



E U R O P E A N
S O C I A L W A T C H
R E P O R T 2 0 0 9

Migrants in Europe as Development Actors

Between hope and vulnerability

Social Watch is an international network of citizens' organisations struggling to eradicate poverty and the causes of poverty, to ensure an equitable distribution of wealth and the realisation of human rights. We are committed to social, economic and gender justice, and we emphasise the right of all people not to be poor.

Social Watch holds governments, the UN system and international organisations accountable for the fulfilment of national, regional and international commitments to eradicate poverty.

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SOCIAL WATCH

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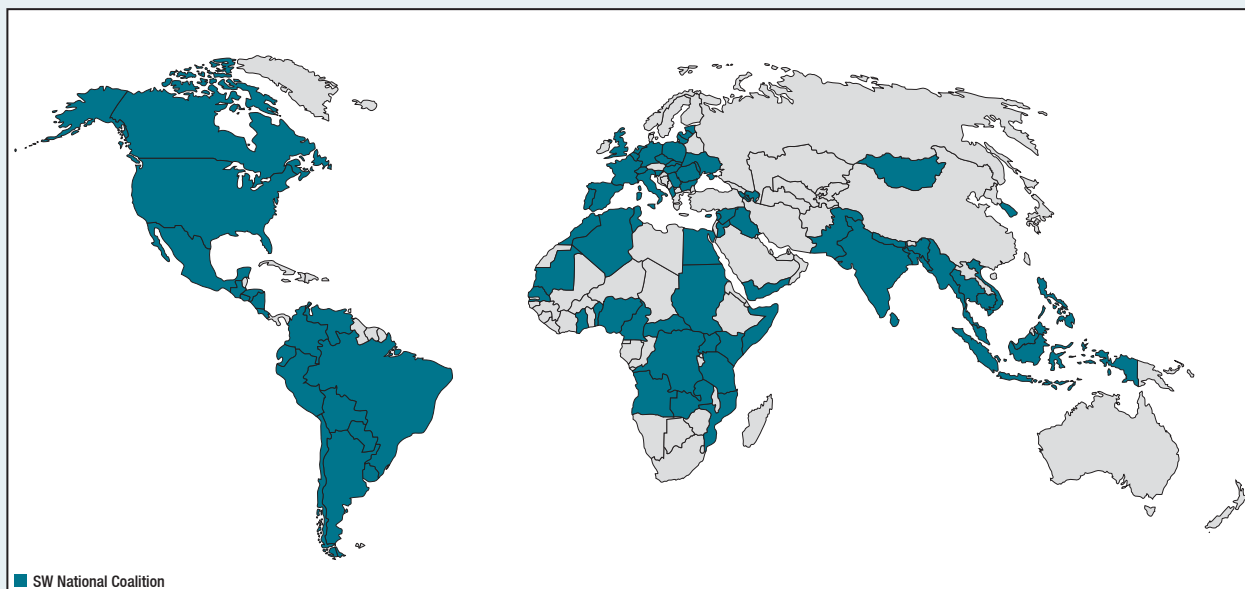
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Network; Koka Women Development Programme; Kumi Network of Development Organizations; Kumi Pentecostal Assemblies of God; Kyakulumbe Development Foundation; Kyebando Associates Club; Lira Community Development Association; Literacy and Adult Basic Education; Little Sister of St. Francis; Makindye Multipurpose Youth and Vendors Group-CBO; Malukhu Youth Development Foundation; Masindi District Education Network; Matilong Youth Mixed Farming Organization; Mbarara District Civil Society Organizations Forum; Mengo Child and Family Development Project Ltd; Mpigi Widows Entrepreneurs (MWEA); Mpigi Women Development Trust (MWODET); Ms Uganda; Mt. Rwenzori Initiative for Rural Development; Mukono Multipurpose Youth Organization (MUMYO); Musingi Rural Development Association; Nabinyoni Development Group; Namutumba District Civil Societies Network; Nangabo Environment Initiative (NEI); National Community of Women Living with HIV/AIDS (Nacwola) Kamuli; National Foundation for Human Rights in Uganda (FHRI); National Union of Disabled Persons in Uganda (NUDIPU); National Women Association for Social & Education Advancement; Ndiima Cares Association (NDICA); Network of Ugandan Researchers and Research Users (NURRU); Ngeye Development Initiative (NDI); Nile Vocational Institute (NVI); Northern Uganda Rural Association; Northern Uganda Vision Association; Ntulume Village Women's Association; Ntungamo District Farmers Association; Ntungamo District Local Government CBO; Ntungamo District NGOs/CBOs Forum; Ntungamo Rural and Urban Development Foundation; Nyabubare United Group; Nyio Development Association; Organization for Rural Development; Osia Integrated Farmers' Cooperative; Palissa Development Initiative; Pallisa District NGOs/CBOs Network; Pamo Volunteers; Participatory Initiative for Real Development (PIRD); Participatory Rural Action for Development; Peace Foundation; Plan International Kampala; Poverty Alert and Community Development Organization (PACDO); Poverty Alleviation Credit Trust; Prayer Palace Christian Centre Kibuye; Protecting Families against HIV/AIDS (PREFA); Rakai Children Trust; Rakai Community Strategy for Development (RUCOSDE); Redeemed Bible Way Church Organization; Riamiriam Moroto Nakapiripiriri Civil Society Network; Ruhama Bee Keeping Group; Rural Initiative for Community Empowerment; Rural Initiatives Development Foundation (RIDF); Rural Productivity for Development Africa; Rushenyi Youth Drama Actors; Rushooka Orphans Education Centre; Rwenzori Agriculture Diversification Promotion Organization; Rwenzori Information Centre (RUCNET); Rwenzori Organization for Children Living Under Difficult Circumstances;

Rwenzori Peace Bridge of Reconciliation; Rwoho Bakyara Twimusyane Tukore; Samaritan Partners for Development; Saving and Credit Society; Single Parents Association of Uganda; Small World Counselling Health Education Association; Soroti District Association of NGOs/CBOs Network; Soroti Rural Development Agency; South Eastern Private Sector Promotion Enterprise Limited; Spiritual Assembly of Uganda; St. Francis Tailoring Helper Programme; Kasese; Sustainable Agriculture Society of Kasese; Sustainable Agriculture Trainers Network; Talent Calls Club; Tecwaa Child and Family Project Bweyale-Masindi; Temele Development Organization (TEMEDO); The Aged Family Uganda; The Forestry College at Nyabyeya; The Modern Campaign against Illiteracy; The Organization for the Emancipation of the Rural Poor; The Uganda Reach the Aged Association; The United Orphans Association; The Youth Organization for Creating Employment; Tirinyi Welfare Circle; Tororo Civil Society Network; Tororo District NGO Forum; Trinita Rural Integrated Community Development Association; Tripartite Training Programme; Triple B Kasese Community; Tukole Women's Group; Tusubira Health and Research Foundation; Twezimbe Rural Development Organization; Uganda Change Agent Association; Uganda Christian Prisoners Aid Foundation; Uganda Church Women Development Centre; Uganda Coalition for Crisis Prevention (UCCP); Uganda Development Initiatives Foundation; Uganda Environmental Education Foundation; Uganda Environmental Protection Forum (UEPF); Uganda Gender Resource Centre; Uganda Human Rights Activists; Uganda Indigenous Women's Club; Uganda Joint Action for Adult Education; Uganda Martyrs Parish; Uganda Media Women's Association; Uganda Mid Land Multipurpose Development Association; Uganda Mid Land Multipurpose Development Foundation; Uganda National Action on Physical Disabilities (UNAPD); Uganda Orphans Rural Development Programme; Uganda Project Implementation and Management Centre (UPIMAC); Uganda Restoration Gospel Churches Organization; Uganda Rural Development and Training Programme; Uganda Rural Self Help Development Promotion (SEDEP); Uganda Support for Children and Women Organization; Uganda Women Foundation Fund; Uganda Women Tree Planting Movement; Uganda Women's Finance and Credit Trust Limited; Uganda Women's Welfare Association; Uganda Women's Effort to Save Orphans; Uganda Young Men's Christian Association; Uganda Youth Anti AIDS Association; UN Association of Uganda; United African Orphanage Foundation; United Humanitarian Development Association; United Orphanage School; Urban Rural Environment Development Programme; Victoria Grass Root Foundation for Development; Voluntary Service Team

Mubende; Voluntary Services Overseas; Voluntary Services Trust Team; Volunteer Efforts for Development Concerns; Vredeseilanden Coopibo-Uganda; Wakiso Environment Conservation and Development Initiative; Wera Development Association; Women Alliance and Children Affairs; Women Together for Development; World Learning Inc; World Light Caring Mission Initiative; Youth Alliance in Karamoja (YAK); Youth Development Foundation; Youth Development Organization – Arua; Youth Initiative for Development Association; Youth Organization for Social Education and Development

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Foreword

When I was a kid, the words “Europe” and “migration” were clearly associated: Europe was the place where migrants were coming from!

During my primary school years at the Deutsche Schule in Montevideo, in the early sixties of the last century, many of my classmates were Jews whose parents had fled persecution in Central Europe, most of my teachers had been physically and perhaps also emotionally traumatised by the war and more than a few of them decided to stay in South America. The shop at the corner where I bought groceries was owned by a Galician who had promised not to return to Spain while Franco was still alive and my grandmother would curse in Italian, her father’s language.

A decade later, in the seventies, when dictatorial regimes all over Latin America sent thousands of people into forced exile to escape prison, torture or “disappearance”, Europe generously welcomed many of them, giving abstract words like Human Rights and solidarity a very tangible meaning. During the eighties Europe had reconstructed and Latin America had destructed its industrial base in the name of economic liberalisation and the migration flow reversed. A never renounced 1890 treaty between Uruguay and Spain giving citizens of each country the right to residence in the other proved to have been of unilateral effect. When my co-nationals tried to invoke it in Spain, the Schengen rules prevailed.

For people in many parts of the world, particularly those living in what are called “developing” countries, Europe is seen as both a source of hope and a cause of despair. Hope, because of its continued promotion of fundamental values of Human Rights, the rule of law and good governance; despair because all too often its actions fail to live up to those values.

This European Social Watch report focuses on the role of Europe in the world. Europe is an important global actor. Decisions taken in Europe impact on people all over the world.

Europe is the main provider of aid to developing countries and poverty eradication is one of the explicit goals of EU policies. For Social Watch, Europe’s commitment to social values, and the system of social protection that has been established across the continent is equally important. For people living in Europe these values underpin the fight against poverty. For the rest of us they provide a model towards which to aspire.

This report’s focus on migration is very apt. Migration is a human interface between countries, continents and civilisations. Millions of Europeans migrated out in the last two centuries. And DNA tests have proven, in turn, that modern Europeans are the result of continuous waves of migration. In the past migration used to be a one way movement. Now many migrants stay just a short time. They build a bridge between Europe and other parts of the world and they contribute to both.

The attraction that Europe exerts should be considered an asset, not a liability. It means that Europe has something to offer to the world. Yet, the way that Europe relates and treats migrants is crucially important as an indicator of its relations with the rest of the world. Immigration is an opportunity for Europe to demonstrate its commitment to Human Rights and development. After all, Europe’s prosperity is largely built upon movements of people.

Migration was chosen as the theme of the first European Social Watch report in recognition of its major internal and external implications for Europe. The initiative to produce a European Social Watch report was born out of the desire to strengthen a common European identity for the many Social Watch coalitions in European countries, while addressing an issue of global consequences. ■

ROBERTO BISSIO
Social Watch international secretariat

Executive Summary

Europe, a continent of migrations

Migration is deeply rooted in Europe's history and identity. Migrants are an integral part of European society and contribute to its diversity and dynamism. Today the European Union has become a major destination for immigrants from all parts of the world. Seen as a land of prosperity and liberties, Europe attracts a great number of immigrants seeking to better their lives and those of their families. People desperately try to reach Europe on planes, boats, trucks or on foot – often risking their lives- to escape from hunger, poverty, war and persecution. Similar motives once pushed millions of Europeans to migrate to the Americas and Oceania.

The European Union consistently presents itself as a key player in development aid and as a fervent defender of Human Rights. Indeed the Lisbon Treaty that will soon provide the legal basis for the European Union identifies the rule of law and respect for human rights, both inside and outside the Union, as founding values. However, European immigration and asylum policies are not always in line with development objectives, as this report shows. They often contradict international Human Rights standards, notably the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child. In addition they do not always comply with the European Social Charter.

Making migration work for development

The interdependence between migration and development has been widely debated during the last decade. There is broad agreement among policy-makers and academics that migration can significantly benefit migrants' countries of origin and countries of destination, as well as the migrants themselves.

The World Bank claims that a 3% increase in the numbers of migrants in high-income countries would result in a \$356 billion increase in global income. The Human Development Report 2009 'Overcoming barriers: Human mobility and development' indicates that "[m]ost migrants, internal and international, reap gains in the form of higher incomes, better access to education and health and improved prospects for their children."

The EU also acknowledges that "Migration, if properly managed, can contribute to the reduction of poverty in developing countries." As part of its 'Policy Coherence for Development' project, launched in 2005, the EU made a commitment to strive towards minimizing the negative effects of migration and maximize its benefits, both for recipient countries and the migrants' countries of origin. In its 'Global Approach to Migration' adopted by the European

Council in the same year, the EU promoted "a comprehensive and balanced approach in dealing with migration issues in partnership with third countries". More recently, the European Pact on Immigration and Asylum, adopted in 2008, aims to "create a comprehensive partnership with the countries of origin and transit and encourage the synergy between migration and development".

Despite broad recognition of the benefits of migration, EU immigration policies primarily focus on preventing and controlling migration to Europe. Its so-called 'cooperation' with migrants' countries of origin and transit mainly consists in offering incentives to combat irregular migration. The European Pact encourages the conclusion of EU-wide and bilateral agreements with those countries in which increased opportunities for legal migration are made in exchange for the origin countries' commitment to participate in the control and readmission of undocumented migrants. European development aid to these countries becomes increasingly conditional on their adoption of 'Readmission Agreements' by which signatory states commit themselves to readmit into their territory, not only their nationals who were apprehended while residing irregularly within the territory of a foreign state, but also other foreigners who transited through their territory. Such policies are at odds with the EU's commitment to enhance the contribution of migration to development. As Peter Verhaeghe points out in the chapter on the "Coherence between Migration and Development policies", increasing border controls and the fight against 'irregular immigration' do not serve development nor contribute to the achievement of the Millennium Development Goals. On the contrary, by making development conditional on cooperation in border control, the EU is turning development aid into a tool for its immigration policy. Using the case of France, Sonia Lokku and Katia Herrgott explain that using aid to fight against migration is not only subverting the Union's development objectives, but is also counterproductive.

Louisa Vogiazides highlights a further inconsistency between Europe's discourse and practice in relation to migrants' remittances. While the EU officially recognizes the development potential of remittances, little action has been taken by European governments to facilitate remittance flows, notably by lowering the cost to remit.

