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Giuliana Laschi

Movement but with limitations – mobility in the process of European integration

Freedom, identity, citizenship and exclusion

Mobility in the process of European integration

During the process of European integration, mobility has taken on different meanings, roles and relevance, oscillating between positive and fully satisfactory characteristics and elements and negative opinions and judgements, all aspects that this chapter intends to consider and bring into focus. The main negative and positive aspects have often crossed or at times even overlapped; it is, therefore, necessary to re-establish dates and characteristics that will allow us to grasp in depth these issues and problems. The mobility of Europeans within the Community has experienced successful periods that have shaped identity processes. On the other hand, when faced with mobility from third countries, the EEC and then the EU increasingly strived to stem arrivals, conflicted between the need for labour and the cost of integration. In all European countries, even in those where solidarity prevailed for a long time, ever more restrictive rules were adopted in the 1980s, both at the national and European level. The inability of Member States and the EU to handle increasingly larger flows of people, especially during the war in Syria and the Arab Spring, fostered a general intolerance towards migrants, fomented by many political parties and movements and even by a growing number of European governments.

My thesis is that, as with many other Community policies, mobility developed in a complex but advantageous way for a few decades, namely until it was confined to Europeans of the Western bloc; however, it later became an increasingly divisive issue among Member States, which became ever more rigid toward third countries. Mobility rose mainly from the economic and demographic needs of the Member State affected by serious and persistent unemployment, i.e. Italy, but it later became a positive identifying element, especially following its full development thanks to Schengen and its inclusion in the treaties. At the same time, however, migration from third countries has overshadowed the positive aspects of mobility and a system of rules has been created that has substantially delegated some states (especially in the Mediterranean) to bear the burden of migration flows. Furthermore, mobility has become very divisive because it has created a first, rigid opposition between Europeans, following the great enlargement to Central and Eastern Europe, which has favoured a massive migration to Western Europe. The Member States and the European institutions have shown not only a serious inability to manage the phenomenon, but also deep divisions, leading to the emergence of differences that had seemed to be assimilated within the process of European integration. Mobility has been called into question and migration has been transformed from one of the fundamental freedoms of the EEC into a central element of the centrifugal thrust of the integration process, which marks the height of the political crisis of the continent, at national and European level.

The double objective of this chapter is to analyse the main stages and themes of mobility in the framework of the integration process and its centrality to the issues of European identity and citizenship up to the early 1990s, while also investigating the role played by Italy, often forgotten in European and international historiography, mainly due to linguistic reasons rather than for its lacking an important role in the definition of some policies, including mobility.

A diachronic reading of the development of mobility during the process of European integration makes it possible to analyse the junctions and the main changes that have taken place since 1957. In the 20 years following the Second World War, Europeans were still the main actors in internal migration within the continent. It involved people with a history of mobility, who for centuries emigrated to every part of the world and who, after the Second World War, limited their movements to within mainly European borders. Significant migration flows started primarily from the poorest countries in Europe, those with structural redundancies, but migrants often found an uncertain situation awaiting them, marked by legislation that did not pay much attention to the rights of migrant workers.

During the European upheaval of the 1950s, which gave rise to the continent's first process of political integration, mobility issues were given a prominent place, so much so that they were included in the 1957 Treaties of Rome as one of the four great freedoms of the European Economic Community. Indeed, the free movement of persons was necessary for the other freedoms and for the creation of a customs union that would move in the direction of ever greater economic and political integration, as provided for in the treaties. The freedom of movement was mainly designed for European workers but, from the very beginning of the integration process, it also extended to refugees: the Member States of the EU were also members of the Council of Europe and, as such, had signed the 1951 Refugee Convention. However, access to these rights was limited by a narrow definition of refugee, described in the Convention as the consequence of "events occurring before 1 January 1951." From the outset, then, such a definition wilfully restricted the origin of possible refugees to Central and Eastern Europe; they were generally European, white and anti-communist, all traits that contributed to fashion a friendly human image for the refugee. Moreover, in the 1950s, three quarters of all refugees were welcomed in Germany alone, removing any concerns by other Member States about the actual acceptance of the refugees.

