Analysis of the Albanian Legislation and Practice of Immigration compared with EU and those International standards*” Tirana, Albania, IOM

Law no. 9034/2003 “On the immigration of Albanian citizens for employment purposes”, Constitution of Republic of Albania

Law no.8942 date 27. 09.1999 “Pfor foreigners”

Law.no. 9959, datë 17. 7. 2008 “Për të huajt” hyri në fuqi në 1 dhjetor 2008.

Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), Official Journal L. 243, 15.9.2009, p. 1–58.

The 1957 Treaty of Rome in art. 3, letter c;

The agreement entered applicable on 26 June 1997, although it was planned for 1 January 1993.

The Stockholm programme – Un'Europa aperta e sicura al servizio e a tutela dei cittadini [Gazzetta ufficiale C 115 del 4.5.2010].