While European countries strive to contain the irregular immigration of low skilled workers, they are far more welcoming towards highly qualified and experienced specialists. In June 2009 The European Council approved the introduction of a 'Blue Card' to facilitate the entry and residence in the EU of third-country nationals for the purpose of highly qualified employment. The emphasis on attracting highly

qualified workers is part of Europe's efforts to shape its immigration policies according to the needs and reception capacities of national labour markets, so-called 'migration management'. 'Choosing migrants' according to European economic needs may help Europe, but does not necessarily serve the development of the countries from which the migrants are drawn. Attracting highly qualified people from developing countries contributes to the brain drain of skills that are vitally needed for a country to develop, particularly if such recruitment is not accompanied by measures that ensure adequate skills remain within the countries concerned. The consequence is that development is undermined with the investment incurred by developing countries in training skilled workers subsidising the European economy. The recruitment of healthcare professionals from developing countries, for instance, tends to put a severe strain on many already fragile healthcare systems. The ability to achieve the targets for health contained in the Millennium Development Goals, to which the EU and its Member States are committed, are subsequently jeopardised.

The concept of 'circular migration' has been put forward as a means to mitigate the damaging effects of brain drain. It is argued that migrants will return to their home country, often bringing back new skills and capital, and so contribute to their own countries' development. However, as Simon Hartmann and Margarita Langthaler warn in "The Race for the Best: a European Perspective on the Brain Drain", as long as the EU is setting the rules, circular migration is more likely to be instrumentalised in favour of Europe's economic interests.

The EU's recognition of the development potential of migration is certainly a good thing. However, until now, such recognition appears to be more rhetoric than reality. While European immigration policies are needed, these need to be shaped in ways that help deliver development, and do not only address Europe's self-oriented security and economic interests.

Migrants' rights: in need of recognition

The gap between Europe's discourse and practice is also reflected in the treatment of immigrants. Although the EU positions itself as a promoter and defender of human rights, both internally and abroad, respect of migrants' rights is far from guaranteed. Human Rights violation may be related to the hardships of the journey to reach the EU, to the circumstances of expulsion of undocumented migrants and to the difficult living and working conditions in the countries of destination.

For a vast number of migrants the journey to Europe involves a great amount of hardships. Examples of such hardships abound. In July 2009, 73 African migrants trying to reach Italy from Libya perished at sea after drifting for three weeks in the Mediterranean. During this time 10 ships reported their predicament, but no action was taken by

European authorities. Taking just the cases documented in the press since 1988, 14,794¹ have died trying to reach EU borders. This astonishing figures show with painful clarity that restrictive immigration laws are indeed deadly.

“A friend of mine is informed that about 290 Eritreans are at this instant (Friday October 23, about 3:00 pm GMT) trapped in the middle of the sea trying to cross from Libya to Italy. The motor of the ship failed and huge waves are troubling them. Contact number of the guy who happens to be among those in the boat: 00882164446xxx. They are looking for help.”

Message to MvR, 23/10/09, in file

In recent years the EU has doubled its efforts for border control. An agency of European police for external borders, Frontex, was established in Warsaw in 2007 to co-ordinate operational co-operation of the EU's external borders. In addition, 'Readmission Agreements' with migrants' countries of origin have been established which seek to prevent and combat irregular immigration. Referring to the case of Malian migrants, Ousmane Diarra explains that 'forced returns' often involve degrading treatment and violations of Human Rights. As Colette De Troy and Natalia Kovaliv argue, restrictive immigration policies and stricter border controls make migrants, especially women and children, more vulnerable to human trafficking.

The widespread use of detention of undocumented migrants and asylum-seekers is another alarming issue. People, whose 'crime' is to seek a better life or to escape from persecution find themselves deprived of their freedom for up to 18 months. As described by many authors in this report, the living conditions in detention centres often do not meet standards of human dignity. The EU is outsourcing immigration controls beyond its frontiers by building detention camps in neighbouring countries often lacking any acceptable control mechanisms with respect to the adherence to fundamental human rights. The Spanish Commission for the Help to the Refugee analyses the case of the Nouadhibou centre in Mauritania.

Migrant's hardships are not necessarily over once they have reached European soil. Migrant workers contribute substantially to European economies, even though the majority of them work in rather unwelcoming labour markets and poor conditions. They are often relegated to low-skilled and low-paid jobs, representing a cheap and flexible labour force, doing jobs which other people are unwilling to do. Undocumented migrants are vulnerable to maltreatment and exploitation. A great portion of migrants are ineligible for social benefits and have no organised representation, which makes them more economically attractive to employers. Documented workers are also at risk when rules

on migration are too strict, especially when their residence and work permits are tied to one specific employer. Permits for low-skilled workers tend to be less flexible and protective than permits for highly skilled workers. Complex rules on migration also mean that migrant workers have a greater chance to become undocumented at a certain point. The situation of migrants' has worsened in the current financial and economic crisis, as they tend to be the first to lose their job.

As pointed out by Nicola Flamigni and René Plaetevoet, it is particularly worrying that the European Union member states have not ratified the UN Migrant Workers Convention² which aims at guaranteeing all migrant workers and members of their families the same fundamental human rights as nationals – regardless of their legal status. The Convention does identify a further number of specific situations of equal treatment that are valid only for documented migrants.

Next to difficult working conditions, migrants also face emotional hardships which can include experiences of exclusion, discrimination and racism. Xenophobic feelings in Europe are increasing as shown by the level of support given to extreme right parties during the European Parliament's elections in June. As Luciano Scagliotti argues, the link established in public discourse between insecurity, immigrants and members of ethnic minorities has fuelled and legitimised widespread racist and xenophobic attitudes. Inequality and discrimination against minorities is also reflected in European social systems. Eve Geddie explains that the fundamental rights to health and education for undocumented migrants are not guaranteed. There remains a large gap between the theoretical entitlements granted by law and the reality experienced by migrants in practice.

Amandine Bach argues that migrant women are particularly prone to suffer from discrimination and inequalities. The EU's current legal framework is gender biased and does not take into account the specific needs of female migrants. Marco Perolini explains that young migrants are also particularly vulnerable even though they represent an important social, cultural and economic contribution to European society.

The way forward

The migration pressures that Europe faces are the result of the inequalities that exist between itself and many countries in its neighbourhood and beyond. The European Union will remain a magnet for people seeking a better life, regardless of the risks they face, until the differences in opportunity at home and in Europe become more equal. Any attempt to halt irregular migration will fail and be harmful as long as the people in question are not offered valid and

legal alternatives for the development of themselves and their families, either in their country of origin or in the destination country. In consequence, development policy is inextricably linked with approaches to migration.

While the link between migration and development is broadly acknowledged, European immigration policies pay little real attention to development objectives. This needs to change, so as to ensure a common coherent approach that brings development objectives and migrants' rights to the centre of immigration strategies.

In the first instance, the positive contribution that migration brings to both Europe and countries of origin needs to be continually re-affirmed. At present, in Europe migration generally bears a negative connotation. Migrants are often accused of taking the jobs of nationals, bringing insecurity and threatening cultural and social cohesion. Yet, Europe should recognize the tremendous contribution of migrants to society – economical, social and cultural. From an economic perspective, migrants offer their skills and their often cheap labour. They contribute to the national treasury by paying taxes, and to the economy in general as consumers. In addition, migration greatly enhances Europe's diversity and dynamism.

Migration should be celebrated for its contribution to Europe. Immigration policies should be built on a positive approach to migration, recognizing benefits both for migrants' countries of origin and countries of reception.

The European Union and the authorities of its member states have the responsibility to ensure respect for the human rights of migrants, not only within its own borders but also in countries with which there are agreements relating to migrants. An end should be put to any form of degrading treatment in the course of a repatriation procedure. European governments need to make all possible efforts to avoid and address migrant workers' exploitation. They should combat racism and discrimination of migrants in employment, education and health. While undocumented migrants may not benefit from the same level of rights as those with documents, their basic rights to live in dignity and to have access to healthcare and education should be guaranteed. Any failure by Europe to implement its approach to migrants in accordance with its values as set out in the Treaty and legal obligations undermines its legitimacy. In part the ratification of the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families by the European Union and its Member States would be a positive step in the right direction. So too would be their endorsement of the Revised European Social Charter with its provisions for migrant workers and their families.

GENOVEVA TISHEVA
MIRJAM VAN REISEN

Social Watch Coordinating Committee, Europe

1 Source: <fortresseurope.blogspot.com>

2 The official name of the Convention is 'The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families'.

List of Acronyms

AHC	Albanian Helsinki Committee
AME	Association Malienne des Expulsés
ASGI	Association for Law Studies on Immigration
ASM	Academy of Sciences Moldova
BCP	border crossing points
BiH	Bosnia and Herzegovina
CARDET	Centre for the Advancement of Research and Development in Educational Technology
CEAR	Spanish Commission for Refugee Aid
CICID	Committee for International Cooperation Development
CIGEM	Migration Information and Management Centre
CIRE	Coordination et Initiatives pour Réfugiés et Etrangères
CLC	Croatian Law Centre
COATNET	Christian Organisations Against Trafficking NETWORK
EC	European Commission
ECHR	European Court of Human Rights
EEA	European Economic Area
EESC	European Economic and Social Committee
ENAR	European Network Against Racism
ENoMW	European Network of Migrant Women
EPAC VAW	European Policy Action Centre on Violence against Women
ESCS	Index of economic, social and cultural status
EU	European Union
EWL	European Women's Lobby
EYF	European Youth Forum
FBiH	Federation of Bosnia and Herzegovina
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
IDP	internally displaced person
ILO	International Labour Organization
IMF	International Monetary Fund
IOM	International Organization for Migration
JRS	Jesuit Refugee Service
LMSAA	Law on the Movement and Stay of Aliens and Asylum
LoA	Law on Asylum
MDG	Millennium Development Goal
MFA	Ministry of Foreign Affairs
MIIIDS	Ministère de l'immigration, de l'intégration, de l'identité nationale et du développement solidaire
Mol	Ministry of Interior (RoC)
MSF	Médecins sans Frontières
NEWW	Network of East-West Women
NGO	non-governmental organisation
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
OFSE	Österreichische Forschungsstiftung für Entwicklungshilfe
OR.C.A	Organisation for Undocumented Workers
PCD	Policy Coherence for Development
PICUM	Platform for International Cooperation on Undocumented Migrants
PISA	Programme for International Students Assessment
RoC	Republic of Croatia
RS	Republic Srpska
TCN	third-country national
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Education, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commission for Refugees
UNODC	United Nations Office on Drugs and Crime
US	United States
USA	United States of America
WTO	World Trade Organization
ZEP	Zone of Education Priority

◎ THEMATIC REPORTS

Coherence between Migration and Development Policies

The EU's security-oriented migration policy is at odds with its rhetoric of using migration as a potential source of development in poor countries.

Peter Verhaeghe
Caritas Europa

The debate on the interdependence between migration and development has gathered tremendous momentum over the last 10 years, within the European Union and on a global level. Indeed, since the adoption of the multi-annual programme creating an area of Freedom, Security and Justice – the so-called 'Tampere programme' – in 1999, the possible synergies between development and migration policies are being explored. Bringing the two policy areas closer together to increase effectiveness and coherence is a great challenge for many reasons. The EU has different levels of competence in both policy areas; policymakers and politicians have diverging goals and objectives related to 'their' policy area; and EU Member States have their own privileged or preferred relations with various third countries. Migration and development is a 'chicken

or the egg' debate. How realistic is the UN Secretary General's call for a 'triple win': i.e., benefiting migrant receiving countries, countries of origin and migrants themselves? In this report, the interaction between development and migration is analysed from the angle of its impact on the (re)distribution of wealth.

1999: Linking EU migration and development policies in the spirit of partnership with third countries

In October 1999, under the Finnish Presidency, the European Council adopted an ambitious five-year programme for the further development of EU policies in the area of Justice and Home Affairs. The programme was based on the recently acquired legal competence of EU institutions in the area of asylum and migration, as laid down in the Amsterdam Treaty adopted in 1998 (the treaty establishing the European Community). Partnerships with countries of origin (of migrants) was the first of four objectives in the European Council conclusions under the

chapter 'A common EU Asylum and Migration Policy'. The aim is to develop a comprehensive approach to migration, including development issues, in countries and regions of origin and transit by increasing the coherence between internal and external policies of the EU. The conclusions also call for stronger external action, in particular by integrating Justice and Home Affairs concerns into the definition and implementation of other EU policies and activities.

The NGO community broadly welcomed the European Council's conclusions, but expressed its concern that the EU may make (economic) assistance to countries of origin or transit conditional upon their willingness to take measures to control migration flows. Indeed, the formulation of the text could lead to an interpretation of development aid as 'conditional'. Countries of origin would need to comply with EU requirements in the management of migration flows.

2001: September 11 and the Laeken Council conclusions

In December 2001, the European Council dedicated part of its conclusions to "the Union's action following the attacks in the USA on 11 September" (Council of the European Union, 2001). Indeed, the events in the US caused a dramatic change in the climate within which EU migration policies are debated. Obviously, the debate on its external dimension was equally affected. No more talk of development cooperation with third countries to address root causes, but instead, as feared by NGOs, migration management measures became integrated into the EU's foreign policy. "In particular, European readmission agreements must be concluded with the countries concerned on the basis of a new list of priorities and a clear action plan" (Council of the European Union, 2001, p.11). The external dimension of Justice and Home Affairs has turned into a security debate. The European Council asked the Commission to submit amended proposals for directives concerning asylum procedures and on family reunification. The management of EU external borders has become the core instrument in the fight against terrorism and illegal migration networks, mentioned in the same phrase, suggesting a direct relation between the two.

2002: The Seville Council – Migration management, a key element of cooperation agreements

The European Council of Seville of June 2002 urged that:

BOX 1: The evolution of European immigration policy

In the aftermath of WWII, the need for foreign workers for the reconstruction and modernisation of Western Europe led countries such as Britain, France and the Netherlands to adopt liberal immigration policies. The high immigration flows in that period were guided by economic concerns. In the 1970s, Northern European countries, hit by economic recession and growing unemployment, put a halt to their *laissez-faire* immigration policies. Moreover, it had become clear that the stay of the first-wave of migrants was not temporary, but permanent.

Until the mid-1980s, Western European states were reluctant to cooperate on immigration and asylum issues. The right to freedom of movement was recognised in the founding treaties of the European Communities, the Treaty of Paris (1951) establishing the European Coal and Steel Community (ECSC) and the Treaty of Rome (1957) establishing the European Economic Community (EEC). However, such a right was only limited to EC nationals, who were conceived as workers, rather than citizens. Nation states retained most of their policy-making authority regarding the immigration of third-country nationals (TCNs).

