ASPECTS OF THE EUROPEAN UNION'S SECONDARY LEGISLATION. CASE STUDY : FREE MOVEMENT OF SPOUSES THROUGH THE PROVISIONS OF THE DIRECTIVE 2004/38/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

Corina DABIJA (BARDĂ)[*]

Abstract

This study concentrates on one of the binding legal instruments of the secondary legislation of the European Union, as provided by article 288 of the Treaty on the Functioning of the European Union, the directive. Outlining its characteristics especially in comparison with those of the regulation, the paper also contains a short analyse of the evolution of preferences regarding the legal acts of the European Union. What is of significance is that the study refers to elements of both adopting and applying the European Union law. The second part is ensured by the presentation of a brief research into the topic of free movement of spouses in the framework of the Directive 2004/38/EC, as well as considering the jurisprudence of the Court of Justice of the European Union. The conclusions achieved are presented taking into account some of the most important contemporary factors which influence the activity of the European construction.

Keywords: *secondary legislation of the European Union, directive, regulation, free movement of spouses*

1. Introduction

The European Union has an autonomous legal order, acknowledged by the Luxembourg Justice Court through the well known decision given in the case Costa vs / E.N.E.L., in which, the aforementioned was characterized as being "its own legal order, integrated in the juridical system of the member states"[1]. The listed elements should be understood taking into account another corrolary concept, also stated by the Court, who ruled that (the Union) "the Community constitutes a new international law legal order... whose subjects are not only the member states, but also their citizens"[2].

Although the European Union's legal order is susceptible of several understandings, a fact illustrated suggestively by the specialized doctrine [3], we want to direct attention to the idea according to which, in short, the Union's legal order can be presnted as being an ensemble of juridical norms - which can take some of the more diverse forms -, which regulate the entirety of juridical relations which appear, are changed and come to a close according to the European Union law. Taking as a reference the criterion of legal force, we can identify the following categories of legal norms of the Union: "Primary, original law; secondary, derivative law; rules of law coming from the external arrangements of the European Communities/European Union; the complementary law and unwritten law"[4].

One of the reference works in the field[5] states that "The Lisbon Treaty introduced a hierarchy of more formal legal rules than existed previously", appreciating that, at this moment, "there are five categories in this hierarchy". First of all, we are talking of the constitutive treaties[6] and the Charter of Fundamental Rights. To this we add the general principles of law, legislative acts, delegate regulations but, in equal measure, the implementing acts.[7] Thus, within the framework of European Union's juridical dimension, there is a variety of instruments which may be used for carrying out European construct's goals and ideals. Among all these, we will concentrate our analysis on a certain category pertaining to the legislative norms of the European Union - legal acts whose number was reduced when the Lisbon Treaty

[*] PhD candidate, Faculty of Law, „Nicolae Titulescu" University of Bucharest (email: corinna.dabija@gmail.com)

[1] Decision Flaminio Costa vs./ E.N.E.L., 6/64, ECLI:EU:C:1964:66.

[2] Decision NV Algemene Transport- en Expeditie Onderneming van Gend & Loos vs./ Netherlands Inland Revenue Administration, 26/62, ECLI:EU:C:1963:1.

[3] For example, see Augustin Fuerea, *Manualul Uniunii Europene* (*Handbook to the European Union*), Ediția a VI-a, revăzută și adăugită, Editura Universul Juridic, București, 2016, pp. 228-229.

[4] Ion P. Filipescu, Augustin Fuerea, *Drept instituțional comunitar european* (European Institutional Communitary Law), ediția a V-a, Editura Actami, București, 2000, pp. 32-34.

[5] Paul Craig, Grainne de Burca, (translated under the coordination of Beatrice Andresan-Grigoriu), *Dreptul Uniunii Europene: comentarii, jurisprudență și doctrină*, (European Union Law: commentaries, jurisprudence and doctrine) Ediția a VI-a, Editura Hamangiu, București, 2017 pp. 135-136.

[6] The Treaty on European Union and the Treaty on the Functioning of the European Union - TEU and TFEU.

[7] Without making extensive comments regarding this "ranking", because that is not the main scope of our analysis, we would like to mention that, on first sight, it seems a mainly formal one, which raises multiple interpretation issues, and even, as the author of the mentioned paper adds, "incomplete, in the sense that there are certain legal acts which are not easily falling into either of these categories."

entered into force[8], from ten to five[9], respectively: regulation, directive, decision, recommendation and opinion - namely the directive category.

This study refers both to elements related to the adoption and implementation of this category of legal documents. The second dimension invoked will be presented through the prism of analysis of certain aspects of European Union' substantive law in the field of the freedom of movements of persons. More precisely, part of our analysis is dedicated to the restricted sphere of beneficiaries of this liberty, falling under the category of "family members", respectively spouses.

The importance of this initiative comes from the dynamics of this segment of European union law - recognized, understood and accepted as a separate branch of law - to which it is dedicated and by the necessity of a permanent actualization of information available in specialized papers, given the multitude of practical situations where they are applicable. Having as central scope of our study the directive, an objective we assume is that of underlining the essential elements differentiating this type of legislative act from the regulation or decision. Also, we are taking into account the outlining of criteria taken into account at the moment of choosing to legislate by this type of act, as well as presenting the impact, the legal consequences such option generates. All the above-mentioned shall be highlighted in correlation with a case study on the free movement of spouses, as this subject should be understood within the meaning of the European Union law.

In order to achieve the objectives stated, we will use the following ways: research of the specific primary and derivative legislation of the European Union, but also the analysis of representative decisions in this regard of the Court of Justice of the European Union, as well as the specialized doctrine[10]. Examining the aforementioned will lead to an assertion of the main ideas in the matter and of personal theoretical conclusions, in agreement with the present challenges of the practice in this field, all presented in a style that should be accessible to all those interested in this topic.

Although the doctrine cannot be considered insufficient in this regard, some of the reference works being already mentioned in the above, it is essential to add new research to them, research that answers the challenge to be in agreement, from several perspective, with this field which concerns the citizens directly and which is special because it is constantly transforming, especially in the present international context.