In the 1970s and 1980s, the composition of migration waves to Europe slowly but gradually changed, from a very large majority of intra-European flows to an increasingly high immigration from non-European countries. The numbers were still low, but a structural change in migration flows was taking shape, due also to family reunification, which led to a progressive feminisation of emigration and a marked decline in the average age. In this same twenty-year period, concurrent with these profound changes, most migration policies of the Western countries were increasingly converging toward strict controls on primary immigration from non-EEC countries. Even those

countries that were experiencing a large emigration up to that moment, like Italy, introduced a regulation to contain immigration; this was partially due to a decrease in emigration and an increase in the definitive returns of Italians from abroad. Indeed, the oil crises of the 1970s caused a rapid deterioration in the European labour market and the Member States, concerned about rising unemployment, tried to prevent and stem further immigration. Nonetheless, many immigrant workers decided to settle permanently and applied for family reunification. Thus, what in the 1960s seemed to be a temporary, cheap and easily manageable labour force transformed in those years into ethnic communities of permanent residents. Migration gradually took hold in all Member States except Ireland.

The main developments in terms of migration policies took place in the mid-1980s with the ratification of the Single European Act and, more importantly, with the 1985 Schengen Agreement, which, in establishing the creation of an area without borders, also entailed controls on immigration from third countries. The new treaty provided for the establishment of the internal market by 31 December 1992, with an area in which people could move freely, i.e. without internal frontiers. New legislation was therefore needed to strengthen the external borders of the Community, through joint action that could also ensure its security. The Schengen Treaty and the Single European Act are therefore the two pillars underpinning the convergence of the Member States' migration policies and they mark a clear boundary between before and after in terms of EEC/EU action.

Freedom of movement at the heart of the European Community

Immediately after the Second World War and throughout the first decade of integration, the need to organise migration flows within the EEC was strongly debated and took up much of the work carried out for both the treaties and the Community's internal or bilateral organisation. For some Member States, the need to ensure freedom of movement of labour within the Community was one of the most important issues in the whole process of European integration. Italy, in particular, worked to persuade the other future members of the European Community to include the free movement of persons in the Treaties of Rome, targeting workers in particular. Much of the intense diplomatic work that Italy carried out within the process of European integration was in fact devoted to safeguarding and supporting the development of the free movement of Italian labour, especially agricultural labour, within the Community. As other Member States did for other issues and sectors, Italians tried to transfer the issue of unemployment from Italy to the Community,¹ Europeanising the problem, or at least trying to do so. Growing globalisation, the creation of many important international organisations as well as the beginning of greater cooperation in Europe meant that Italian governments began to look for markets for their surplus labour, through bilateral and then multilateral treaties. It was an effort to make Italian unemployment central to the need of organising migration flows, especially in Europe. On the other hand, while large intercontinental flows resumed immediately after the war, they decreased in the following ten years, as intra-European flows began

to grow. Not only did Italy and the European governments consider emigration to be the most suitable instrument for resolving the very serious unemployment that afflicted post-war Europe, but the major international organisations, such as the International Labour Organisation (ILO) and the European Organisation for Economic Cooperation (ECE), also pushed in the same direction. So, despite the scepticism and worries of the other members of the future Community, Italy managed to put emigration at the centre of the negotiations, transforming it into a European theme.

The Treaties of Rome and the principle contained therein of the free movement of persons, though still facing challenges and complications, produced a slow but inexorable opening of the Community's borders. Coinciding with the economic miracle period, such an opening generated large migratory flows, especially to Germany, which involved significant numbers of workers, who were more specialised than in the past.