From the early 1990s, Western European countries witnessed an upsurge in immigration flows and asylum demands. The reaction of policymakers was to strengthen national restrictions and increase cooperation on border control. In addition, the Schengen Agreement, signed in 1985, but which came into force ten years later, provided a further incentive to cooperate on asylum and immigration issues. With the dismantling of their internal borders, signatory countries sought to reassert their control over external borders through collaborative action. They adopted a common visa policy for TCNs and created a common Schengen Information System (SIS) to facilitate interstate judicial cooperation.

The need for a common European immigration and asylum policy was officially recognised in 1992 in the Treaty of Maastricht. European Union cooperation on these issues was especially enhanced by the Treaty of Amsterdam, signed in 1997, which gave increased power to EU institutions on the subject. In 2004, the Dutch presidency of the European Council set a new agenda for immigration and asylum issues, known as the Hague Programme, for the period 2005 to 2010. More recently, in October 2008, the European Council adopted the 'European Pact on Immigration and Asylum', drafted by the French presidency of the Union.

The new five-year policy framework for immigration and asylum for the period 2010 to 2014, referred to as the Stockholm Programme, is expected to be adopted by EU leaders at the European Council summit in December 2009, after talks with the European Parliament in autumn.

[A]ny future cooperation, association or equivalent agreement which the European Union or the European Community concludes with any country should include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration. (Council of the European Communities, 2002)

In December 2002, the Commission adopted a communication on 'Integrating Migration Issues in the European Union's Relations with Third Countries'. The Commission listed the push and pull factors for migration on which EU policies could impact. Being very migration control oriented, the policy proposals concentrated on measures preventing migration. In line with the Council conclusions, the European Commission proposed to start negotiating readmission agreements with Albania, Algeria, China and Turkey, as well as with African, Caribbean and Pacific (ACP) countries, the latter based on Article 13 of the Cotonou Agreement. Moreover, the communication provides that new readmission agreements with ACP countries should cover third country nationals. Such a provision means that any country signing a readmission agreement with the EU accepts to readmit nationals of other countries who transited through the country on their way to the EU.

NGOs were, and are, very critical of such provisions, as they do not include any safeguards for the protection of the human rights of readmitted persons, particularly if they are not citizens of the country of readmission.

2005: The Hague Programme and the Commission communication on synergies between migration and development

The Hague Programme, successor to the Tampere Programme of 1999, also contains a chapter on the external dimension of EU migration policy. The partnership with third countries, however, is reduced to EU support to increase the ability of these countries:

... to improve their capacity for migration management and refugee protection, prevent and combat illegal immigration, inform on legal channels for migration, resolve refugee situations by providing better access to durable solutions, build border-control capacity, enhance document security and tackle the problem of return. (EU, 2004)

The development aspect of migration policy is very limited in the new multi-annual programme. Existing financial instruments are oriented towards increasing the capacity of third countries to control their borders and new instruments are established to finance forced return operations. The goal of addressing the root causes of forced migration is off the radar.

2005: Commitment to policy coherence for development

In 2005, the European institutions adopted a joint statement on EU development policy, known as 'The European Consensus', in which the commitment to increase Policy Coherence for Development (PCD) is agreed:

The EU shall take account of the objectives of development cooperation in all policies that it implements which are likely to affect developing countries. (EU, 2006)

The European Consensus is unambiguous about the goal of increased policy coherence. It specifically states that the positive impact on development of initiatives in 12 policy areas has to be assessed. Hence, achieving the Millennium Development Goals (MDGs) is the final aim of the whole exercise. This is equally applicable to EU migration policy. However, the statement is immediately followed by a restricting addition:

... the Commission will aim to include migration and refugee issues in country and regional strategies and partnerships with interested countries and to promote the synergies between migration and development, to make migration a positive force for development. It will support developing countries in their policies of management of migratory flows... (EU, 2006)

Although it is stated in the European Consensus that migration can contribute to development, it is obvious that financing capacity building and resources in developing countries to control borders does not contribute in any way to achieving the MDGs. The EU's own Home Affairs interest in controlling borders and stopping migrants from reaching Europe prevails.

2008: European Pact on Immigration and Asylum

The European Pact on Immigration and Asylum was an initiative of the French EU presidency aimed at renewing the Member States' commitment to achieving a common migration and asylum policy. The Pact also contains an 'external dimension' formulated as "to create a comprehensive partnership with countries of origin and transit to encourage synergy between migration and development" (EU, 2008). The predominance of EU interest is also clearly reflected in this political declaration, as it states that cooperation with countries of origin will be developed to discourage and combat illegal immigration.

The Pact is no more than a political commitment, but Member States agreed that it would be the basis for the next multi-annual programme for Justice and Home Affairs (2010–2014).

BOX 2: European Pact on Immigration and Asylum

On 15 and 16 October 2008, Europe's leaders (European Council) set their seal on the European Pact on Immigration and Asylum, which was first approved by the Justice and Home Affairs Council on 25 September 2008. With the adoption of the Pact, the Council made five basic commitments:

1. To organise legal immigration to take account of the priorities, needs and reception capacities determined by each Member State, and to encourage integration
2. To control illegal immigration by ensuring that illegal immigrants return to their countries of origin or to a country of transit
3. To make border controls more effective
4. To construct a Europe of asylum (to create a single European asylum procedure by 2012)
5. To create a comprehensive partnership with the countries of origin and of transit in order to encourage synergy between migration and development

2009: The Stockholm Programme – Focus on 'internal' solidarity

The Hague Programme for Justice and Home Affairs ends in 2009. The Council started negotiations on the next multi-annual programme – the 'Stockholm Programme' – on the basis of a Commission Communication and inspired by the European Pact. The chapter on asylum and migration concentrates on internal solidarity, even if it contains a part related to partnerships with third countries (EU, 2009):

Solidarity must remain at the centre of the common policy and the EU should provide more support to the Member States most exposed to migratory pressure. (Ibid)

Under the heading 'migration and development', the Commission mainly proposes additional measures to facilitate transfers of remittances and to alleviate the brain drain. NGOs hope that this section of the Programme will be reinforced during the negotiations. The contribution of EU migration policy to the achievement of the MDGs should be much stronger than it is in the Commission's proposal. Non-governmental development organisations (NGOs) and development experts should, therefore, follow and influence the debate, with the aim of prioritising development goals in shaping the next steps in the EU's migration policy.

Challenges ahead: Migration policy as an instrument for reaching the MDGs

The debate on migration and development in the EU is mainly oriented towards preventing migration and creating incentives for countries of origin to align themselves with the EU Member States' goals

concerning the management and control of migration. This trend is based on a number of assumptions, which deserve to be thoroughly reconsidered.

Assumption 1: Most developing countries are countries of origin of migrants to the EU.

Current EU migration and development policies target countries that are most important in European immigration statistics. The Least Developed Countries are underrepresented in migration statistics and, consequently, run the risk of not being considered. This casts doubt on the PCD commitment of migration policymakers. The criterion for prioritising the allocation of development aid resources to developing countries should be their level of performance in achieving the MDGs, rather than the number of citizens present or trying to reach EU territory.

Assumption 2: The migration of highly qualified workers from developing countries always constitutes a brain drain.

A common assumption is that qualified people leaving a developing country cause a brain drain and, therefore, put at risk the development efforts of the EU. This argument is used in shaping migration policies as a justification for denying people the right to leave their country to come and work in the EU. The link between migration and brain drain is partially true in a number of countries, but cannot be generalised. Moreover, a less debated phenomenon, but equally critical, is the one of 'brain waste', which refers to the flow of highly qualified migrant workers, who are employed below their qualifications.

The response to the problem of brain drain is again inspired more by the aim of controlling migration, than by a desire to achieve the MDGs. Instead, a more effective way to combat brain drain lies in investing in MDG 2 – achieving universal primary education – while at the same time increasing access to higher education. Concurrently, MDG 8 – develop a global partnership for development – should be promoted, in particular, the 'development of decent and productive work for youth'.

A more elaborate analysis of the impact of EU policies on brain drain can be found on page 14 of this report.

Assumption 3: Migration can be reduced by addressing root causes.

Poverty reduction as such does not reduce migration. As mentioned above, it requires resources to migrate. In other words, the poorest don't migrate. It is a myth that more development will lead to less migration.

Partnerships with countries of origin and transit should, therefore, be aimed at addressing the root causes of forced migration and displacement. Human rights violation and political and social instability are among the main causes of refugee movement. Taking into account that the number of asylum seekers in EU Member States is not repre-

sentative of the whole refugee problem, the EU can best address these causes by supporting the development of democratic controls on governance structures, which would contribute to conflict prevention.

Assumption 4: Circular migration is the one size fits all solution.

In the current debate, circular migration is presented as the ideal response to all incoherence between migration and development policies. Circular migration broadly refers to the repeated movement of workers across borders, as advocated by the EU for its citizens between the Member States. However, the definition of circular migration is unclear in the political discourse, reflecting a diversity of objectives ranging from reducing the negative impact of brain drain to controlling migratory movement.

In view of achieving a 'triple win' (benefiting receiving countries, countries of origin and migrants), an adequate interpretation and organisation of circular migration may increase the positive effects of migration for developing countries, while at the same time helping EU member states address their labour needs and reduce irregular migration. But, circular migration can only be facilitated by a legal framework that promotes mobility and protects workers' rights.

Concluding remarks

The EU's commitment and efforts to ensure policy coherence are positive and deserve the critical support of civil society organisations: Support, because ensuring policy coherence is a must, and critical, because all policy decisions in the area have to be inspired by the same main goal, the achievement of the MDGs. There is, and will be, a permanent tension between long-term and short-term objectives, but the MDGs cannot be jeopardised by short-term objectives related to migration control. The full potential of migration as a tool for the redistribution of wealth and as one of the instruments for reaching the MDGs can only be realised if that goal is clear and if all policy and decision makers fully adhere to it.

Apart from a political will and the close monitoring of the process by civil society organisations, the achievement of the MDGs will probably require some institutional changes and shifts of competences within the Directorate Generals (DGs) and from national to European governance levels. ■

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Migrant Workers' Remittances: A Development Instrument in Question

Although remittances can play a positive role in poverty reduction, excessive reliance on remittances fosters dependence and economic vulnerability.

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Over the past two decades, remittances sent by migrants to relatives who stayed behind have created increasing enthusiasm among academics, policy-makers and financial institutions. Over the past few years, numerous international summits have highlighted the link between migration and development, notably the UN High-level Dialogue on International Migration and Development, the Global Forum on Migration and Development, and the Euro-African ministerial meeting on Migration and Development. The World Bank's *Global Economic Prospects 2006* focused entirely on the economic implications of remittances and migration. However, the recent enthusiasm around remittances as a development tool is exaggerated. Evidence suggests that a national development strategy heavily dependent on remittances is not sustainable. Moreover, discourses on the positive effects of remittances on development often neglect one important aspect: the costs borne by migrants in the process of generating them.

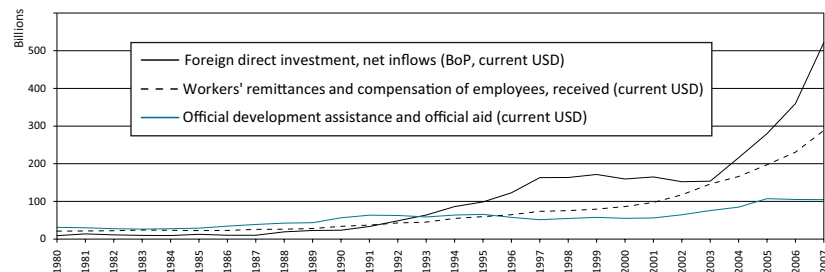
Remittance flows include money sent by migrants to relatives in their home countries, financial investments in real estate or business, and savings in banks in their country of origin². In recent years, such flows have been increasingly viewed as a mechanism for funding development in the Global South and for achieving the Millennium Development Goals (MDGs). Hence, remittances have become the 'new development mantra'.

Enthusiasm around remittances is based on a number of claims. First, remittances represent the second-largest source, after Foreign Direct Investment (FDI), of external funding for developing countries. In 2008, officially recorded remittances were estimated to have reached USD 305 billion, which is almost three times as much as Official Development Assistance (ODA) (USD 119.8 billion in 2008) and nearly two-thirds of FDI (USD 517.7 billion to developing countries in 2008). It must be noted

1 The author thanks Badara Ndiaye for his useful comments.

2 Parallel to 'economic remittances', the term 'social remittances' refers to the ideas, behaviours, identities, and social capital that flow from the host society to the sending country, and conversely. However, this article focuses only on economic remittances.

Figure 1: Absolute trends for FDI, ODA and remittances for low and middle income countries 1980-2007



Source: World Bank

that this amount represents only a fraction of the sums actually remitted, as large amounts of money are transferred through informal channels.

Second, remittances are the fastest growing source of external funding, with amounts doubling between 2002 and 2007 (Ratha et al., 2007).

Third, until recently, remittance flows were considered less volatile than private capital flows, as they often moved counter-cyclically. In other words, they remained stable, or even rose, during economic downturns (World Bank, 2005). This assertion is, however, contradicted by the current financial and economic crisis, which has triggered a drop in remittance flows. The World Bank projects a decline in remittances flows of 7 to 10 per cent in 2009 as a consequence of the crisis (Ratha et al., 2009).

A fourth argument in favour of remittances is that they often cover an important part of the remittance-receiving country's trade deficit. For example, remittances are considered to have financed more than 70 per cent of the Albanian trade deficit since 1995 (Mansoor & Quillin, 2007) and 75 per cent of Moldova's trade deficit in 2005 (Razin, 2006).

Moreover, evidence suggests that remittances improve a country's creditworthiness for external borrowing, enabling it to borrow at lower interest rates (World Bank, 2005). For example, in the case of Albania and Bosnia and Herzegovina, the ratio of debt falls by roughly 50 per cent when remittances are taken into account. Being less indebted, these countries acquire better access to credit (Mansoor & Quillin, 2007).

Sixth, remittances are considered to contribute significantly to poverty reduction, both directly and indirectly. Remittances can act as income insurance for households, especially during times of crisis, such as economic downturns, political conflicts and

environmental disasters. The Asian Development Bank estimates that, in 2006, remittances maintained 4.3 million people out of poverty in the Philippines (Balea, 2009). In Kosovo, remittances are said to have played a significant role in post-conflict reconstruction (Vathi & Black, 2007).

Beside the direct effect of remittance income on poverty reduction, remittances can also have an indirect effect on the national economy. When invested, remittances can contribute to employment creation. Moreover, the additional consumption made possible by remittance income can stimulate the local economy and thus benefit families that do not receive remittances (World Bank, 2005).

Remittances at times of global crisis

Without doubt, remittances represent precious income insurance for poor households. Yet, reliance on remittances makes remittance-receiving countries vulnerable to economic fluctuations and to the various immigration and labour policies in remittance-source countries. These concerns are particularly acute in countries where remittances constitute an important share of GDP.