2. Content

2.1. The directive, legislative act belonging to the secondary legislation of the European Union

The governing rules in the primary law are represented, in this case, by article 288 of the Treaty on the Functioning of the European Union[11] (hereinafter TFEU), the content of which we consider relevant to reproduce for the good understanding of approaching this subject: "To exercise the Union's competences, the institutions shall adopt regulations, directives, decisions, recommendations and opinions./ A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States./ A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods./ A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them./ Recommendations and opinions shall have no binding force."

"The ensemble of unilateral acts of the European Union's institutions"[12] represents what is known as derivative, secondary law of the European Union, such institutions using, in order to "accomplish objectives... both mandatory legal rules and non-mandatory ones"[13]; the said have, in certain cases, even the possibility to choose the legal ruling they consider opportune for a given situation - obviously, while respecting certain conditions, stipulated in article 296 TFEU. We are talking about the obligation to respect procedure norms, as well as to exercise this option by taking into account the proportionality principle and not lastly, to offer the reasons. In this context it is mandatory to note another stipulation of the mentioned article, respectively the fact that the institutions may use this "option right" only in case treaties don't establish the type of act which is to be adopted. However, it is necessary to highlight that, at the present time, "the Union has three main types of formal legal norms at its disposal: regulations, directives, decisions"[14], which are adopted in accordance with the rules stated by article 297 TFEU[15],

[8] 1st December 2009.

[9] As shown in the contents of the studies "Legislația UE- sinteze (EU legislation - syntheses)", available at the address https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=LEGISSUM:ai0032, accessed at 21.1.2018.

[10] By way of example, we mention: Augustin Fuerea, *Dreptul Uniunii Europene: principii, acțiuni, libertăți*, (European Union Law: Principles, Actions, Liberties) Editura Universul Juridic, București, 2016; Guy Isaac, Marc Blanquet, *Droit général de l'Union européenne,* (General Law of the European Union) 10e édition, Dalloz, Paris, 2012; Paul Craig, Grainne de Burca, op. cit.; Nicoleta Diaconu, *Dreptul Uniunii Europene: politicile Uniunii Europene* (European Union Law: European Union Policies), Editura Universul Juridic, București, 2017.

[11] Published in the Ofiicial Journal C 326 , 26/10/2012 pp. 0001 – 0390.

[12] Augustin Fuerea, Manualul Uniunii Europene (Handbook to the European Union), op. cit., p. 230.

[13] Paul Craig, Grainne de Burca, op. cit., p. 116.

[14] Paul Craig, Grainne de Burca, op. cit., p. 135.

[15] (1) Legislative acts adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and by the President of the Council. / Legislative acts adopted under a special legislative procedure shall be signed by the President of the institution which adopted them...

the said three being the legislative acts through which to carry out, to realize "the European Union's policy in any particular field"[16].

According to the provisions representing the governing rules we are discussing[17], the directive can have as recipients one, several or all member states, being mandatory for those it addresses, but only in regards to the result which is to be achieved, while leaving at the discretion of the member states, more precisely to the national authorities, the competence to choose the form and means to achieve its imposed "goal".

Unlike the decision, "the directive is a general applicability text, withing all EU countries"[18], and unlike the regulation, which is applied in the internal legal order of the member states immediately after entering into force[19], the directive is not directly applicable in the internal law system of the countries belonging to the Union, it has to be first transposed into the national legislation before being applicable in each member state. Such transposition is a subject we will cover again in this work, similar to how we will give more explanations regarding the notion of "direct effect", which we will just mention now through the lens of the differences between the specific statute of the regulation and that applicable to the directive. Therefore, comparative to the regulation, the directive "does not benefit from direct applicability and, as a consequence, doesn't benefit from a direct effect either"[20], the resulting rule being that private persons cannot invoke and use the provisions of the directive in front of national courts.

However, there were situations which can be considered exceptions, where "the force of the directives was increased by decisions given by the ECJ"[21]. We believe that this is also due to the fact that "there were enough times when litigants invoked the provisions of a directive in front of the national courts... as a result of the preliminary questions, the Court of Justice in Luxembourg has developed a rich jurisprudence in the field, recognizing, under certain conditions, the direct effect of this legal act of the European Union"[22]. In the specialized doctrine, there is even more vehement support regarding the rulings the Court made in this regard, showing it to have judged as follows: "directives have a direct effect, private person being able to use them in actions directed against the state[23] and including that "a Member State may be responsible for repairing the injury caused as a result of not implementing a directive"[24]. But we cannot neglect the fact that, even in this latter work invoked, which deals comprehensively with the "theory of direct effect"[25] (of the mandatory norms of the European Union), the author stresses that "the significance of the notion of direct effect remains controversial"[26], categorizing directives in the sphere of the legislative acts in connection with which the most problematic aspects have arisen in practice, for many years.

In support of the idea presented above we note, for example, the decision of Judge PhD Carmen Popoiag[27] to address the Court of Justice and raise, inter alia, "the issue of the possibility of direct applicability of communitary law by the Romanian court"[28], exactly based upon the merits of the fact that "since 1974, the Court ruled that the former article 3 paragraph (1) of the Directive 64/221[29] was susceptible to cause direct effects"[30]- in certain conditions; in practice, we are talking about the possibility to limit the right to freedom of movement based upon the exclusive existence of a personal behaviour of the litigant, and of the fact that such conduct must necessarily affect public order[31].

2.2. The right to choose. Regulation or Directive? Advantages and disadvantages

The possibility for the legislative act at the level of the European Union to result in either regulations or directives gives it "a valuable flexibility. The direct applicability of regulations means that they must be

(2) Non-legislative acts adopted in the form of regulations, directives or decisions, when the latter do not specify to whom they are addressed, shall be signed by the President of the institution which adopted them…

[16] Paul Craig, Grainne de Burca, op. cit., p. 135.

[17] Article 288 TFEU.

[18] According to the studies *Legislația UE -sinteze* (*EU Legislation - Summary)*, available at the address https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=LEGISSUM:ai0032, accesed on 24.01.2018.

[19] According to the article 297 TFEU, legislative acts shall enter into force on the date laid down by their text or, in the absence thereof, on the twentieth day following that of its publication in the Official Journal of the European Union.