The free movement of workers also created important problems, especially for the receiving countries, making its regulation a necessity. Thus, on 9 December 1957, a European Convention on Social Security for Migrant Workers was signed in Rome by the six ECSC² countries, which came into force in January 1958. The agreement was drawn up by a group of experts from various Member States' governments, on the initiative of the ECSC and in collaboration with the Bureau International du Travail. The Convention implemented important principles relating to citizenship, even if it considered only the working aspect of the citizen, since it established that migrant workers and their families could benefit from social security benefits regardless of the Member State of residence.³ In March 1958, the European Commission suggested to the Council that the Convention be transformed, by applying Article 51 of the Treaties of Rome,⁴ into a genuine regulation, according to which: "The Council, acting unanimously on a proposal from the Commission, shall, in the field of social security, adopt the measures necessary for the establishment of the freedom of movement for workers." After establishing one of the fundamental freedoms of the Treaties, it was, thus, necessary to specify and normalise it further for its effective implementation.

In the twenty years following the signing of the Treaties of Rome, several regulations and directives were adopted to implement the articles concerning free movement, equal treatment, freedom of establishment and mutual recognition of qualifications. In the very first year of the Community's existence, the Treaties' general principle was already turned into regulations that established equal rights for European workers, as was the case with the complex regulation on social security for migrant workers, which was established by the Council in August 1958. Many challenges and discordant visions soon emerged, primarily resulting from the fact that Member States included both countries that represented the preferred destinations for emigrants and countries from which, instead, large flows of unemployed people left in search of jobs. One of the unruliest countries was France, which wanted seasonal and cross-border⁵ workers to be excluded from the regulation, because it was interested in taking advantage, at limited cost and with little effort, of the considerable

availability of seasonal workers, especially Italians, who were essential for agricultural harvesting. However, the Council managed to win the day by including this group of workers in the regulation⁶ and by rejecting the French attempt to keep the whole issue of mobility⁷ on an intergovernmental footing. Thus, on 25 September 1958, the regulation “for the social security of migrant workers”⁸ was approved. The main clashes regarding the regulation involved France and Italy and not surprisingly so, since the Italian government had continued, after the signing of the Treaties of Rome, to insist on migration issues, countering the wilful delay, if not outright opposition, of the French.⁹

The first discrepancies immediately highlighted one of the main contradictions of mobility: while seeking out economic migrants, wealthier Member States also wanted to maintain their unstable working conditions, in order to obtain the greatest economic benefit, without paying the social costs of their inclusion.

The Community’s action on emigration issues at large was undertaken in its early years, with the approval of the 1961 Community Regulation during the Consultative Conference on Social Aspects of the Common Agricultural Policy, advocated by the European Commission. Indeed, without minimising the importance of the other fundamental freedoms of the Treaties of Rome, the Commission was persuaded that the free movement of persons should be given absolute priority, since it could decide the success or failure of the entire European economic structure.¹⁰ In an extremely positive, I would say even rosy, view of European integration, the free movement of persons would have enabled a more harmonious balance to be struck between the employment of labour and the objective of full employment.

The European Community Regulation of June 1961 and the related Directive of 18 June 1961 on the free movement of workers contained the very restrictive principles on which the Social Security Regulation had been drafted. The only enlargement envisaged, based on a proposal from the Commission and approved by the Council, was to include the family of the migrant worker and family reunification (not originally included in the treaty), since their non-inclusion would have been a real obstacle to the free movement of workers. Despite the reductive nature of the regulation and the directive, they did effectively implement the worker’s freedom of movement within the Community, even though allowing the Member States to make reservations to it. The equal treatment of Community workers was accompanied and often overlapped by the priority rule for the national market, which prevailed throughout the transitional period and was cancelled by a subsequent regulation in 1964. Yet, thanks to intense pressure within the Council, a clause was inserted even in the later regulation as advocated by the governments of labour receiving states.¹¹ The restrictions were then definitively lifted by the subsequent 1968 regulation, demonstrating the complexity of the process leading to the recognition of equal rights for Community workers.