The risks involved in remittance dependency are sadly illustrated by the current global financial crisis. As a result of the global economic downturn, 2008 witnessed the first sustained drop in remittances since flows started being recorded. The World Bank estimates that remittances will fall by 7 to 10 per cent in 2009. Remittances to Sub-Saharan Africa and Europe and Central Asia are expected to decline by 4.4 per cent and 10.1 per cent respectively. Moreover, the Inter-American Development Bank (2009) estimates that the decline in remittances "will have a direct effect on more than 1 million households in Latin America and the Caribbean, half of

which are in Mexico". Added to the fall in FDI, export incomes, and ODA, falling remittances are causing hardship in many developing countries.

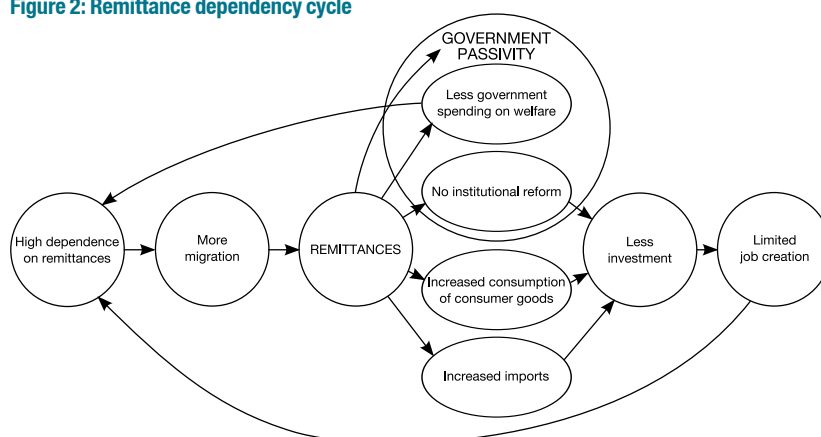
The decline in remittances is largely due to the fact that migrant workers have been harder hit by the recession than natives. A report from the Centre for Immigration Studies shows that unemployment among immigrants (legal and illegal) in the US was higher in the first quarter of 2009 than at any time since 1994, when immigrant data was first collected separately (Camarota & Jensenius, 2009). The rise in unemployment in the Spanish labour market has particularly affected the migrant population. While the overall unemployment rate approximated 17 per cent in the first quarter of 2009, the unemployment rate among foreign workers reached 28 per cent³.

The current situation offers little reason for optimism about the future. The World Bank economists Dilip Ratha and Sanket Mohapatra (2009) fear that, "if the crisis were deeper and if it lasts longer, the decline in remittance flows may become even sharper". They also argue that weakening job markets in migrant host countries are likely to lead to more tightening of immigration controls, which, in turn, will affect remittance flows. The strengthening of immigration controls is not a new phenomenon, but it may be exacerbated in the context of the global economic crisis. In 2006, the United Kingdom introduced a system granting points to prospective migrants according to their labour market-related 'attributes', such as educational qualifications, previous earnings and age. Such a system favours highly qualified migrants over low skilled or unskilled migrants. In February 2009, the British Government raised the minimum educational and financial requirements, even for highly qualified migrants. The Home Office estimates that the number of non-EU highly qualified workers entering Britain after April 2009 will fall by almost half because of tougher entry requirements (Ford, 2009). In October 2008, Spain introduced a 'voluntary return programme' giving financial incentives to migrants willing to return to their home country. If migrant workers agree not to return to Spain for three years, they are repaid their contribution to the unemployment insurance scheme: 40 per cent upfront and the balance upon return to their country of origin (Abend, 2008). More recently, in May 2009, the Italian Lower House approved legislation that makes entering or staying in Italy without permission a crime punishable by a fine of €5,000 to €10,000, sets up citizen anti-crime 'patrols' and sentences landlords to up to three years imprisonment if they rent to undocumented migrants⁴.

3 These rates were communicated by the Spanish Statistics Institute to the Migration Policy Institute (Washington DC).

4 For further information on the new Italian immigration legislation, see Italy's national report on page 62.

Figure 2: Remittance dependency cycle



Source: Vogiazides (2008)

The vicious cycle of remittance dependency

Declining remittances heavily affect developing countries' economies. Yet, even when available, remittances should not be considered as a sustainable development strategy.

Remittances are predominantly spent on consumption, rather than used as savings or for investment. A World Bank study on remittance expenditure patterns in six East European countries reveals that only roughly five per cent of remittances are used for business investment purposes (Mansoor & Quillin, 2007, p.64). Such a model of remittance use alleviates family poverty, but does not create many new jobs through investment, which would boost incomes and possibly prevent new migration flows.

Moreover, new consumption patterns, made possible by the availability of foreign exchange, translate into an increase in imports, which widens the balance of payments deficit. This stimulates national demand for additional remittance transfers. In this sense, remittances contribute to macro-economic instability (Hernandez & Coutin, 2006, p.199).

The income provided by remittances may also absolve governments in remittance-receiving countries from their responsibility to develop long-term economic and social policies to address poverty and inequality, which are the main causes of emigration (Phillips, 2009). From an economic perspective, Glytsos (2002, p.8) explains that

[t]he comfortable finance of deficits by remittances relaxes governments from adopting long-term economic policies for changing the structure of the economy to make it more competitive against the rest of the world.

Therefore, excessive reliance on remittances might impede the diversification of the industrial system. Similarly, high remittance flows might relax governments from investing in the areas of social and welfare provision, especially as remittances

are often higher than social spending. For example, remittances to Moldova in 2003 were estimated at USD 484 million, more than double the USD 190 million spent on social assistance and pensions by the Government of Moldova (Ruggiero, 2005, p.55).

A state's dependency on remittances can easily become a vicious cycle as reductions in public spending may lead to more migration and thus more remittances (Hernandez & Coutin, 2006, p.202). The decision to migrate may be motivated by poor welfare coverage, as well as few employment opportunities, resulting from the passivity of the government. Lack of employment opportunities are exacerbated by the fact that remittances are primarily spent on consumption rather than invested productively. To sum up, high reliance on remittances fuels government passivity and hampers private investment, which, in turn, affects the labour market and leads to more migration and, thus, more remittances. The vicious cycle of remittance dependency is illustrated in Figure 2.

In a development strategy based on remittances, migrants are expected to bear the risks and costs related to migration in order to fulfil their basic needs and those of their families. Migrants are also expected to compete in the global market in order to secure minimal social and economic welfare, as these are no longer guaranteed by government action. Yet, a large part of the world's population is left out of the picture: those who don't migrate and don't have a migrant in their family. It is acknowledged that the 'poorest of the poor' do not migrate because of the costs involved (travel costs, documents and living expenses in the host country). International migrants constitute only 3 per cent of the world population while about 39 per cent, that is 2.6 billion people, lived on less than USD 2 per day in 2005 (World Bank, 2008). The majority of people are thus left without options: they cannot migrate nor can they rely on basic state provision. Even for those who can afford to migrate, generating remittances is not without costs.

Costs of remitting

Remittances are often described as a costless source of income for developing countries as, contrary to loans, they do not need to be repaid (Hernandez & Coutin, 2006, p.193). Such a picture, however, is far from reflecting reality. For the great majority of remitting migrants, sending remittances requires taking risks, hard work and sacrifices.

The risks include the hardships involved in travelling to a rich industrial country. During the first half of 2009 alone, 339 people who attempted to cross the Mediterranean from North Africa to Italy and Malta were reported dead or missing. Another 87 went missing or died during boat trips from West Africa to Spain and 8 in the Aegean Sea between Turkey and Greece (Fortress Europe, 2009).

Moreover, remittances are, in the majority of cases, the fruit of hard work in rather unwellcoming labour markets and under poor conditions. In advanced industrial states, the vast majority of migrants are relegated to low-skilled and low-paid jobs. They are often used as a cheap and flexible labour force. A significant number of migrants also enjoy fewer social, economic and political rights than natives. The fact that no European country has ratified the 1990 UN Convention on the Rights of Migrant Workers and their Families is an indication of their lack of commitment towards improving migrants' wellbeing.

Migrants' sacrifices can also consist of emotional suffering. Such suffering can be related to separation from their families, working below their qualifications, or being subject to racism and discrimination.

The action of remitting itself is not exempt from costs and difficulties. Remittance transfers usually involve financial costs. A growing number of banks and financial institutions see the opportunity for profit that remittances represent⁵. Although many analysts and policymakers, including in the European Union, advocate for the reduction of remittance costs, governments of remittance-source countries take little action to remove obstacles to transfers and improve access to remittance services for poor people⁶.

In addition, many migrants impose heavy constraints on their own spending in order to remit. Remitting can require large sacrifices considering the low wages and high living costs in advanced industrial countries. The sacrifices involved may prevent migrants from saving money and thus investing in business or having access to better accommodation or education.

All of these issues contradict the discourses presenting remittances as a costless source of

income for developing countries. Hernandez and Coutin (2006, p.203) even suggest that remittances should be re-qualified as the 'dolor'⁷, rather than 'dollar', bill. When assessing the development potential of remittances, one should take into consideration the costs they entail.

Conclusion

While remittances do contribute to poverty reduction, they should not be seen as a panacea for development.

Governments in remittance-receiving countries should seek to break the cycle of remittance dependency by ensuring good welfare coverage and a secure investment climate. This would allow remittances to be increasingly invested in the local economy, which, in turn, would generate more jobs, and decrease the pressure to migrate. The promotion of remittances should be only one part of a country's development strategy, accompanied by state policies aimed at guaranteeing effective public services, such as health and education, improving social security, and making the country safe for investment. The weaknesses inherent in development strategies based on remittances have come to light as a result of the current economic downturn. Remittance-receiving countries should also put forward the development benefits of migration and remittances in international arenas, such as the WTO and UN meetings. Finally, they should closely cooperate with remittance-source countries to ensure respect for migrants' fundamental rights.

Remittance-source countries, if they are really committed to boosting the development potential of remittances, should incorporate migration and remittances into their development aid policies. Such incorporation should go beyond mere acknowledgement in the discourse and involve more liberal immigration policies towards citizens of poor developing countries, as well as concrete efforts to facilitate remittance transfers. Immigration liberalisation does not need to involve a complete removal of restrictions, but a realistic increase in quotas for legal migrants. Perhaps what is more urgent in the current context is to stop the criminalisation of migrants. Not only is migrating not a crime, but migrant-receiving countries should recognise the significant contribution of migrants to their national economies. Finally, receiving countries should show their commitment to protecting the rights of migrants by ratifying the UN Convention on the Rights of Migrant Workers and their Families. ■

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5 In 2005, the widespread money transfer organisation Western Union declared profits of more than USD 3 billion (Le Monde, 2007).

6 Lower remittance costs are a result of market mechanisms rather than governmental intervention.

7 'Dolor' means pain in Spanish.

The Race for the Best: A European Perspective on the Brain Drain

The 'brain drain' has re-entered the development debate: Against the backdrop of a highly competitive global knowledge economy, highly qualified migration represents a major issue for both Organisation for Economic Co-operation and Development (OECD) countries and developing countries.

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Definition, causes and consequences

The process of a brain drain implies the outflow of highly qualified workers, usually by transborder or transcontinental migration, and, hence, refers to both source countries and receiving countries. Europe itself did not become a region for immigration until World War II, and it has not only attracted, but also lost, highly qualified workers.

In recent years, terms like 'brain gain', 'brain circulation' or 'international mobility' have been introduced, alluding to the potential benefits of highly qualified migration, as compared to terms like 'brain waste', which imply loss of intellectual potential.

Highly qualified migration is basically driven by negative factors in the source countries (outflow) and positive incentives in the receiving countries (inflow). Motivations for people leaving their home countries are various and range from personal (poor career prospects, constraints on freedom) and economic (low wages, unemployment), to social (bad living and working conditions, social insecurity) and political (persecution, political instability and insecurity) reasons. Additionally, the north-south dominated flow of information provided by 'de-territorialised media' and accelerated 'cultural globalisation' following Western ideals (knowledge, consumption, individual liberty) leads especially young people in developing countries to consider emigrating to the Western world (Gebrewold, 2007, pp.97–102). Pull factors largely correspond to the scarcities found in source countries.

For sending countries, remittances, knowledge transfer, new or enhanced foreign trade relations, foreign education and values¹ are positive impacts of the brain drain, while loss of intellectual potential², staff shortages (especially in strategically

important sectors like medical care, administration and education), loss of economic investment (cost of tertiary education) and loss of tax revenue³ represent the negative consequences. By contrast, receiving countries 'accumulate skill', offset labour shortages, augment the 'average skill level' of their labour force and usually increase the economic profit ratio by increasing wage pressure in the national labour market (Exenberger, 2007, p.15).

The consequences of the brain drain cannot be generalised as they vary significantly according to conditions in source and receiving countries. As pointed out by Docquier et al. (2007), countries most vulnerable to brain drain are small, situated close to OECD territories and strongly tied to their former colonial powers. Religious fractionalization intensifies the negative impacts. A major factor in the extent of negative impacts is the amount of native human capital; this determines whether or not the brain drain causes an appreciable lack of human resources in strategic sectors such as health and education. Consequently, the brain drain is likely to benefit large populations and middle income countries, while significantly weakening small and less developed countries.

Finally, slowing migration has proved not to be as simple as imposing legal restrictions or reducing poverty (Gebrewold, 2007, p.101), because migration motives are manifold; people are willing to defy prohibitions (undocumented migration) and migration also implies costs (usually the poorest of the poor can't migrate). By contrast, in the case of highly qualified worker migration, increasing poverty causes growing numbers of emigrants (Exenberger, 2009, p.39) and migration happens, to a large degree, voluntarily and via legal channels (Kelo & Wächter, 2006, p.16). Regrettably, most data regarding international migration flows are unreliable and lack harmonisation, which makes analysis difficult⁴. Moreover, most statistics concentrate on education levels and neglect the professions of migrants in receiving countries. Indeed, as affirmed in the brain

waste debate, many qualified migrants work in low skilled jobs (Kelo & Wächter, 2006, p.17).

Dimensions and flows

During the year 2000, of almost 22 million migrants living in the EU, 22 per cent had tertiary education.⁵ Compared to 1990, this share has considerably increased (+7%), while the stock of primary educated migrants has relatively decreased. With respect to the population structure, the share of highly qualified migrants tends to be considerably higher than that of the average population in their home countries (Carrington & Detragiache, 1998, p.24)⁶.

According to Docquier (2007, p.11), the regions accounting for the highest outflow of highly qualified workers are the Caribbean (42.8% of total emigration is skilled migration), Central America (19.9%), Sub-Saharan Africa (13.1%), South-East Asia (9.8%) and the Pacific (48.7%). The disproportion between general and highly skilled emigration is considerable in Sub-Saharan Africa (1% general versus 13.1% highly skilled).

In the case of European-born adults, almost half of the outflow of highly qualified workers emigrate to North America, while EU immigration inflows of foreign-born amount to 47.8 per cent from Africa, 24.9 per cent from North America and 22.4 per cent from Oceania (IOM, 2008, p.63, Table 2.2). In absolute terms, the US is the most favoured country, attracting almost 55 per cent of all highly qualified workers from developing countries, while migration of low educated Africans is negligible (Carrington & Detragiache, 1998, p.14).