[20] Augustin Fuerea, *Manualul Uniunii Europene* (*Handbook to the European Union*), op. cit., p. 238.

[21] Paul Craig, Grainne de Burca, op. cit., p. 120.

[22] Mihaela Augustina Dumitrașcu, *Dreptul Uniunii Europene și specificitatea acestuia* (European Union Law and its Particularities), ediția a II-a, revăzută și adăugită, Editura Universul Juridic, București, 2015, p. 93.

[23] Paul Craig, Grainne de Burca, op. cit., p. 120.

[24] Ibid.

[25] Paul Craig, Grainne de Burca, op. cit., p. 206.

[26] Ibid.

[27] For details, see Carmen Popoiag, *Hotărarea pronuntată în cauza "Jipa" (C33/2007-a C.J.C.E.)- Aspecte și implicații practice*, (Decision given in the "Jipa" case (C33/2007-a C.J.C.E.) - Practical Aspects and Implications) Revista Română de Drept Comunitar, nr. 6 din 2008, pp. 115-119.

[28] Mihai Banu, Daniel-Mihai Șandru, *Cauza C-33/077, Jipa- Prima acțiune preliminară a unei instanțe românești la Curtea de Justiție a Comunităților Europene (Case C-33/077 Jipa - the First Preliminary Case of a Romanian Court at the European Communities Court of Justice)*, Revista Română de Drept Comunitar, nr. 6 din 2008, p. 110.

[29] Actually, we are talking about article 27 (2) of Directive 2004/38.

[30] Mihai Banu, Daniel-Mihai Șandru, op. cit, p. 110.

[31] Decision Yvonne Duyn vs. Home Office, 41/74, ECLI:EU:C:1974:133, pct. 13.

able to be directly "parachuted" in the legal systems of member states, in the form they have"[32]. In such a situation, it is understood that the provisions of a regulation must be designed so as to contain references to all the aspects and hypotheses of the "situation" which is the object of the regulation. We do not think it unusual that, in practice, especially when the field which is the scope of the regulation is either a more complex one, or a more delicate one, a lot of difficulties appear in the designing of such a type of normative act. Some of the reasons we appreciate as being relevant are the differences between legal systems or legislation in force in the member states on that matter; we would like to add the differences, some very substantial (in case of certain countries) between administrative, social and even cultural systems.

The above mentioned should not be taken as having the role of diminishing the significance or practical usability of the directive, but only to help us spotlight better the cases in which the decision to choose a directive (instead of elaborating a regulation, but without limitation to just this case) has proven effective, especially through the lens of the fact that it offers the recipient member states the freedom regarding the manner of implementing the directive, more specifically the way to choose and implement measure in order to reach the mandatory goal pursued. "But they shouldn't be considered vague, because they are not. The goals to be reached by the member states are established to the smallest details"[33]. All these characteristics create the ideal legislative act of the European Union for the concretization of great scale legislative reform or for carrying out a process of harmonizing the member states' legislation - the directive.

We cannot continue our analysis without underlining the fact that, in time, the preferences for juridical interventions at the level of (E)EC[34], or at the level of the Union, respectively, have undergone, obviously, a lot of changes[35]. A clear example in this regard is presented in the introduction of the paper "Directiva -act de dreptul Uniunii Europene - și dreptul român" (The Directive - European Union Legal Act - and the Romanian Law) and it refers to the Declaration no. 4 regarding article 100 a of the EEC Treaty, annexed to the final part of the Single European Act[36], which states: "In its proposals, the Commission shall give priority to the use of the directive instrument, in case harmonization implies, in one or more of the member states, changes in legislation"[37].

Regarding the concept of harmonization, we like to note that it is susceptible, in general, to be understood in two ways, namely minimum harmonization and maximum (complete) harmonization, the distinction being important from the perspective of the mandatory requirements. In essence, for the minimum harmonization, the directive imposes minimal standards, these being the situations where in some of the member states there are already higher standards in force. On the other hand, when we speak about maximum harmonization, we have to take into account the fact that the countries in the Union cannot impose stricter norms than those established through the directive[38].

Through all these last clarifications we tried to outline, in short, the situations in which the advantages of using directives bestows upon them (or, at least, used to bestow) a preferential place in relation to the regulation, at times when there is the possibility to choose a certain type of normative act.

We cannot advance in our analysis without bringing into discussion another relevant idea for the aforementioned, namely that "a new directive did not necessarily presuppose transposition into national law"[39]. At present, the situation is completely different, "taking into account the generalization of publishing the directives in the Official Journal of the European Union and of the obligation of the member states to include a link to the directive in the transposition measures, together with designing and publishing a concordance table between the transposition decisions and the directive"[40], to which other reasons having to do with the entire evolution of legislative provisions of the European Union, as well as the legislative differences between the 28 member states are added. Consequently, "exceptions to the obligation for the adoption of (new) internal legal acts, which is the responsibility of the Member State in order to implement a new Directive, can no longer be conceived"[41]. However, some authors indicate situations where there is no need to adopt internal laws in order to transposition some provisions from a directive, but we would like to highlight that in this case we are discussing about certain specific provisions[42].

[32] Paul Craig, Grainne de Burca, op. cit., p. 119.
[33] Paul Craig, Grainne de Burca, op. cit., p. 120.
[34] European Economic Community/European Community.
[35] This aspect is mentioned also in the introduction of the paper coordinated by Daniel-Mihail Șandru, Constantin Mihai Banu, Dragoș Alin Călin, *Directiva - act de dreptul Uniunii Europene- și dreptul român* (The Directive - European Union Legal Act - and the Romanian Law), Editura Universitară, București, 2016, p. 15.
[36] Signed in 1986, which entered into force in 1987.
[37] Daniel-Mihail Șandru, Constantin Mihai Banu, Dragoș Alin Călin, op. cit, p. 15.
[38] See *Legislația UE- sinteze* (*EU Legislation - Summary),* https://eur-lex.europa.eu/legal-content/RO/TXT/?uri =LEGISSUM%3of the14527, accessed on 25/01/2019.
[39] Daniel-Mihail Șandru, Constantin Mihai Banu, Dragoș Alin Călin, op. cit., p. 16.
[40] Ibid.
[41] Ibid.
[42] Irina Alexe, Constantin Mihai Banu, *Transpunerea directivei prin ordonanță de urgență. Exemple recente din dreptul român și aspecte comparate* (The Transposition of the Directive through an Emergency Ordinance. Recent Examples from the Romanian Law and Comparative

Moreover, the differences appearing regarding the legal status of the directives can be seen as normal and correlative to the evolution taking place during the years. For example, at the beginning of the European construction, the directive wasn't published, like the regulation, this particular fact creating consequences regarding the moment when the transposition deadline started. The Court of Justice of the European Union states that "according to the second subparagraph of Article 191 of the EEC Treaty, applicable at the time of the adoption of... the directive (with significance for the question concerned), directives are (were) notified to their addressees and enter (were entering) into force by such notification. Therefore, not the date of publication, but the date of notification to... the member state.. was relevant to determine when the period of transposition of such directive began"[43].