In the matter of the free movement of workers, there continued to exist a structural weakness, because the freedom introduced was considerably limited by the various migration-control

instruments. Firstly, it depended on the actual job demand in the countries to which the migrant intended to go, and the worker's application had to be submitted for approval to the competent administration in the host country. If there were unemployed nationals in that sector, emigrants could not have direct access to the job, even if they had already done so in the past. The applicant also had to have both a work permit and a residence permit. Finally, emphasis was put on the need to proceed with a very gradual opening up of the free movement of workers.¹²

An analysis of the situation showed that the migratory movements within the Community were still of little relevance, especially when compared with the migratory flows affecting other continents. Many agricultural migrants in Germany did not come from the Community, but from Central and Eastern Europe; and most of the migrant workers, particularly agricultural workers, were seasonal because of the real difficulty in staying in the country of emigration as resident workers. Finally, given the decrease in the emigration of Belgian workers, the only country that maintained very high and potentially growing migration rates was Italy, often called the "labour reserve" of the European Community.¹³

The migration phenomenon was and is constantly changing, and over the 60-year-long European integration process the flows and origins have changed several times and it is easy to predict that they will continue to do so. In fact, at the end of the Second World War, eleven million refugees were present on the continent and soon new migrants began to arrive following the start of the decolonisation process. However, in the first two decades of the Communities' existence, the European component of the Member States' migration policy was essentially rather limited and differences in national legislation and conditions remained important. In parallel to the development of mobility based on the emigration of European workers within the Community, decolonisation produced its first migratory flows, which evidently affected Europe and gradually involved all Member States. Waves of people moving within Europe or coming from third countries called into question the rigid concept of borders. In countries and regions of immigration, the arrival of large numbers of migrants often produced reactive responses, a push towards closing borders, and a rigid defence of local identity, hence making the process of integration more complicated. The radical transformation of Europe from a land of emigration to a land of immigration naturally affected the development of migration issues in the process of European integration.

Europe became the point of arrival of different migrations, which began to overlap. In addition to the workers of the Member States, many people from the continent's dictatorships and authoritarian regimes began to arrive in the richest European countries: between the 1950s and 1970s at least 7.3 million people left Spain, Portugal, Greece and Yugoslavia. At the end of the 1950s, in the most important period of decolonisation, concurrently with migrants coming from southern Europe, migrations from non-European countries began to arrive on the continent, especially from the former colonies, which became more and more relevant in the following decades. These flows were governed

with the same instruments previously used for the Italians “on whom the inseparable link between employment contract and right of residence had been experimented for the first time, over time becoming the point of reference for European migration policies.”¹⁴ France, Great Britain and the Netherlands welcomed mainly immigrants from their respective former colonies. Considering these emigrations to be temporary, the governments of Western Europe did not bother to develop active policies to prevent the social effects of the massive arrival of immigrants.

European migration, identity and citizenship in the integration process

From the outset, the issue of migration in Europe, defined as the free movement of citizens within the Community, has been linked to the concept and development of European citizenship. From the very beginning of the process of European integration, federalists and pro-Europeans imagined a unified structure, a federation, with the support of the peoples of Europe and essentially based on the concept of European citizenship. For the founding fathers, the freedom of movement of persons, included in the Treaties of Rome, was supposed to serve as the first vehicle for the progressive establishment of a common identity within the framework of “an ever closer union among peoples.” In fact, the European citizen at the centre of the European Community development process is not understood as a full citizen in the Treaties of Rome, but rather as a worker and a consumer; this, however, was meant to be the starting point towards a deeper European citizenship. It is therefore very interesting to analyse the evolution of the concept of European citizenship to understand how its late and fragile recognition has weighed on the current perception of emigration to Europe, just as, starting from the concept of cosmopolitan citizenship, Europeans today look to an superficial and nationalist citizenship.

Since 1957 and throughout the 1960s, the Community has been dealing with the implementation of the Treaties and has therefore worked on the internal market, the creation of a customs union and the two main policies of the EEC, agricultural policy and trade policy. The European citizen was therefore considered as part of this economic construction, i.e. only in a functional, fragmented way. Nonetheless, from the beginning important steps were taken in the direction of broadening the prospects for citizenship; already under the very first European common policy, i.e. agricultural policy, the horizon had widened considerably, pushing for action not only for the individual worker, but for farming families and rural areas as a whole. The starting point, however, was always from a purely economic perspective. Furthermore, since its inception, the European Parliament has been one of the main architects of citizenship, putting at the centre of the debate the citizen rather than the consumer and/or the worker; this policy, even if it did not bear immediate fruit, certainly paved the way for the first real development of the concepts of European citizenship and identity, which would take place in the 1970s.