In highly qualified migration flows, asymmetries are visible. In the case of Europe, three major directions are apparent:

1. From developing countries to the EU
2. Inter-European (East-West flows)
3. From Europe to the US, and, more recently, to developing countries

Developing countries to the EU: The case of health workers

The brain drain of health workers proceeds on two different levels; firstly, from developing countries to OECD countries and, secondly, from the public to

1 Dirk Kohnert (cited in Gebrewold, 2007, p.40) argues that African elites with European tertiary education "played a decisive role in many liberation movements".

2 The brain drain has delayed the growth of an African middle class and, consequently, the development of sustainable structures within civil society (Kohnert, cited in Gebrewold, 2007, p.40).

3 For the Bhagwati Tax debate see Wilson (2005).

4 Migration data are vague because it is difficult to estimate the amount of illegal migration. Migration of highly qualified workers is more transparent, but, nevertheless, there are only a few harmonised international data sets on migration by country of origin and education level (Docquier & Marfouk, 2004, Non-Technical Summary and p.4).

5 Data includes only EU Member States that are also members of the OECD (19 of the 27 EU Member States).

6 For a global overview see Docquier et al. (2009).

the private sector. Particularly Sub-Saharan African and some Caribbean countries suffer from serious outflows of medical personnel on a life-threatening scale. The vulnerability of the local health system depends on the size of the source country and the occurrence of large-scale epidemics like AIDS, malaria or tuberculosis.

Over the last 20 years, Zambia experienced an outflow of two-thirds of its doctors, Benin lost more than half to France (Akopari, cited in Exenberger, 2009, p.38) and, in 2006, one-third of all doctors working in the United Kingdom (UK) had been trained abroad (WHO, 2006, p.98). Some industrial countries offer health service provisions to developing countries, which – as in the case of Ghana – can be rather inadequate. In 2004, it is estimated that Ghana lost around 35 million pounds of its training investment in health professionals to the UK, while the UK saved about 65 million pounds in training costs by recruiting Ghanaian doctors, which clearly outstripped the provision of an estimated 37 million pounds by the UK to Ghana (Mills et al., 2008, pp.687–88).

The active recruitment of health workers from fragile health systems (especially in Sub-Saharan Africa) by high income countries has in some cases become a “systematic and widespread problem [...] and a cause of social alarm”, and, hence, could “be viewed as an international crime” (Mills et al., 2008, p.687). Moreover, an internal brain drain in the health sector of developing countries arises from migration to cities and an inflow to the private health sector, both of which severely impact on the public health care system and distress those who rely on this system. Persistent incentives favouring the outflow of health workers are occasionally intensified by salaries (up to 5 to 20 times higher than public remuneration) and working conditions provided by sending countries (Pfeiffer et al., 2008, p.2137).

The EU intends to tackle this problem with a directive that contains guidelines and tools to turn the brain drain into brain circulation. In order to monitor implementation and to avoid brain waste, Member States are requested to send relevant data to the Commission (Council, 2007, §§.22–24).

Within the EU: The East-West flow

Before the 1990s, East European migration mostly targeted overseas countries. Selective pro-migration programmes and the 2004 enlargement initiated an increase in East-West migratory flows, especially to Britain and Ireland, which together with Sweden immediately opened up their labour markets to the new Member States (Kaczmarczyk, 2006, p.23). Post-accession emigration might be only temporary, and, thus, also offers considerable opportunities for brain gain (European Commission 2008, pp.5–6). Theories of a widespread ‘brain exodus’ (Kaczmarczyk, 2006, p.22) and mass migration have not eventuated (see Pijpers, 2008; Kraus & Schwager, 2004).

In addition to considerable gains from the brain circulation of students (knowledge transfer) and expert migration (remittances contribute 5.5% to the GDP in Bulgaria and Romania, and 1.5% to Poland [Council of the European Union, 2009, p. 6]), the case of Poland also illustrates the dangers that may arise from low salaries in the health sector, heavy foreign demand for specialised medical personnel and a minor ability to attract foreign talent due to a poor immigration tradition (Kaczmarczyk, 2006, p. 23). Similar to the case of developing countries, brain circulation could be a chance for brain gain in Eastern Europe, but the outflow from sensitive sectors such as health entails serious risks.

EU to the US and developing countries

For many years, the EU has feared the brain drain from the EU to the US. In 2008, four per cent of all European scientists worked in the US (Bosch, 2008, p.2210). Three in four European born researchers with a PhD from an American University decide to stay, while only three per cent of US born scientists intend to work outside their home country (Dente, 2007, p.17). In addition, the rise of international cooperation in China (for example, between the Chinese Academy of Sciences and the Max Planck Society in 2005), the establishment and expansion of interesting faculties and institutes (for example, the School of Life Science at Fudan University) and attractive scientific funding, not only bring Chinese researchers back to their home country, but also commit European and American talents to China (Dente, 2007, pp.15–6). In the future, this may also be the case in India as well. Rising unemployment due to the current global economic crisis and China and India’s tremendous need for talent (see Yin & Choi, 2005) may reinforce flows of highly qualified workers from Europe and the US to the emerging economies of China and India.

The brain drain and EU policy

Although the US still receives the largest share of global highly qualified worker flows, Docquier et al. (2005) affirm that the EU is the preferred migrant receiving region for highly qualified workers from several African countries, thus accounting for substantial human capital losses in one of the weakest regions of the world.

Although the Amsterdam Treaty moved asylum and migration policies from intergovernmental cooperation (third pillar) to supranational community policies (first pillar), inconsistencies remain. While general migration policy increasingly emphasises security issues and migration control, in highly qualified migration, the EU aims to increase its global share of highly qualified human capital.

This is done by attracting highly qualified workers to the EU, as well as by preventing the loss of its own human capital. The Council expressed this as to invest in “people and [...] labour markets”

as well as in “knowledge and innovation” (target investment of 3% of GDP in research and development), the latter to be achieved by activating private investment (Council of the European Union, 2008, p. 61). The 7th Framework Programme for Research and Technological Development (2007 to 2013, with a budget of more than EUR 50 billion) represents a major instrument for attracting and retaining researchers. Out of this Framework, a 30 month project (MOREBRAIN) was approved, which analyses interrelations between information transfer and the brain circulation of European talent (see CORDIS, 2008).

Targeting highly qualified workers, the EU intends to introduce a selective immigration process called the Blue Card (approved by the Council in May 2009, to be implemented by 2011). The proposal, comparable to the US Green Card, plans more restrictive terms of admission. Beside the common instrument, Member States will retain national sovereignty to decide on a case-by-case basis.

By contrast, the EU’s development cooperation policy views brain drain from developing countries as a danger, placing at risk the achievement of the MDGs. To avoid this, concepts of ‘circular migration’ and ‘mobility partnerships’ have been introduced (European Commission, 2007), whereby both sending and receiving countries will benefit from highly qualified migration. However, assumed

BOX 3: EU Blue Card for highly qualified immigrants

On 25 May 2009, the Council of the European Union adopted a directive aimed at facilitating conditions of entry and residence in the EU for third-country nationals for the purpose of highly qualified employment: the so-called Blue Card.

The EU Blue Card Directive lays down a harmonised admission procedure based on common criteria set by EU Member States: Blue Card holders must have an employment contract, professional qualifications and earn a certain minimum salary. The card is valid for between one and four years, with a possibility, under certain conditions, to extend it or migrate to another EU Member State. The Directive also guarantees that holders will enjoy equal treatment to nationals and foresees favourable conditions for family reunification.

EU Member States have two years from the adoption of the Directive to transpose the provisions into their national law before they will be fully applicable in practice.

Members of the European Parliament and various civil society organisations have criticised the Council Directive as there are no firmly statements and measures to ensure that developing countries will not suffer from brain drain as the Blue Card is, in effect, a tool to attract highly qualified workers.

mutual benefits are questionable, as Triandafyllidou (2009, p.2) points out, as “these partnerships [...] reflect power relations where the EU sets the rules of the game and third countries have to abide by these rules”. ■

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Dangers of Readmission Agreements

With the adoption of the 'Return Directive' in June 2008 and the European Pact on Immigration and Asylum in October of the same year, the EU has intensified the fight against so-called irregular immigration, while still leaving Member States with a wide scope for defining national immigration policies. During the past months, EU Member States have implemented a number of policies aiming to reinforce border control and ensure the return of undocumented immigrants to their countries of origin – notably through 'readmission agreements'. EU countries also seek the cooperation of countries of transit and origin in their fight against irregular immigration by the conclusion of EU-wide and bilateral agreements with those countries. These bilateral agreements grant opportunities for legal migration in exchange for commitments by countries of origin to participate in the control of undocumented migrants. The result of these policies has been the increased stigmatisation, and even criminalisation, of asylum-seekers and undocumented migrants, and the detention and deportation of immigrants, in flagrant violation of their basic human rights¹.

Readmission agreements: A framework for the expulsion of migrants

Migreurop

A readmission agreement is an instrument through which signatory states commit to readmit into their territory their nationals who were apprehended while residing irregularly within the territory of a foreign state, but also other foreigners who transited through their soil. Readmission agreements can be either bilateral agreements, concluded between an EU Member State and a third country, or Community agreements, concluded between the EU – thus committing the 27 Member States – and a third country. Since the European Council of Seville of June 2002, 'readmission clauses' are required to be systematically included in every economic, trade or cooperation agreement between the EU and third countries.

These clauses and the readmission agreements form one of the central features of the EU's policy of externalisation, which became official with the Hague Programme in 2004, and through which the EU externalises to third countries a part of the control of immigration flows. Since then, all development aid, and even all 'economic and trade cooperation', has been subordinated to the negotiation of these agreements. This is notably the case with bilateral agreements for the 'concerted management of migration flows' signed between France and Spain and West African countries, and the 'mobility partnerships' envisaged by the EU.

These agreements are dangerous. They threaten fundamental rights (their implementation risks violating Article 3 of the European Convention of Human Rights through the signature of 'agreements in cascade'², which allow for the expulsion of indi-

viduals without any guarantee of respect for their life and integrity in the 'final destination' country); they violate the principle of non-refoulement³ foreseen by the Geneva Convention (mainly through the implementation of the accelerated procedure currently foreseen in the agreements with Russia, the Ukraine and some Western Balkan countries); and lead to the generalisation of centres for foreigners at every stage of the expulsion procedure. Refoulements are increasingly frequent at the border of Europe, for example, between Italy and Libya, or between Greece and Turkey, confirming that the issue deserves our urgent attention.

The work carried out by the Euro-African network Migreurop on readmission agreements⁴ is organised both at the European and national levels and consists of collaborations among network members, and also with numerous partners in Latin America, Haiti, and Balkan countries, among others. At the European level, Migreurop sent an open letter to the European Commission and the Council of the European Union in January 2009 asking for increased transparency in the negotiation and implementation of readmission agreements⁵. This letter aims to remind European institutions of their responsibilities in relation to the signature and implementation of these Community agreements, and of the consequences of these agreements for migrants' lives and the enjoyment

with another country it is called an 'agreement in cascade' or a domino effect.

3 Set out in the 1951 Refugee Convention, Article 33 (1), which states: "No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his or her race, religion, nationality, membership of a particular social group or political opinion". Convention Relating to the Status of Refugees, adopted on 26 July 1951, available from: <www.unhcr/cgi-bin/texis/vtx/home?page=basics>.

4 More information on Migreurop's work is available from: <www.migreurop.org/rubrique271.html>.

5 Migreurop's letter of January 2009 to the European Commission and the Council of the European Union is available from: <migreurop.org/article1350.html>.

of their rights. At the national level, Migreurop's work attempts to draw the attention of national deputies and raise public awareness about the implications of bilateral agreements.

Forced returns, the case of Mali

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Mali: A country of emigration, immigration, transit and return

Historically and geographically, Mali is an important crossroads for civilisations and migration. Mali is at the same time a country of emigration, immigration, transit and return.

It is estimated that around one-third of the Malian population, that is four million people, live outside the country, of which more than half reside in other West African countries. A large number of undocumented Malian migrants in Europe are being confronted with the current strengthening of European immigration policies. The Malian authorities pay significant attention to migrants' financial contributions to the country in the form of remittances and to their support of development in their locality of origin. Created in 2004, the Ministry for Malians Abroad and African Integration (MMEIA) was designed to address the needs of Malians abroad and to make them more aware of their potential role in the country's development.

In recent years, Mali has also become an important country of transit for Sub-Saharan migrants on their way to the West African coast (Mauritania, Senegal, Guinea, Gambia and Guinea Bissau), to Maghreb, and across the Mediterranean to Europe.

Mali is also a country of return, frequently receiving Malian and other Sub-Saharan immigrants expelled from Europe, Maghreb countries of transit, or from war-stricken African countries.

6 Translated from French by Louisa Vogiazides.

1 To date, no EU country has ratified the International Convention on the Protection of the Rights of Migrant Workers and their Families.

2 When a third country that is already signatory to a readmission agreement concludes the same type of agreement

Migrants blocked in transit are either escorted to the Malian border (with Mauritania, Algeria or Lybia) and abandoned in the middle of the desert, or sent back by plane tied down and muzzled. Malians subject to involuntary return describe massive raids, degrading treatment and long periods of detention with the prospect of a forced return to their home country, often with no money.

Situation of migrant returnees

Public concern about the issue of migrant expulsion is very acute in Malian society. Migrants' countries of return often lack appropriate structures for receiving migrants who have been forced to return. They also lack mechanisms for protecting the rights of returned migrants. Organisations supporting migrants have documented a large number of human rights violations on which they base advocacy efforts and judicial complaints. Exploratory missions are carried out by Malian civil society organisation, often in collaboration with international solidarity organisations, in order to record the reality of forced returns at borders⁷. Their reports reveal the criminalisation of migrants in transit, flagrant violations of the integrity and dignity of migrants expelled on mass, arbitrary imprisonment, inhumane conditions during transportation and abandonment in the desert.

It is worth noting that the EU policy for controlling migration flows does not foresee centres of assistance for expelled migrants at the borders, nor are any international NGOs active in these border zones. The voluntary associations trying to assist returned migrants lack both the capacity and resources to fulfil the task. At the same time, the EU has financed the establishment of detention centres in countries such as Lybia and Mauritania for detaining illegal immigrants prior to their forced return. These centres are part the EU's strategy of 'outsourcing' immigration control outside of EU borders.

The General Delegation of Malians Abroad (DGME), whose mission includes the assistance, protection and promotion of Malians abroad, has an office at the airport of Bamako for the administrative and technical assistance of voluntary and involuntary returned migrants. The arrival of airplanes containing returned immigrants is supervised by civil protection, in collaboration with the Malian Red Cross. However, this is only the case during so-called 'urgent procedures', i.e., when the authorities are informed in advance, which is rarely the case. Involuntary returned migrants often arrive home after several years of absence utterly destitute. Most of them come from rural areas and have no family in Bamako. A number of Malian civil society associations, with limited resources, are active in providing accommodation, medical care, legal assistance and

financial help to return migrants to their home region. No official aid is given to these vulnerable people.