As a curiosity, we want to present a short analogy, in terms of terminology, between what the Treaty establishing a Constitution for Europe - which never entered into force, not being ratified - called the "European framework law", and the meaning of the term "directive" today. The above mentioned treaty defined the European framework law as being "a normative act which constitutes as an obligation for each recipient member state the goal to be reached, while at the same time allowing the national authorities the competence regarding choosing the form and means"[44]. During a simple read through the governing rules on the subject (already mentioned) regarding the directive, respectively the third part of article 288 TFEU, it is clear that the essential disposition in the primary law regarding the directive is identical with that in the Treaty for establishing a Constitution for Europe, which defined the European framework law. The same treaty defined "European law" as being the normative act with a general character "mandatory in all its elements and directly applicable in all member states"[45], the same being also the elements defining, in the present European Union legal order, the notion of regulation.

As mentioned until now, in summary, the situations where using the directive as a normative act offers multiple benefits, but also a few of its evolutive elements -both at conceptual level and on the practical one, we consider that, for a complete analysis, it is necessary to bring into discussion some disadvantages it has, at least regarding the practice in this field.

One of the documents invoking some of these aspects is "The Monti Report", presented by Professor Mario Monti, to the President of the European Commission at the time (May 9, 2010), Jose Manuel Barroso. This report acknowledges the advantage of directives of allowing an adjustment of norms to local situations and preferences, but also indicates the following disadvantages: "the time gap between the adoption at the European Union level and implementation on the ground", but also "the risk of non-implementation or over-regulation at national level." The conclusion in this regard is that "there are more and more reasons to choose regulations than directives as a preferred juridical technique for regulating the single market... our recommendation being to mainly use regulations"[46]. The respective report refers to the single market because that is the main scope of the said document, but we deem that this idea is, surely, applicable in regards to different subjects. Moreover, the European Commission show a constant concern to "identify what areas of the current legislative corpus could be improved"[47]. In this regard, it shall draw up and assess EU policies and rules in a transparent manner, starting from concrete data and integrating the opinions of the citizens and interested parties - all these being carried out through the use of an "Agenda for better regulation".

2.3. Items relating to the application of the Directive, derivative legislative act of the European Union

Returning to the study's main scope, we note the following statement, together with the mention that we agree with its meaning: "In addition to the definition from the Treaty, it should be borne in mind that any directive is in connection with three dates, time periods or events"[48].

First of all, it has to do with the time of the adoption of the directive, after completion of either the ordinary legislative procedure[49], or one of the special legislative procedures. In the first case noted, the adoption moment can be identified in the light of the time of the signing of the document by the president of the European Parliament and by the president of the Council, as is apparent from Article 297 TFEU. The same article states that, in case we are talking about a directive which is adopted in accordance with a special legislative procedure, then it shall be signed by the

Aspects.), published in the paper *Directiva - act de dreptul Uniunii Europene - și dreptul român* (The Directive - European Union Legal Act - and the Romanian Law), Editura Universitară, București, 2016, p. 140.

[43] Decision Jetair NV and BTW-eenheid BTWE Travel4you vs. FOD Financiën, C-599/12, ECLI:EU:C:2014:144, point 25.

[44]https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:C:2004:310:FULL&from=RO, accesed on 25.01.2019, unauthorized (personal) translation.

[45] Ibid.

[46] This report is mentioned in this way by Daniel-Mihail Șandru in the study *Directiva -act de dreptul Uniunii Europene- și simplificarea normativă* (The directive - European Union Legislative Act - and Normative Simplification) published in the paper coordinated together with Constantin Mihai Banu, Dragoș Alin Călin, op. cit., p. 44.

[47] For more details, see the official page of the European Commission, *O mai buna legiferare: de ce și cum* (Better Regulation: Why and How), https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how_ro, accessed on 25.01.2019.

[48] Daniel-Mihail Șandru, Constantin Mihai Banu, Dragoș Alin Călin, op. cit, p. 16.

[49] Also knownd as the co-decision procedure; for more details, see Paul Craig, Grainne de Burca, op. cit, p. 140.

president of the institution which adopted it. The two types of legislative procedure are determined in accordance with the provisions of article 289 TFEU, the treaty being also the instrument by which the practical manner of their functioning is explained[50].

As mentioned, the next moment having important meaning is the date the directive enters into force, which we will not explain further, as the relevant elements were already mentioned in the present study.

Hereinafter we will discuss the third important moment we mentioned, respectively the transposition date or, if we want to be very precise, the transposition deadline. Each directive states such a deadline, which is calculated from the date of its entering into force, and, according to recent practice, the rule is that it shall not be longer than two years [51], but this period can, obviously, be much shorter[52]. The duration of this deadline is the period available to the member states to adopt all measures necessary so the directive may enter into force in the countries of the Union, respectively to adopt a law which would transpose it, but also any other national measures which aim to reach the goals set by the directive. By the expiration of the deadline, the member states must send the Commission the text for the national transposition measures[53], which integrate the dispositions of the directive into the national legislation and serve to achieve the aims imposed by it. The Commission verifies that the measures are complete and fulfill all necessary conditions for achieving the desired result.