A first step in the direction of citizenship was taken at the Copenhagen Summit of 14 and 15 December 1973, when the European Council approved a declaration on European identity. It was

primarily Edward Heath's idea, because it aligned with his European ideals and objectives, and of Georges Pompidou, who had long intended to give shape to a "Europe européenne", defining its institutional, political and cultural foundations.¹⁵

Driven by the first enlargement of the Community and faced with new projects and policy objectives, the Member States felt the need to take stock of the common objectives and thus define what the European identity was, putting the European citizen at its centre. The existence of a common identity was taken for granted, although, at the same time, the heads of government maintained that it was an ongoing process, to be defined progressively. Positions differed on the definition and instruments of this common identity, so that the European Parliament, while approving the political unity of governments, highlighted some areas that needed to be addressed more in-depth, precisely issues like citizenship and borders:

"believing that progress is still needed, in particular with regard to the free movement of ideas and persons [...] and therefore insisting, without prejudice to the principle of the inviolability of borders in accordance with the Charter of the United Nations, on the right of individual Member States of the European Community to modify their borders by peaceful means and to create a political entity (European Union)".¹⁶

The concept of European identity was taken up by the Paris Summit of December 1974 and concrete instruments were indicated to implement a citizens' Europe. Western Europe was turning into a land of emigration for people from different parts of the world, yet European societies were not becoming multicultural societies. The emigrant who worked in a European state, who settled down, bringing in his family and raising his children, seemed to remain outside the concept of European identity and citizenship. Starting in the early 1970s, when most Member States decided to close their borders to the immigration of non-EU workers, the issue was no longer just a socio-economic one, but a political one. The question of immigration and citizenship was now central, and the Community had to revisit its identity; the Member States, however, pretended not to see and postponed the problem to an indefinite future, refusing to Europeanise the issue of emigration and to take it seriously.

There are three moments in time when this mode emerged clearly, right in the mid-1970s. In 1974, the Council of Ministers adopted a resolution on foreign labour in the Community, following which it launched an action programme in favour of migrant workers and their families, advocating the creation of an immigration-related consultation procedure. But the procedure was then blocked at the national level. In 1975, however, the Trevi Group met for the first time. It was an intergovernmental coordination body composed of officials of the interior and justice departments of the Nine Member States, created to implement an effective fight against terrorism, but soon also dealt with immigration issues. This was a considerable development, since it concerned the harmonisation of national security policies and therefore of citizenship. Still in 1975, the European Parliament, with

the support of the Commission, proposed that immigrants should be given the right to vote at the local level, so that they could be fully integrated into the communities where they lived and given the right to active citizenship. The issue was considered too sensitive and abandoned by the Council, which did not bring it to approval, leaving the recognition of a primary right of citizenship pending. Finally, in 1977, a directive required Member States to develop common policies to improve the education of children of foreign workers, the second generations, but the Council rejected the Commission's proposal to include children of non-EU parents, thus affirming a divisive citizenship.

Therefore, despite the rise in unemployment and the social and political tensions linked to immigration, the calls for joint action at a European level remained unheeded. The weak convergence of nationality rights in European countries created great disparities in access to European citizenship, which is why at the end of the 1970s attempts to harmonise migration policies were abandoned, a neglect that the European Parliament harshly criticised. However, the restrictive policy of some countries merely shifted immigration to neighbouring countries, which may have been more open from a legislative point of view. In fact, despite the official speeches and the closure to immigration, in the 1980s everything led to its increase: family reunification, the right to asylum, illegal immigration, the economic and political instability of developing countries, and the implosion of communism.

Despite a substantial technical Eurosclerosis in the 1980s, relative to the agricultural and budgetary issues essentially taking up all the space for a possible expansion of policies and responses to citizens, the same decade also saw some very interesting proposals for the concept of citizenship. There were attempts to relaunch the Community politically, which once again paved the way for a possible constitutional path towards a genuine unity of the peoples of Europe. In this perspective, most important was the Spinelli project, not only for its contents, but above all for the process that led to its elaboration. In fact, the Treaty on European Union, although not ratified, was the only treaty that did not result from the diplomacy of the Member States but was built by European citizens through their representatives in the first European Parliament elected by universal suffrage. With the Spinelli project, citizenship returned to the centre of the European integration process in its wide, full and cosmopolitan definition.