Current challenges in Mali

In view of the risks of illegal immigration (including expulsion), the Malian authorities try to stem migratory flows by promoting education and employment opportunities in Mali, and by negotiating agreements on the concerted management of migratory flows. In 2008, the Ministry for Malians Abroad and African Integration, in partnership with the International Organization for Migration (IOM) and various associations supporting returned migrants, carried out a national awareness campaign on the dangers of illegal immigration.

Financed by the EU, a Migration Information and Management Centre (CIGEM) was inaugurated in Bamako in October 2009. The creation of CIGEM is part of the EU's 'Global Approach to Migration' launched in 2005; CIGEM works to promote the linking of migration with the development needs of migrants' countries of origin and encourages collaboration with migrants' countries of origin and transit in the management of migration flows. CIGEM's activities include the definition of a national migration governance policy, the promotion of a codevelopment approach⁸, the promotion of legal migration schemes, and the fight against illegal immigration through awareness campaigns and the orientation of candidates for migration towards work and education opportunities at home.

The above initiatives in favour of legal immigration clearly reflect the EU and its partner countries' political will to put an end to illegal immigration. The incentives offered to potential migrants to remain in Mali and the mass expulsion of illegal migrants from transit countries and countries of destination are both sides of the same coin. They are part of the EU's self-interested strategy of 'chosen immigration'.

For example, the incentives offered by European countries for 'voluntary return' are poor and underfinanced. Migrants blocked in transit are not assured of being taken care of upon their return, while expelled migrants are not eligible for any 'reintegration' programme financed by the EU. Migrant associations also plead for the return of property and contributions to the social security system from the former country of residence. Some people reclaim up to 22 years of social contributions.

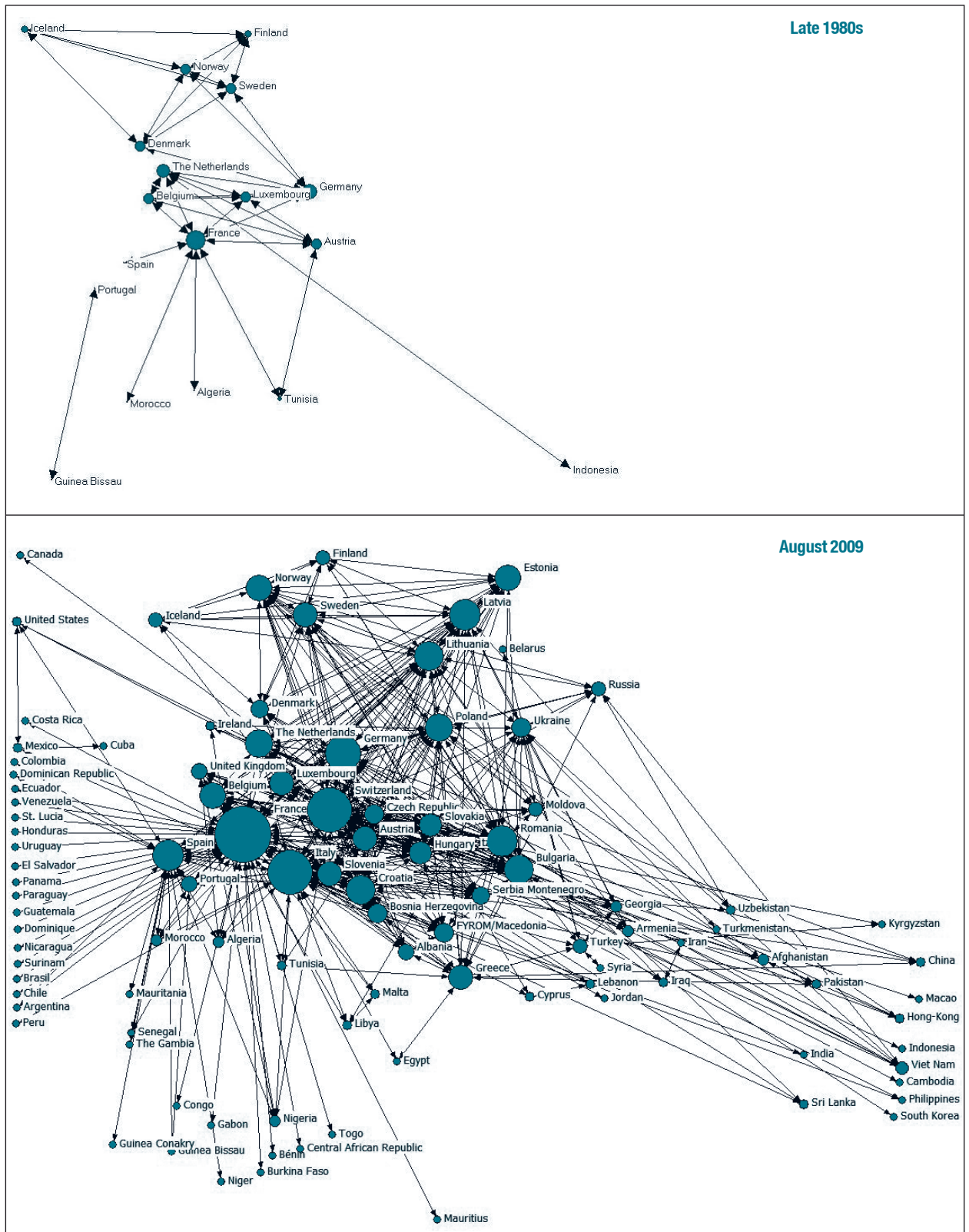
It is in this context that the cautious position of the Malian authorities in the negotiation of the agreement with France on the concerted management of migratory flows must be situated. On the one hand, they appreciate the contribution of Malian emigrants to Mali's national development, but on the other hand, they depend on EU development aid, which is increasingly becoming conditional on the

adoption of agreements on the concerted management of migratory flows. How long the wrangle will last is unknown. The global economic crisis and its consequences have reaffirmed Mali's concerns. The crisis has been accompanied by cuts in EU development aid. The labour market contraction is also spurring tougher restrictions on migration, which affects the capacity of migrants to send remittances. Tougher immigration restrictions often imply human rights violations, but are ineffective in stopping illegal immigration: people still put their lives at risk to reach Europe, at any cost. ■

7 AME carried out an exploratory mission at Mali's border with Algeria together with the Afrique Magazine in 2007 and with Apdha (Spain) at the border with Mauritania in 2008.

8 Codevelopment is a trend of thought and development strategy in development studies that considers migrants to be a developing factor for their countries of origin.

Figure 3: Increase in the bilateral patterns of cooperation on readmission involving European countries



Source: European University Institute, Robert Schuman Centre for Advanced Studies, available from: <www.mirem.eu/datasets/agreements/>

Trafficking in Human Beings in Europe: Perception of Civil Society

Trafficking can take place for a variety of reasons and it is, therefore, difficult to address all forms with the same sets of policies and measures. In order to identify the best possible actions for prevention, prosecution and protection it is necessary to differentiate between different forms of trafficking, without establishing a hierarchy. The 'push' and 'pull' factors for the trafficking of women into the sex-industry are different from the push and pull factors that fuel trafficking for labour exploitation in, for example, construction work.

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COATNET²

Trafficking for sexual exploitation: A gender perspective³

Trafficking in women for sexual exploitation in the sex industry remains the most dominant form of trafficking in Europe today. While women are also trafficked for labour exploitation, in particular for exploitation in domestic work in Europe, the most prevalent form of trafficking in women and girls remains for the purpose of sexual exploitation. Almost all countries in the European Union are today both destination and transit countries for trafficked women. However, not all countries are origin countries (countries where the women are trafficked from). Great economic disparities between countries together with limited possibilities for people to ensure their livelihoods have fuelled the trafficking of women from Africa,

1 The European Policy Action Centre on Violence against Women (EPAC VAW) is a branch of the European Women's Lobby (EWL) specifically working on violence against women; it supports the EWL's Observatory on Violence against Women. The EWL is the largest non-governmental women's organisation in the European Union, representing approximately 2000 organisations in 30 European Countries. Working with its members at national and European levels, the EWL's main objective is to fight for gender equality and to ensure the integration of a gender perspective in all EU policy areas.

2 Christian Organisations Against Trafficking NETwork (COATNET) is an international ecumenical network that unites 50 professional organisations and international networks from over 30 countries worldwide with the common aim of combating trafficking in human beings. The network operates under the umbrella of Caritas Europa and its member organisation Caritas Ukraine is responsible for the daily coordination of the project.

3 This section is based on the Nordic Baltic Project publication by EWL, 2008. The Nordic Baltic Network focuses on trafficking in women for sexual exploitation and has developed specific expertise in this area contributing to better policies and concrete actions to prevent trafficking and protect women and girl victims of trafficking for sexual exploitation.

Asia, and Central and Eastern Europe, mainly to Western Europe and North America, not the other way around. Although international bodies, including the European Union, have called for better statistical data, most countries have not yet established any system to monitor trafficking. A key challenge in the identification process is to get statutory bodies, such as police, working together with NGO's that may be providing support services to victims. Data on detected cases remain hidden in prostitution and immigration offences files.

The overall number of women in prostitution in European countries has grown to more than half a million. In Vienna, Austria, almost 70 per cent of prostituted women come from Eastern Europe. There are about 15,000 Russian and Eastern European women in Germany's red-light districts. Many are in brothels, sex clubs, massage parlours and saunas under the financial control of criminal groups from the Russian Federation, Turkey and the former Yugoslavia, according to a survey by the International Organization for Migration (IOM) (UNESCO, 2004). An ILO report (Belsar et al., 2005) estimates that 12.3 million people are trafficked at any given time. In the most developed countries, 75 per cent of the traffic is for sexual exploitation, which involves mainly women and children.

Given the extent of the problem of trafficking in women and girls for sexual exploitation in Europe, it is essential to maintain a specific focus in this area. The aim is to develop an in-depth understanding of the root causes, the most effective prevention strategies, and how to meet the support and assistance needs of victims.

The specificities of trafficking in women

Poverty, racism and sexism are inextricably connected to trafficking and prostitution. Among the push factors making women vulnerable to trafficking and exploitation are poverty, gender inequality and violence against women. Using the case of Latvia, an expert from the European Women's Lobby (EWL) Observatory explains:

Latvia has inadequate legislation providing support for women suffering from a partner's violence (in fact one of the poorest in Europe)

and it has no functioning system of remedies. As a result many of the affected women choose to look for better life opportunities abroad, many of them becoming victims of sex trafficking.

Among the pull factors, there is the demand for trafficked women in destination countries through the expansion of the sex-industry: prostitution markets, the porn industry and so forth. The sex industry in EU Member States has become one of the most lucrative businesses. Even in countries with a rural spread of population (like Ireland), escort agencies on the Internet allow women to be made available to men in remote locations (O'Connor & Pillinger, 2009). Further, as suggested by the Mediterranean Institute for Gender Studies (MIGS), another factor affecting demand for sexual services is the tendency to stereotype women, and particularly Eastern European women, as sex symbols. Besides pornography, women are presented in popular culture and the media in general in ways that reinforce the stereotypes of women as either mothers or sex symbols.

Trafficking in women is also developing in the context of mail-order brides. The women are promised a marriage and family, but are forced into domestic and sexual servitude. Research done in the United Kingdom shows that many websites that catalogue mail-order brides are venues for pornography and prostitution (Eaves, 2009). Women are pictured with their children, or in infantilising, childlike poses. Many of the thousands of newlywed mail-order brides become victims of violence, sexual exploitation and sex trafficking. Current trends in the industry show greater supply of, and demand for, women from Russia and Eastern Europe⁴, as well as women from the Philippines, Thailand and Vietnam.

The links between trafficking and prostitution

Both the European Union Action Plan on Trafficking as

4 In Russia alone, 25,000 women per year sign up to Russia's at least 600 marriage sites. Only 5 to 7 per cent of the women who sign up – around 1,500 women per year – eventually find a foreign spouse, according to a study conducted by American University (2000).

well as the Council of Europe Convention recognise that demand reduction should be part of an integrated strategy against trafficking. In terms of trafficking for sexual exploitation, many actors are reluctant to recognise that there is a link to the demand for women in 'prostitution markets' in the destination countries. Without the demand for women in the sex-industry, there would be no business for pimps, and, as a result, no need for a supply chain. In short: no demand, no supply, no trafficking.

Increasingly, evaluation reports on the models regulating prostitution show that in those countries where the focus is to curb the demand, trafficking in women for sexual exploitation is less prevalent than in countries that have legalised/institutionalised prostitution as a form of work. There are different strategies to curb the demand in the sex industry, which include targeting the pimps and brothel-owners, raising awareness and changing attitudes, as well as establishing administrative penalties for buyers or criminalising the buying of sexual services and providing exit routes for women out of prostitution.

Curbing the demand is also important from a gender equality perspective as prostitution markets perpetuate inequality, as well as an ultra-conservative view of sexuality in which commercial interests are the dominant factor. It should also be pointed out that repressive policies actually targeting women in prostitution rather than focusing on the pimps and buyers are an unacceptable development and are contrary to the goal of support and protection. Women in prostitution should not be subjected to regulatory measures, obligatory health controls, administrative fines or other constraints, costs and/or punishments. Such women should be provided with planned and structured exit routes from prostitution, which may include training, education and employment opportunities.

Repressive immigration policies fuel trafficking

In the last decade, EU Member States have moved towards increasingly restrictive immigration policies, which have had a negative impact on trafficking. Vulnerability to trafficking is linked to the desire of women and men to seek better life opportunities than that which their country of origin can offer. Entering into an expanding international sex industry, where there has been an explosion in demand for migrant women, is one of the few ways they can survive poverty and globalisation (Penttinen, cited in O'Connor & Pillinger, 2009). Restrictive immigration policies, stricter border controls and biometric ID systems will not make women and men less vulnerable to trafficking. On the contrary, it may make them more vulnerable. Therefore, it is clear that trafficking cannot be efficiently counteracted without an overview and a strategy for the reform of European immigration policies and practices.

Increased focus on victim support and assistance needed

Work against trafficking must increasingly focus on the needs and wellbeing of victims. This does not mean that other aspects of fighting trafficking in women, such as police cooperation and prosecution, are deemed less important. However, it does entail a shift in focus, in which all actions must be measured against their impact firstly on the victim her/himself. This applies to policies and practices in all areas, from identification procedures, court procedures, compensation schemes, return policies and shelter set ups, to the rules on residence status for victims of trafficking, and so forth. Central to the success of this approach is the development in every country of good inter-agency models of work on combating trafficking that ensure the provision of quality services to victims.