If, after its examination, the Commission finds that the answer is "no", it may initiate the EU law infringement proceedings and may start an action against that country before the Court of Justice of the EU (the failure to enforce its decision may lead to a new conviction, which could generate penalties). As it becomes clear from what we just mentioned, a total lack of care from the member state is not required, the Commission may start an infringement procedure if the directives were not transposed correctly, such being sufficient reason in this regard[54].

Regarding the obligations which the directive recipient, namely the member state, has to fulfill in this determined period, various controversies appeared in practice, the Court of Justice being the one which helped in establishing an unified practice, at least regarding certain aspects. An edifying example in this respect is the decision given in the case C-129/96 (Inter-Environnement Wallonie ASBL vs. Région wallonne)[55], through which it is stated that through this deadline, indicated by the directive, the aim is "mainly to give the member states the time needed to adopt the measures needed for the transposition, thus the said states cannot be held responsible for not transposing the directive in the national legal order before the expiry of the deadline granted"[56]. Regarding the states obligations, it is noted that they shall adopt, during the transposition deadline "the measures needed to ensure the fulfilling of the goal stated by the directive..."[57]. Therefore, although the states shall not be subject to the obligation to adopt such measures before the expiry of the time limit for transposition into national law, the Court shows that "within this period, the member states should be able to refrain from adopting provisions which could seriously compromise the result stated by the directive[58]. We believe that this last requirement is natural, whereas we are of the opinion that the activity to be carried out at national level does not have to take into account just the adoption of legal acts, the target being the implementation of legal acts adopted pursuant to the requirements of the directive.[59]

All these are components of the second phase of the legislative process, that is the implementing phase for the legislation, towards which the European Commission manifests a permanent interest, there being in place even a monitoring mechanism in this regard. Regarding directives, yearly the Commission publishes a report evaluating the results the member states achieved in regard to essential aspects of applying EU law and presenting the main evolutions of that year. The report[60] is also sent to the European parliament and to the national authorities, the most recent such document containing the analysis made during the year 2017.

As mentioned, the Commissin checks if the countries belonging to the European Union communicate the transposition measures and if they transpose fully, correctly and timely the provisions of the directives into the national legislation. However, delayed transposition of directives by the member

[50] For the ordinary legislative procedure, refer to article 294 TFEU, and for details on the special legislative procedures, see, for instance, article 86 and article 89 TFEU.

[51] According to https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=LEGISSUM%3Al14527, accessed on 25.01.2019.

[52] As an example, we highlight that there are situations when a term of only three months was imposed for the transposition - the Directive proposal of the European Parliament and of the Council for the ammendment of Directive 91/477/EEC on the purchase and possession of weapons.

[53] The national transposition methods can be identified using the following link: https://eur-lex.europa.eu/collection/n-law/mne.html?locale=ro, accessed on 25.01.2019.

[54] See https://ec.europa.eu/info/law/law-making-process/applying-eu-law/monitoring-implementation-eu-directives_ro, accessed on 25.01.2019.

[55] ECLI: ECLI:EU:C:1997:628.

[56] Decision Inter-Environnement Wallonie ASBL versus Région wallonne, C-129/96, ECLI:EU:C:1997:628, paragraph 42 and the following.

[57] Ibid.

[58] Ibid.

[59] For details, see Daniel-Mihail Șandru, Constantin Mihai Banu, Dragoș Alin Călin, op. cit, p. 22.

[60] These reports can be viewed for free, at the address https://ec.europa.eu/info/publications/annual-reports-monitoring-application-eu-law_en, accessed on 26.01.2018.

states of the European Union "remains a problem, due to the persistence of which citizens and businesses can not enjoy the tangible benefits of the European Union legislation"[61]. After 2016, as a result of the publication of the annual report in December, the Union has set the objective of deficit reduction of the transposition into national law at 1%, an objective we deem, at least in the current context, though extremely beneficial, as being very bold.

For the member states the transposition is, also, a subject involving multiple challenges, since they have to face the most varied legal situations, linked to this operation, at the conceptual level, but especially at the procedural one[62]. A complex example in this regard, in Romania, refers to the transposition of the Directive 2004/38/EC[63] of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance).[64]

From the full name of the directive we just mentioned, another classification of directives can be made, some having the purpose of introducing new provisions, in a field which was not yet the object of a regulation, others of completing or amending already implemented normative acts. The list can go on with those containing provisions like repeals or establishing provisions titled "framework regulations". Also, in some cases the directive could cover, for reasons of clarity and coherence, two distinct normative acts in the shape of a new regulation.

Next, we will dedicate our study to an analysis of the main scope of Directive 2004/38/EC, concentrating our particular efforts on the free movement of spouses, in the larger context of provisions concerning the free movement of persons.

2.4. Elements of principle on the free movement of persons

The free movement of persons is one of the four basic freedoms of the European union law, together with the free movement of goods, services and capital. According to rules established by the Treaty on the Functioning of the European Union (TFEU), this "in practice refers to... the free movement having as recipients the workers, a freedom which Bernard Teyssié considers to be a fundamental right which national courts have to defend"[65].

The main grounds of this subject matter, part of the primary legislation of the Union, is represented by article 45 TFEU, which we cite in the following, for coherency reasons: "(1) Freedom of movement for workers shall be secured within the Union./ (2) Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment./ (3) It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:(a) to accept offers of employment actually made;/ (b) to move freely within the territory of Member States for this purpose;/ (c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;/ (d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in regulations to be drawn up by the Commission./ (4) The provisions of this Article shall not apply to employment in the public service."

These provisions, fundamental for the field comprising the scope of our study, must be interpreted in the broader context instituted by Title IV of the said treaty and corroborated with the normative acts which govern the field of freedom of movement of the workers, taking into account the categories of beneficiaries, the rights they gain correlative to this freedom, but also the exceptions which can appear. In addition to all these mentioned, we have to take into account the jurisprudence of the Court of Justice of the European Union, which is essentially relevant from the perspective of defining the fundamental notions with which the subject matter of free movement of people operates. The diversity and complexity of practical situations that may appear in this field, of great interest and highly dynamic, is reflected both at the level of the regulatory framework, as well as the jurisprudential one.