The Project was approved by the Parliament on 14 February 1984, with 237 votes out of 311, only 31 against and 43 abstentions. It was based on few strong principles: respect for the fundamental rights of citizens, a commitment to respect and promote the human values of democratic civilisation, the rule of subsidiarity and the effective participation of citizens, as well as Member States, in the formulation of decisions.

In the meantime, an intergovernmental proposal was advanced, which was also aimed at strengthening democratic participation in the integration process. This shows that in the 1980s the inclusion of citizenship in the integration process was becoming imperative. In November 1981, the

German Foreign Minister, Hans-Dietrich Genscher and the Italian Foreign Minister, Emilio Colombo, drafted a set of principles known as the Genscher-Colombo Plan. On 19 November, the Plan was presented to the governments of the Member States and to the European Parliament in plenary session, but for the following two years it was not taken under consideration. The intergovernmental approach of the proposal was clear and for this reason it was criticised by Spinelli, as he believed that the distinctive feature of the European Union should be its constitutional character and not its intergovernmental character. On 19 June 1983, the Stuttgart European Council adopted the “Solemn Declaration on the European Union,” based on the Genscher-Colombo plan; it recognised the European Council as the main decision-making body, whereas no appreciable increase was foreseen in the powers of either the European Parliament or the Commission. In his speech to the Parliament meeting in Strasbourg on 24 May 1984, François Mitterrand, who presided over the Council, supported the Spinelli project only in principle, completely neglecting any reference to European citizenship, regardless of the citizens and their representatives in Parliament.

The Single European Act of 1986 mentioned neither the concept of citizenship nor European citizens, let alone their rights. However, the new treaty and the establishment of a single market forced states to act and the same year, 1986, the Council of Ministers recognised the need for a common immigration policy to avoid distortions in the Community labour market and in the influx of refugees to the most generous countries in terms of social protection. However, the treaty established that decisions on migratory flows should be taken unanimously.

The main political acceleration came precisely from the fall of the Berlin Wall and German reunification, which led France and Germany to view the establishment of a more political union alongside the economic and monetary union as necessary. However, it was the Spanish Prime Minister, Felipe Gonzales, who put the spotlight on the attempt to respond to the democratic deficit, by presenting a Memorandum entitled *Vers une citoyenneté européenne* in September 1990. Gonzales made a strong commitment to ensure that the political Union would include a true European citizenship in its own right, as he wrote in his letter to the President of the European Council and his counterparts in May 1990:

“A mon avis, l’Union politique consiste de façon primordiale à transformer un espace de caractère essentiellement économique, penser pour garantir la libre circulation de travailleurs, de services, de capitaux, et de marchandises, en espace commun intégré, dont le citoyen serait le protagoniste”.¹⁷

It was the first time that a member state had made such a direct commitment to defending the concept of citizenship, in which mobility returned to the centre.

The proposals contained in this memorandum were largely taken up by the European Commission in its document of 23 October 1990. These were the basic documents for the 1991 Intergovernmental Conference, which was responsible for preparing the new treaty. Thanks to the

documents, the pressure exerted by Spain and the non-opposition of Great Britain, led by John Major, the Maastricht Treaty formally gave life to European citizenship. It is a basic citizenship, which does not overlap with national citizenship and comprises no duties and only limited rights; however, some of these entail profound changes concerning the rigidity of borders and the narrowness of instruments included in the principle of free movement of persons within the Community. These instruments include the right of residence and movement within the territory of the Union; mobility, therefore, was once again placed at the heart of the rights and great freedoms enjoyed by European citizens.

When the freedom of movement of Europeans reached its peak, strict policies were launched to control emigration from third countries, unhinging European citizenship from the broad concept of citizenship and the rights that underpin it, among which mobility has a prominent place.

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