Human trafficking for labour exploitation

Human trafficking outside sexual exploitation recently received more in-depth consideration when international and European legal instruments started being transposed into national law. Some of the international instruments that are important for the harmonisation of national legislation include the Palermo Protocol (which contains the definition of human trafficking), the revised EU Framework Decision 2002/629/JHA (which complements UN work at the regional level), the Council of Europe Convention on Action Against Trafficking in Human Beings (which encourages a common approach in nearly all destination, transit and source countries in Europe) and relevant ILO conventions (which define forced labour and slavery-like practices). Such harmonisation would enable the effective prosecution of traffickers and protection of people who have suffered as a result of this global crime against humanity.

Although there is no doubt that trafficking for sexual exploitation needs to receive continued attention, the general focus should include all modern slavery practices and not neglect other substantial numbers of trafficked persons. The latest ILO finding (2009) is that the annual illicit profits from labour trafficking are five times higher than their earlier estimates in 2005. According to the United Nations Office on Drugs and Crime's (UNODC's) Global Database on Human Trafficking Trends (2005), trafficking for labour exploitation accounts for only 23 per cent of all reported trafficking cases. However, statistics from some countries testify to the increasing number of labour exploitation cases. For example, in 2004, Ukraine's identified cases of trafficking for sexual exploitation were more than double those for labour exploitation. In 2007, the gap between the two categories had almost disappeared and in 2008, the number of labour exploitation cases exceeded those of sexual exploitation. Western European countries are also increasingly concerned

about hosting coercive labour practices and forced labour. Some findings suggest that regular migrants can also be trapped in trafficking and forced labour situations in Europe (Pereira & Vasconcelos, 2008).

The sectors particularly prone to exploitation are agriculture, construction, manufacturing, food processing, catering and domestic work, as well as illicit activities. Sometimes different types of work are associated with different genders and nationalities. For example, females are more likely to be found in domestic sector, males in the construction industry, Ukrainian women are preferred in caring for elderly and children and for cooking and cleaning, while Roma people are more often forced into begging. Yet there is little in-depth research into those associations or into the various employment sectors, especially unregulated ones, apart from the domestic service sector.

Despite the proven high level of demand for foreign domestic workers in Europe, in many countries this category of workers is still one of the most vulnerable to human trafficking. Excluded from labour legislation, working in isolated and unregulated conditions, and extremely dependant on the good or bad will of the employer, domestic workers are exposed to labour exploitation, which can often be combined with sexual abuse.

Migrant domestic workers who face exploitative situations in Europe come from different countries and regions of the world, with some nationalities prevailing in certain countries. For example, Latin Americans mainly work in the domestic sector in Spain; in Italy domestic workers predominantly come from the Ukraine, Moldova, Romania, the Philippines, Peru, Colombia and Ecuador; in Portugal – from African and Eastern European countries; and in Sweden – from Eastern Europe and Asian countries.

In many European countries the demand for domestic work performed by migrant women will continue to increase; therefore, safeguarding domestic workers' rights should be paramount in the efforts to curb human trafficking for labour exploitation. The creation by ILO of the Convention for Domestic/Household Workers' Rights provides significant impetus and is a crucial step forward at the international level.

Special assistance and proactive prevention

Together with the improvement of labour and other laws, it is important that trafficking cases are identified as such and are dealt under the relevant article of criminal legislation. Many COATNET partners report that it is very difficult to identify or prove incidents as human trafficking, especially for labour exploitation, using the current definition of trafficking. There is a lack of practical commentaries on how severe the exploitation should be in order to qualify for trafficking, what forms of constraint, coercion and vulnerability can indicate trafficking cases, and so forth. The situation is also aggravated by the fact that

many people trafficked for labour purposes do not recognise themselves as trafficking victims.

Being conscious of these challenges, some COATNET partners, namely KSPM (Re-Integration Center for Migrant Workers of the Church of Greece) Greece, Aidrom in Romania and Czech Caritas, have started developing interventions in the direction of building expertise and capacity to identify and support trafficking victims outside sexual exploitation, and to raise awareness about the availability of such services. The specific assistance needs of people trafficked for labour exploitation should be taken into account when developing assistance programmes. Obtaining compensation for damage suffered and a well-paid job placement is the first priority, with other types of assistance (access to shelter, medical care and social assistance) playing an additional role. Like in combating trafficking for sexual exploitation, the effective prosecution of traffickers depends on assistance and protection being provided to victims (which is a factor contributing to their willingness to cooperate with law enforcement), and on a human rights approach prevailing over immigration law enforcement.

Along with complex assistance to trafficked persons, proactive prevention aimed at the protection of all migrant workers, and, in particular, of vulnerable irregular migrants working in inadequately regulated sectors of employment, is equally crucial in combating trafficking for labour exploitation. Irregular migration and labour exploitation is likely to rise in times of global recession, which considerably contributes to the vulnerability of workers due to a more significant decrease in employment opportunities, stronger dependence on employers who, operating on a low profit margin, may reduce labour conditions even without clear evidence of the use of coercion, and due to the aggravation of the main root causes of human trafficking – poverty and social exclusion. In these circumstances, it is even more vital to continue work towards promoting the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, adopted in December 1990.

Conclusion

Given the extent of the problem of trafficking in women and girls for sexual exploitation in Europe, it is essential to maintain a specific focus in this area, but a general focus should include all modern slavery practices, so as not to neglect the other substantial numbers of trafficked persons.

Repressive policies targeting women in prostitution and restrictive immigration policies contribute to the vulnerability of potential trafficked persons and should be avoided. It is necessary to improve and develop the protection of, and adequate services for, victims of trafficking. It is important to continue to develop systems to monitor trafficking, conduct

action-oriented research into various employment sectors, especially unregulated ones, improve the identification and prosecution of both sexual and labour trafficking cases, and raise awareness about the availability of services for people trafficked into labour sectors, as in sexual exploitation. ■

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Detention Centres: An Unjust and Ineffective Policy

The administrative detention of migrants is being performed in many countries around the world in violation of international human rights standards. Administrative detention should be applied only as an exceptional measure and based on the evaluation of each individual case. At present, it is used as a tool, however ineffective, to combat so-called 'illegal' immigration.

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Administrative detention: A global institution

In many countries, 'closed' facilities have been established in which not only undocumented economic migrants are detained, but also asylum seekers and refugees. The Italian 'centri di identificazione ed espulsione', the French 'centres de rétention administrative', the Spanish 'centros de internamiento' and the British 'removal centres' are facilities designed for the detention of so-called 'irregular migrants', in other words, people who enter the country of destination without the correct legal documents or, having made a regular entry, fall into an irregular status of residence and are now without a permit to stay.

Detention is aimed at guaranteeing the repatriation order to their home country when these measures cannot be executed immediately. This situation may arise if the migrant's embassy fails to establish the migrant's identity, or pending the organisation of repatriation travel arrangements. This restriction of personal freedom is applied to people who have not committed a crime, but who have simply committed an infringement of the administrative procedures for entry and stay. In one European country, Italy, these infractions have recently been deemed a crime. Moreover, it should be pointed out that, more and more often, administrative detention is applied to asylum seekers – people in need of international protection.

In 2008, Migreurop conducted a census of 235 removal centres in Europe: the countries with the highest number of centres were Germany (41), France (37) and Spain (22). In every EU country there is at least one of these facilities¹.

The European Union's Return Directive

The characteristics, management, type and timing of detention vary from country to country. At the European level, the Return Directive (2008/115/CE), adopted by the European Parliament in June 2008, sets EU-wide rules for the return of illegal immigrants to their home country. The directive gives migrants

the option of leaving EU territory voluntarily within a period of 7 to 30 days. If they fail to do so, national authorities can issue a removal order and detain them for a period of up to 18 months. Immigrants in that category are also banned from EU territory for a period of five years. The Directive does not set a minimum period of detention and each Member State has the freedom to provide more favourable laws. However, the immediate effect of its approval was to justify a tightening of administrative detention procedures. Once again, Italy distinguished itself by immediately approving a law extending the maximum period of detention in detention centres from 60 to 180 days. The Return Directive has been broadly criticised for its restrictive nature and is referred to by anti-racism and human rights activists as the 'Directive of Shame'.

Article 5, paragraph 1 of the European Convention on Human Rights states that:

No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law.

Among the cases listed, letter f refers to the hypothesis of:

... arrest or detention of a person to prevent from entering the territory illegally, or a person

against whom action is being taken with a view to deportation or extradition.

According to Article 5 (4) of the same Convention:

Everyone arrested or detained ... shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

The wording of this rule is in conflict with the extension of the administrative detention period to a period so long that it cannot be aimed at implementation of the removal measure.

According to the jurisprudence of the European Court of Human Rights (ECHR), Article 5 (1) (f) of the Convention for the Protection of Human Rights allows the regular administrative detention of a person "against whom action is being taken with a view to deportation or extradition"; however, the measures limiting freedom need to be "proportionate and appropriate" and the duration of detention must be commensurate to the need to ensure the measures for forced expulsion.

According to the ECHR, a violation of Article 5 can result from both a 'non-standard' administrative

BOX 4: European asylum policy

The Dublin Convention of 1997, replaced by the Dublin II Regulation in 2003, was the first step towards the harmonisation of asylum procedures across the European Union. It set the criteria for determining the Member State responsible for examining an application for asylum made in any one of the Member States. This measure was aimed at discouraging 'asylum-shopping', i.e., the process of requesting asylum in multiple EU Member States. The Dublin Convention also promotes the principle of the 'safe third country', according to which asylum-seekers can be returned to the transit non-EU country through which they travelled if the latter is considered 'safe enough'. A number of critics have interpreted the Convention as an attempt by Western European countries to shirk their responsibility to protect the persecuted and most vulnerable. Besides, the principle of the 'safe third country' suggests the intention to keep asylum-seekers outside EU-territory, rather than carrying the burden of examining the validity of their asylum claims.

In recent years, EU countries have been proceeding towards increased harmonisation of their asylum policies. The European Pact on Immigration and Asylum, adopted in October 2008, sets the objective of creating a single European asylum procedure by 2012. Under the Swedish Presidency of the EU, the European Commission proposed a scheme to coordinate across the EU the resettlement of refugees from countries beyond the EU, the so-called Joint EU Resettlement Programme. The Commission hopes that this new scheme will ease the flow of migrants trying to reach Europe illegally. The identification of common annual resettlement priorities and the logistics involved with the reception of refugees would be carried out by EU Member States together with the support of a new agency, the European Asylum Support Office, to be created in 2010. Member States will participate in this programme on a voluntary basis. The Commission is also exploring ways of strengthening EU solidarity on migration flows, including by offering EU money to relocate refugees arriving in the most exposed countries such as Malta, Italy and Greece.

¹ Updates on migration policies adopted by European countries and the different national systems in relation to detention centres are available from: www.migreurop.org.

detention with respect to these criteria and the lack of an effective remedy (i.e., a procedure for appeal or review of the detention order). According to Article 5 (4) of the European Convention on Human Rights:

[E]veryone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

Each person subject to arrest or arbitrary detention has the right to compensation. Even in this case, a decision should be made within a short time, and certainly not after several months in a detention centre.

The Schengen agreements do not impose the establishment of detention centres, only that individual EU countries provide measures for forced repatriation. Although the Return Directive allows for the administrative detention of irregular migrants for a period of up to 18 months, it also refers to the principle of appropriateness and proportionality of the forced expulsion (Article 15). Moreover, this Directive affirms that deportation should be a last resort, after attempting voluntary repatriation.

The goal of European legislation harmonisation is still far from being achieved. The EU Return Directive does not prescribe a minimum period of administrative detention, and assigns national legislators the right to suspend appeals against forced expulsion measure.

Conclusions

Detention centres are the result of an approach that continues to promote:

- policies aimed at containing migration, rather than fostering social inclusion;
- policies based on an idea of citizenship that makes 'borders' the discriminator for the guarantee of social and civil rights (but not for economic interests), subordinating the first to the second; and
- domestic policies based on an idea of 'development' as centred on national economic interests, instead of people's wellbeing.

According to this logic, the right to life and freedom of movement is subjugated to economic and other interests by building new walls and creating new cultural and physical borders. The detention centres in Europe are symbols of these new frontiers; they are not (and cannot be) useful institutions for combating illegal immigration. The phenomenon of illegal immigration can only be reduced through a total change of migration and immigration policies to facilitate the entry, stay and regular settlement of foreign citizens in European countries². It would be desirable if, in the

² Over the years, the democratic and anti-racist movements in Italy have put forward several proposals. Among the

next few years, these migration policies became a central issue for European governments to overturn the order of priorities as they exist now. Furthermore, in conclusion, to clear up any ambiguity: the democratic and anti-racist European movements have been asking for the 'overhauling' of detention centres, when they should be simply asking for their closure³. ■