In order to advance in our analysis, we deem it essential to underline the distinction "between this freedom of movement, relating exclusively to workers, and the freedom of movement in the Union space that is regulated by the Treaty as a right benefiting all citizens

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[61] *Legislația UE- sinteze (EU Legislation - Summary),* https://eur-lex.europa.eu/legal-content/RO/TXT/?uri =LEGISSUM%3Al14527, accessed on 25.01.2019.

[62] For a more detailed analysis regarding these aspects, please see the study *Transpunerea directivei prin ordonanță de urgență. Exemple recente din dreptul român și aspecte comparate* (The Transposition of the Directive through an Emergency Ordinance. Recent Examples from the Romanian Law and Comparative Aspects.), published in -Daniel-Mihail Șandru, Constantin Mihai Banu, Dragoș Alin Călin, op. cit., pp. 132-173.

[63] Published in the Official Journal of the European Union, L 158, 30.4.2004, pp. 77-123, https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex%3A32004L0038, accessed on 26.01.2019.

[64] For an illuminating analysis of this directive in terms of transposition into national law in Romania, see Augustine Fuerea Tratatul de aderare a României la Uniunea Europeană privind libera circulație a persoanelor (II) (Treaty of Accession of Romania to the European Union on the free movement of persons (II)), Revista română de drept Comunitar, nr. 6/2009, pp. 15-24.

[65] Augustin Fuerea, *Dreptul Uniunii Europene: principii, acțiuni, libertăți* (European Union Law: Principles, Actions, Liberties), op. cit., p. 19.

of the member states"[66]. We will concentrate on the first case, where "the person, citizen of a member state of the European union, moves on the territory of another state with the stated purpose of accepting an offer of employment actually made"[67] and not the status of the free movement right, based upon which such "movement takes place with any other purpose in mind".

2.5. The main categories of beneficiaries of the freedom of movement

The level of primary legislation imposes, in addition to the category of employees, which we have already indicated, other categories of recipients of this freedom of movement - a fundamental element of the internal market and the European construction in the form in which it is known today.

First of all, article 48 TFEU discusses, in the first paragraph, the migrant employees or those self-employed, to which it adds the persons in their care. The scope of potential recipients is extended, by the provisions of article 49 the second paragraph to include in this category companies, too[68]. Although for a complete and thorough understanding of the beneficiaries of freedom of movement each category should be the scope of a distinct analysis (many of the basic notions were not defined in any treaty or the secondary legislation), given the main scope of the present study, we will limit ourselves to a few essential notes regarding the concept of "worker" which is used, as we have shown, even in the primary law of the European Union.

Currently, the term "worker" is an autonomous concept of the European Union law, as the Court "insisted since the start"[69], with the purpose of avoiding the situation in which each state could offer its own interpretation of such a concept, "according to whim and frustrate the treaty's objectives"[70]. 'The Court has assumed the final authority to define its meaning and scope and self-conferred a <<hermeneutic monopoly>> to counteract any unilateral restrictions" of the member states, with regard to rules on freedom of movement"[71]. In summary, according to the Luxembourg Court, any person who carries out genuine and effective service tasks is a worker, insignificant activities being excepted, when they can be considered "purely marginal and ancillary"[72] . The need for a relationship of subordination[73] is the element that distinguishes economic activity under article 45, from independent economic activities, such as the creation and management of businesses, companies[74]. Thus, the worker is the person who performs, under somebody's leadership, a genuine and effective work, for which he is paid. We also add that we should not forget that the meaning of this notion is not always identical, thus having to pay attention, in our interpretation, to the legal context in which it is used. We deem that such claims shouldn't have been overlooked, being essential for understanding the subject we discuss and having a direct connection to it.

In accordance with article 46 TFEU "The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, issue directives or make regulations setting out the measures required to bring about freedom of movement for workers, as defined in Article 45…". This provision has resulted in the adoption, over time, of numerous regulations and directives applicable in this matter.

Currently, an example of legislation that strengthened and codified a significant number of regulations is Directive 2004/38 on freedom of movement and residence within member states for Union citizens and their family members[75]. Besides strengthening and codifying, another innovation of this directive "consisted in the introduction of the right of permanent residence for nationals of the European union and their families, after years of uninterrupted legal residence in another Member State"[76]. Regarding regulations, we talk about Regulation no. 492/2011[77], its main scope being the main rights a national worker of the member states can acquire, both for himself and for their family members (the concept of national is

[66] Augustin Fuerea, *Dreptul Uniunii Europene: principii, acțiuni, libertăți* (European Union Law: Principles, Actions, Liberties), op. cit, p. 192.
[67] Augustin Fuerea, *Dreptul Uniunii Europene: principii, acțiuni, libertăți* (European Union Law: Principles, Actions, Liberties), op. cit, p. 192.
[68] According to Article 54 TFEU, through the term companies, in the scope of the present provisions, we have to think about: "companies formed in accordance with civil or commercial law, including cooperative societies and other legal persons, public or private, except non-profits".
[69] For a detailed analysis of the concept of worker within the confines of European Union law, see Paul Craig, Grainne de Burca op. cit., pp. 833-845.
[70] Case M.K.H. Unger, married R. Hoekstra versus Bestuur der Bedrijfsvereniging voor Detailhandel en Ambachten à Utrecht, 75/63, ECLI:EU:C:1964:19.
[71] Paul Craig, Grainne de Burca, op. cit., p. 834 invoking Giuseppe, Federico Mancini *The free movement of workers in the case-law of the European Court of Justice.*
[72] Case C.P.M. Meeusen versus Hoofddirectie van de Informatie Beheer Groep, C-337/97, ECLI:EU:C:1999:38.
[73] Case Aldona Malgorzata Jany and Others versus Staatssecretaris van Justitie, C-268/99, ECLI:EU:C:2001:251.
[74] Mentioned in Article 49 TFEU.
[75] Its full name is Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC; text with relevance for EEA, available at:https://eurlex.europa.eu/legalcontent/RO/TXT/?uri=celex%3A32004L0038, accessed on 07.02.2019.
[76] Paul Craig, Grainne de Burca, op. cit., p. 834.
[77] The Regulation (EU) No. 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union; text with EEA relevance, available at the address:https://eur-lex.europa.eu/legalcontent/RO/TXT/?uri= celex%3A32011R0492.

clarified by Law no. 157/2005 for the ratification of the Accession Treaty of Romania to the European Union[78], in Article 3: "by national of a Member State we mean the natural or legal person having the citizenship, respectively the nationality of that State, in accordance with the domestic legislation of said state").

Given the above, it is clear that the analysis of this subject is susceptible of being done several ways, but regardless of the variant we choose, we have to relate the study of free movement of persons "both to the primary instruments of European communitary law (the founding treaties and the amending ones, including Romania's Accession treaty to the European Union)… as well as to the derivative instruments of the same European communitary law"[79]. Also we'd like to mention, as a supplementary information, the existence of a transition regime regarding the freedom of movement of persons, which must be taken into account - this is still currently applying, but just in the case of Croatian workers (who joined in July 2013), until June 2020. According to specialized doctrine, the workers right to freedom of movement was "nuanced in relation to the 2004 extension, when ten Central and Eastern European states joined"[80]; this situation was a premiere, in the sense that the European Union admitted new members "refusing them, at the same time, the immediate right to benefit from one of the four fundamental liberties"[81]. This transition regime granted the already member states the right to choose for the "delayed" application (for up to seven years) of the full freedom of movement rights - obviously, referring to workers from the new states. Without getting into detail regarding this transition regime, we note that it ended on April 30, 2011, for the ten states, and in the case of our country and Bulgaria, it ceased to be effective on December 31, 2013[82].

Returning to the list of the main categories of beneficiaries - from the perspective of the derivative legislation, very relevant is the Directive 2004/38 on the right of citizens of the Union and their family members to move and reside freely within the territory of the member states. Starting with the directive title, one notices the outlining of another category of persons susceptible to be recipients of such freedom: family members (of salaried migrant workers or of self-employed ones). What this notion means is clarified right in the text of the directive, namely article 2, which clarifies also the meaning of the notions "Union citizen", "host member state"[83]. Therefore, in accordance with article 2 of the directive specified, "member of the family means: (a)/ the spouse; (b) the partner with whom the Union citizen has contracted a registered partnership, on the basis of the legislation of a Member State, if the legislation of the host Member State treats registered partnerships as equivalent to marriage and in accordance with the conditions laid down in the relevant legislation of the host Member State;/ (c) the direct descendants who are under the age of 21 or are dependents and those of the spouse or partner as defined in point (b);/ (d) the dependent direct relatives in the ascending line and those of the spouse or partner as defined in point (b)." Article 3 establishes the recipients of the present directive and takes into account: any citizen of the Union, as well as the members of their family (according to the definition in article 2 we presented), who moves or has their residence in a member state, different than the one whose national he/she is. In this context it is necessary to emphasize that the above mentioned must be understood in conjunction with article 7, paragraph 4 of Directive, under which: "…only the spouse, the registered partner provided for in Article 2(2)(b) and dependent children shall have the right of residence as family members of a Union citizen meeting the conditions under 1(c) above. Article 3(2) shall apply to his/her dependent direct relatives in the ascending lines and those of his/her spouse or registered partner"[84].

2.6. The spouse, family member and beneficiary of freedom of movement. Legal perspective

To achieve the aim of our research, we will continue to restrict the scope of this study to one of the "subcategories" of beneficiaries of the freedom of movement, established explicitly through the legislative acts belonging to the secondary legislation of the European Union - the spouse, family member of the migrant worker or self-employed.

For starters, we will mention a few aspects highlighted by the European Commission, through a communication[85], which we deem relevant for our topic. Regarding Directive 2004/38/CE, which simplified and strengthened the right to free movement and residence for the Union citizens and their family members - so, implicitly, for spouses - the Commission reminds that it "must be interpreted and applied in accordance with the fundamental rights, especially the right to respecting private and family life, the principle of nondiscrimination, children's rights and the right to

[78] This is the shortened name of Law 157/2005.

[79] Augustin Fuerea, Tratatul de Aderare a României la Uniunea Europeană (II) (Treaty of Accession of Romania to the European Union (II)). Libera circulație a persoanelor (Personal Freedom of Movement), Revista Română de Drept Comunitar, nr. 6/2008, p. 25.

[80] Paul Craig, Grainne de Burca, op cit, p. 844.

[81] Ibid.

[82] According to those mentioned by Paul Craig, Grainne de Burca, op cit, p. 845.

[83] Any person having the citizenship of a member state; the member state to which a citizen of the Union moves in order to exercise the drept to freedom of movement and residence.

[84] This note is also mentioned in the specialized doctrine, Augustin Fuerea, op. cit, p. 216.

[85] COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on guidance for a better transposition and application of Directive 2004/38/EC on the right to move and reside freely within the Member States for Union citizens and their family members, Brussels, 2.7.2009 COM(2009) 313, p. 3.

an efficient recourse[86]". All these are guaranteed by the European Charter on Human Rights, as reflected in the Charter of Fundamental Rights of the European Union, but also in the case law of the Court in Luxembourg[87]. For spouses, we deem that the possibility to move and, eventually, reside together is a *sine qua non* condition for the respect of private and family life; we do not deny that this might happen even if the spouse having the capacity of worker is not joined by the other spouse, but the decision should belong exclusively to the two, and they should also have the ability to change it at any time.

Also, the Commission highlights the fact that the aforementioned directive is applied only to Union citizens who are moving or have their residence in another member state (not the one they are citizens of), as well as to their family members who accompany them or join them. An example we find illuminating about this is: "X, citizen of a third party country, lives for a while now in a host member state. She wishes for her husband, citizen of a third party country, to join her." Could the two benefit from the rights bestowed by the directive, even if they are not citizens of the Union? The answer is, obviously, no, "the respective member state having full rights to impose norms regarding the right of spouses of citizens from a third party country, they themselves citizens of a third party state, to join them." We add that we don't, thus, deny the fact that other instruments of European Union law could be applicable, just that in this case we take into account strictly the provisions of the above mentioned directive. Maintaining the same line, we want to add that although the freedom of movement, respective spouses freedom of movement, is a fundamental element for the juridical order of the European Union, and derogation from this principle is of strict interpretation[88], it does not represent, in any case, an unlimited right, and beneficiaries have a series of obligation -we will not mention them in detail, but we need to say they involve respecting the laws of the host country.

Returning to the category of spouses in the meaning of the normative framework set in place by Directive 2004/38, we provide that, "in principle, valid marriages contracted anywhere in the world must be recognized[89]". Those must be separated from the forced marriages, "where the consent of one of the parties is missing or not respected," since they don't fall within the scope of protection established by international law or European Union law. In turn, forced marriages must be differentiated by arranged marriages, which, according to the European Commission, are finalized with the full and freely expressed consent of the parties, when the marriage is contracted, even if a third party is involved, who, generally, has the main role in choosing the partner. All these must not be confused with what is called convenience marriages, according to the directive - "union types contracted exclusively in order to benefit from freedom of movement and residence"[90], marriages which grant the spouses rights they couldn't benefit from any other way. We notice that this type of marriage fulfills all the features to be an abuse of right which, as defined by the directive, "can be defined as an artificial behaviour, adopted strictly with the purpose of gaining the right to freedom of movement and residence, in accordance with communitary law that, in spite of compliance with conditions set out in communitary norms, does not correspond to the goal of such provisions". As it is clear from the above mentioned, in order to be in the presence of an abuse of right - in our case, the convenience marriage - it is not necessary to violate the provisions of the European Union in the strictest sense, the goal being that it must have the "illicit" characteristics, being opposed to the provisions established by law. The same way, the definition of convenience marriages can be extended, finding applicability in case of other types of unions contracted only with the purpose to benefit from the right of free movement and residence. As an example, we add: partnerships, fictitious adoption, "the situation when a EU citizen declares that he is the father of a child from a third party state, so that the child and its mother should benefit from citizenship and residence right, while knowing he is not the child's father and not being willing to assume parental responsibility".[91]

Similar to the rights member states have in regards to protecting themselves against abuse, in the case of convenience marriages, they have the right to adopt certain internal measures, which should not affect the effectiveness of the Union law -through provisions that impinge on the rights of citizens, for example, by stipulating different provisions based upon the nationality criterion.

The judgment given in the ECHR Case Alilouch El Abasse versus the Netherlands is representative for another right the member states have regarding recognizing marriages, respectively that they can choose not to recognize "polygamous marriages, contracted in accordance with the law of a third party state, but which might contravene to the internal juridical order". The directive which is the scope of our analysis also allows states "to investigate individual cases in which there is a well-founded suspicion of

[86] Ibid.

[87] As an example, we mention The Court Ruling of April 29, 2004, in the joint cases C-482/01 and C-493/01, Georgios Orfanopoulos et all and Raffaele Oliveri vs. Land Baden-Württemberg, ECLI:EU:C:2003:455.

[88] The restriction of the right of entry and right of residence can be done for reasons of public order, public safety or public health, according to Chapter VI of the directive -which is the scope of our discussion. From the point of view of case law, we mention the Court Decision of July 10, 2008 (request for ordering a preliminary decision issued by Dâmbovița Tribunal - the first preliminary question formulated by a Romanian Court) - Ministry of Administration and Interior - General Directorate of Passports Bucharest/ versus Gheorghe Jipa.

[89] COM(2009) 313, p. 4.

[90] Directive 2004/38/EC, point 28.

[91] COM(2009) 313, p. 16.

abuse of law[92]", but the European Union law "prohibits systematic checks"[93]. For the purposes of limiting the abuse which may be committed by the Member States, this time, the Commission has identified a number of criteria by which the respective state can appreciate, according to the share in which they check out, if they find themselves or not in the case of an abuse of right. Here are a few criteria which can suggest the uncorrupted, from a legal standpoint, relationship between spouses: the spouse who is citizen of a third party state wouldn't have any issue in obtaining the right of residence in their own name or has previously already resided, legally, in the member state of the citizen; the two have a long term relationship; the two own a common domicile/form a single household for a long time; the two already entered into a legal/financial long term agreement, with joint responsibilities; the marriage is long lasting.

3. Conclusions

Given the above mentioned, we can say that an evaluation of the evolution of normative acts at the level of the European Union is a painstaking activity, for which we must keep in mind not just the "quantity" of a certain normative act, but also elements pertaining to the causes of adopting such an act, other criteria like "adjacent factors... like the number of preliminary rulings regarding a certain directive or actions regarding its validity"[94]. Thus, our opinion is that in such an analysis, we should prioritize the "qualitative-historical[95]" criterion, such a study being able to offer accurate results for directives which have already been in force for a while, and all these, while taking into account various relevant aspects, which could be reflected in the juridical context, for each case.

The complexity of the particulars of the European Union legal order is reflected, as we tried to show through this analysis, in the matter of the dynamics of its normative acts, both from the perspective of their adoption and their applicability. From the point of view of the second line of thinking, that of the implementing the derivative legislation of the European Union, we took into account several elements of substantive law particular to the freedom of movement of persons, particularly spouses, mainly from the perspective of the provisions of Directive 2004/38/CE, without limitation.

Without being able to say we exhausted all aspects correlative to our subject, we are convinced that the present study can be a solid start point for expanding on this subject in a later research. In this regard, we suggest that one must take into account not only the possible changes which are to take place at the level of normative acts, according to the evolution of situations which can involve delicate aspects from a legal standpoint, like Brexit, but also the future guidelines of the Luxembourg Court in this regard.

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[92] Ibid.
[93] Ibid.; According to the Commission, the interdiction referrs not only to checks involving all migrants, but also to checks regarding certain groups, for example, with a specific ethnic origin.
[94] Daniel-Mihail Șandru, Constantin Mihai Banu, Dragoș Alin Călin, op cit, p. 46
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- https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:C:2004:310:FULL&from=RO, accesat la data de 25.01.2019, traducere neautorizată (personală);
- https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=LEGISSUM%3Al14527;
- Legislația UE- sinteze (EU Legislation - Summary), (https://eur-lex.europa.eu)/legal-content/ROTXT/?uri= LEGISSUM: ai0032).

[1] Published in the Official Journal of the European Union, *L 158, 30.4.2004, p. 77-123, https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex%3A32004L0038, accesed on 26.01.2019.*