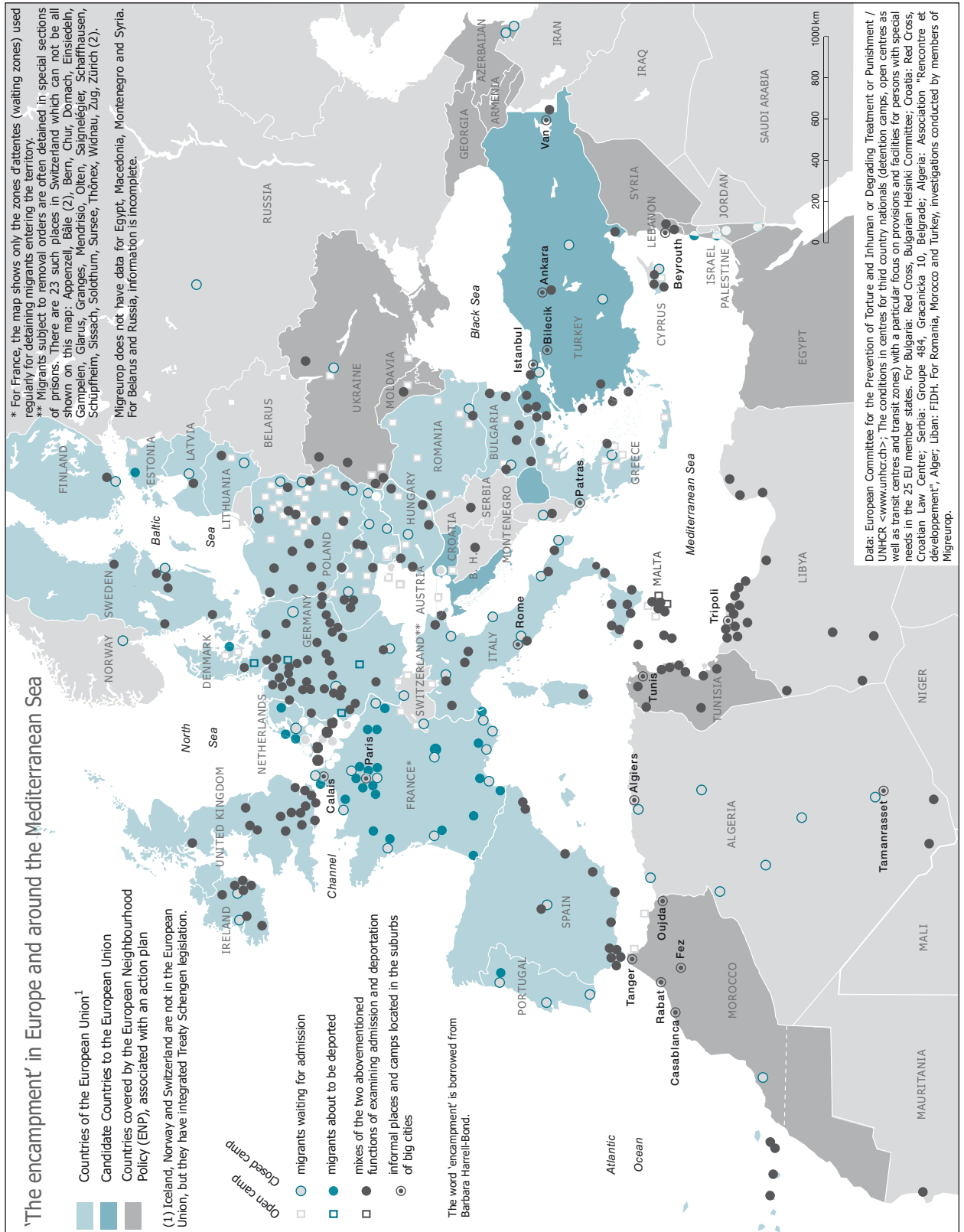
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most significant contributions developed since the mid-1990s are: proposals for laws on citizenship and voting rights promoted by the Anti-racist network in 1997; the analysis made by the Migrants' Table of the Italian Social Forum on labour issues; the document "Migrants and rights" developed by ARCI (Associazione di Promozione Sociale) with many civil society organisations for an alternative law on immigration and asylum (www.arci.it); the document for the constitution of the immigration committee in Italy; the proposals for a different allocation of resources made by the Sbilanciamoci! campaign in its annual reports; asylum documents prepared by ICS, Médecins sans Frontières (MSF) and Amnesty International; the proposals by ASGI (Association for Immigration Law Studies) and Magistratura Democratica in "Per una legislazione giusta ed efficace sull'immigrazione. 7 anni di analisi e di proposte sulla condizione giuridica dei migrant"; and the critical analysis of the Bossi-Fini law and the alternative proposals contained in *Altareconomia*, ASGI, Lo straniero, Lunaria, Terre di mezzo, "Bada alla Bossi-Fini!", 2002 and ARCI, ASGI, ICS, Lunaria, Progetto Diritti, "Migranti persone", 2005.

³ As regards Italy, the violation of human rights and living conditions inside the centres, and the waste of public resources devoted to them, has been denounced by: MSF, *Rapporto sui Centri di Permanenza Temporanea e Assistenza*, 2004; and Dentico N., Gressi M., *Libro bianco. I Centri di Permanenza temporanea e Assistenza in Italia un'indagine promossa dal Gruppo di Lavoro sui CPTA in Italia*, 2006. The Court of Auditors has reported in its reports the irrationality and the lack of transparency of public funds allocated to migration policies and, in particular, to finance the construction and operation of detention centres. See the reports drawn up by the Court of Auditors for the years 2002, 2003 and 2004, *Corte dei Conti, Programma di controllo. Gestione delle risorse previste in connessione al fenomeno dell'immigrazione*. For more information please visit www.corteconti.it.

Figure 4: 'The encampment' in Europe and around the Mediterranean Sea



Source: Migreurop, available from: <www.migreurop.org/IMG/pdf/L_Europe_des_camps_2009.pdf>

EU Policy on Labour Migration: Implications for Migrants' Rights

The EU's approach to economic migration encourages the immigration of only highly qualified workers, failing to ensure the application of human rights standards towards low or unskilled and semi-migrant workers.

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December 18

European cooperation over the entry and residence of migrants' for employment-related purposes has been facing many difficulties since the Treaty of Amsterdam came into force in 1999. In 2001, the European Commission's proposal for a general directive laying down the basic conditions and rules of admission concerning migrants for employment purposes failed to find agreement in the European Council. Since then, the official discourse has regularly advocated the overarching importance of the principle of subsidiarity and national competence over this policy area (EC, 2001). Nevertheless, trying to abide by previously-acquired political commitments related to the establishment of a common area of freedom, security and justice, the Commission re-launched the debate about the 'added value' of common rules on labour migration. The 'Green Paper on an EU Approach to Managing Economic Migration' was presented in 2004 (EC, 2004).

Although most of the civil society actors who participated in the consultation process were in favour of a more skilled-transversal/horizontal and human rights-based approach, the majority of Member States expressed their support for a policy that prioritises measures to attract highly qualified migrants over others. The Hague Programme (a multi-annual programme setting the agenda for immigration and asylum policies for the period 2005 to 2010) reaffirms the reluctance shown by some Member States to reach a harmonised position towards legal labour migration (EC, 2005a). Following these discussions, in 2005, the Commission presented a 'Policy Plan on Legal Migration', introducing a list of actions and legislative initiatives that it intended to adopt by the end of 2009 with respect to the "coherent development of EU legal migration policy" (EC, 2005b). This Plan falls short of the expectations expressed by the majority of civil society actors. Whilst it foresees common rules on the social and legal rights of economic migrants,

Member States remain fundamentally free to set admission volumes and conditions of entry. Bilateral agreements between Member States and third countries continue to characterise the management of economic migration in the European Union.

Policy Plan on Legal Migration

The Policy Plan on Legal Migration argues that:

[T]he current situation and prospects of EU labour markets can be broadly described as a 'need' scenario. Some Member States already experience substantial labour and skills shortages in certain sectors of the economy, which cannot be filled within the national labour markets.

These shortages concern "the full range of qualifications – from unskilled workers to top academic professionals". EU demographic deficits – falling birth rates and an ageing population – are listed as the second main reasons for taking measures in the field of legal migration.

On this basis, a comprehensive plan for migration policy embracing all skill levels was expected. However, this is not what the Policy Plan represents. Although the Green Paper had floated the idea of a "horizontal framework covering conditions of admission for all third-country nationals seeking entry into the labour market of the Member States", this was rejected by several Member States. Instead the Policy Plan proposes four 'specific instruments' and a 'general framework directive' designed to "guarantee a common framework of rights for all third-country nationals in legal employment already admitted in a Member State, but not yet entitled to long-term residence". The four specific directives will cover the following categories of third-country nationals: highly skilled or qualified workers, seasonal workers, intra-corporate transferees and remunerated trainees. But the Commission's approach clearly indicates the emphasis on attracting highly qualified workers to the EU.

This new 'fragmented approach' reflects the Commission's step-by-step approach, which it took to avoid another failure, as in the case of the proposal put forward in 2001. It also implies that the final objective of reaching a homogeneous framework of rights for all migrant workers entering the EU 'legally' is in jeopardy. Civil society organisations, academia, trade unions and some consultative

institutions like the European Economic and Social Committee (EESC)² warn that the implementation of the Policy Plan could endanger guiding principles such as fair and equal treatment, fundamental rights and non-discrimination (Caritas Europa et al., 2008; ETUC, 2007).

But the main criticism remains the clear discrepancy between migrant labour needs and allegedly suitable measures to match these needs. The likely need for low-skilled workers in the years ahead, as stated in the Plan, is not comprehensively addressed. The only directive dealing with this is the one on seasonal workers, but, given the temporary nature of the seasonal workers programmes, it does not address the problem in the medium and long-term. The Plan fails to offer an adequate and realistic road-map for meeting the EU's future labour needs (Castles, 2006). The risk is that the EU's important demand for low- and semi-skilled labour will continue to be largely addressed by undocumented migrant.

Economic migration: A predominantly national prerogative

A number of governments have used the increased hostility towards migrants among majority populations to introduce more restrictive measures. In Italy, for example, Members of Parliament approved a bill that basically criminalises irregular migration and all those who are helping irregular migrants. Spain attempted to provide incentives to unemployed migrant workers to return home as a way to address the impact of the economic crisis on the building industry (Closa, 2008, p.198). Whilst this is less restrictive than the Italian measures, it was not welcomed by organisations working in the field because the measure is neither realistic nor effective. Given the slowness and weakness of European legislation in the field of economic migration, it seems unlikely that Member States will find it necessary to intervene at the Community level.

At the structural level, whether or not the ratification process of the Lisbon Treaty will be concluded constitutes a matter of concern for the advocates of a stronger European policy on economic migration. The new Treaty would finally extend the 'Community

1 In this text, migrant or migrant worker will be used, although the official term used by the European Union is third-country national, i.e., any person who is not a citizen of the European Union within the meaning of Article 17(1) of the Treaty of Amsterdam.

2 In its Opinions, the EESC adopts the view that immigration policy and legislation should fully respect the human rights of all people and the principles of equal treatment and non-discrimination.

method' to the decision-making process in this policy area, thus giving more power to the European Parliament (co-decision) and less to the Member States (qualified majority voting in the Council)³. This favourable change in the institutional framework has to be seen, however, in the context of an even more important change. Whilst the new Treaty will mean that Member States lose decision power in the Council, it will at the same time reinforce their competence in the area of economic migration. This is stated in the text of Article 79(5) of the Lisbon Treaty referring to the general Article on immigration:

This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.

The provision was already included in the negotiations for the directive on highly qualified migrants and in the Hague Programme, but it would be the first time it appears in a constitutive text. This provision against 'more Europe' has been recalled in the French Presidency's European Pact on Immigration and Asylum (Carrera & Guild, 2008). The Pact, even though it is not a legally binding document, represents a strong political reaffirmation of the principles of subsidiarity and nationalism. This is particularly evident in the field of economic migration, as no reference is made to the Commission's proposals on highly qualified migrant workers in the Pact, although it calls for an increase in the 'attractiveness' of the European Union to this category of workers.

A new multi-annual programme following the Hague Programme is currently being discussed and is scheduled to be formally adopted by the Heads of State and Government in December 2009. The programme will seek to consolidate and put into practice "a policy on immigration and asylum that guarantees solidarity between Member States and partnership with non-Union countries." (EC, 2009) This so-called 'Stockholm Programme' is expected to provide new political impetus to proceed in the overall 'communitarisation' of immigration and asylum policy. Nevertheless, it would be unrealistic to expect that it will bring about a common and transparent framework for economic migration based on international human rights principles and standards, as well as mutual accountability.

According to the European Commission, "implementation of the principles and objectives of the Pact on Immigration and Asylum will provide the basis for EU action in the coming years" (ibid, p. 23).

Two directives: A European 'Blue Card' for highly qualified immigrants

In 2007, the Commission published the two draft

Directives on the so-called 'Blue Card' proposal for highly qualified immigrants (EC, 2007a & 2007b). The criteria for obtaining the Blue Card include a work contract, professional qualifications and a certain minimum salary level.

Attracting highly qualified workers is seen as a strategic priority for the economic development of Europe. Furthermore, the low numbers of migrant workers the subject of the Directive was viewed by the Commission as the ideal start for the implementation of the Policy Plan on Legal Migration.

A major concern about the Blue Card proposal is that highly qualified migrant workers will receive more generous treatment than other migrant workers, which will institutionalise discrimination on the basis of skill level in the acquisition of labour rights (Lusetich, 2007). On 25 May 2009, the Council of the European Union adopted, without discussion, the Blue Card Directive. Following publication in the Official Journal of the EU⁴, Member States will have two years to incorporate the new provisions into their domestic legislation⁵.

In a second Directive, the Commission proposes to guarantee a common set of rights to all third-country workers lawfully residing in Member States, but not yet entitled to long-term residence status, and to introduce a single application procedure along with a single residence/work permit. The proposal illustrates to some extent the Commission's willingness to close the 'rights gap' between third-country workers and EU citizens by granting the former employment-related rights in such fields as working conditions, education and vocational training, recognition of diplomas, social security and housing (EC, 2007b). It is, therefore, unfortunate that this proposal did not receive preferential treatment.

As negotiations in the Council are still ongoing, it would be premature to give a definitive opinion on this proposal. However, some general observations can already be made. The proposal is the most important of the Policy Plan's package, because it addresses the problem of migrant labour force exploitation. Regulating the social and economic rights of migrant workers means reducing unfair competition between Member States and ensuring decent working conditions. Whether or not this objective will be met is a matter of political will. Extended negotiations usually lead to a watering down of the initial proposal. Hence, it will not be surprising if the final Directive offers less protection than originally envisioned.

As stated by the European Economic and Social Committee (2008):

The starting point for this debate must be the principle of non-discrimination. Migrant workers, whatever the period for which they

are authorised to reside and work, must have the same economic, labour and social rights as other workers.

In this sense, seasonal workers shouldn't be excluded from the scope of the Directive, even if the Commission is drawing up a specific Directive on this category of workers. This exclusion would endanger the right of equal treatment and should be considered particularly alarming in the light of the renewed EU turn towards temporary migration programmes.

Furthermore, civil society actors are arguing that:

[G]iven the increasing globalisation of the labour market and the international mobility of workers, a new approach regarding the portability of acquired social security rights would be advisable. (Bridges not Walls, 2008)

Directive proposals on seasonal workers, intra-corporate transferees and remunerated trainees should be launched by the Commission before the end of 2009.

BOX 5: The European Union's Return Directive

Adopted in June 2008, the Return Directive sets EU-wide rules for the return of illegal immigrants to their home country. The text gives migrants the option of leaving EU territory voluntarily within a period of 7 to 30 days. If they fail to do so, national authorities can issue a removal order and detain them for a period of up to 18 months. Immigrants in that category are also banned from the EU territory for a period of five years. The Return Directive has been largely criticised for its restrictive nature. The Bolivian president Evo Morales has described it as a 'shameful' directive that violates basic human rights.

The need for international accountability

When introducing the Policy Plan on Legal Migration, the European Commission wrote that the package aimed, among other things, to introduce tools for a "fair and rights-based approach to all labour immigrants". The Commission repeated this human rights rhetoric in its Communication on the proposed Stockholm Programme:

... to maximise the positive effects of legal immigration for the benefit of all – the countries of origin and destination, host societies and immigrants – a clear, transparent and equitable approach that respects human beings is required.

This is, however, not backed up by a commitment to international accountability and scrutiny. International labour migration, by its very nature, involves more than one country, and, therefore, requires

4 Published in the Official Journal of the EU on 25 June 2009.

5 The new Directive does not apply to the United Kingdom, Ireland or Denmark.

3 Since 2001, the unanimity voting process has been considered as one of the main obstacles to 'communitarisation'.

mechanisms to ensure that each country involved is held accountable for the laws, policies and practices that have an impact on the lives of migrant workers and their families. This is the case for countries of origin, transit and destination. For this accountability to be effective, it is important that all interested actors are involved in this process, not only governments, but also civil society and international agencies.

Laws and regulations developed by the EU should, in our view, be guided by relevant international labour and human rights standards as agreed and adopted by the international community. Because the effective implementation of the UN human rights protection regime is essential to guarantee respect for the human rights of all migrant workers, it is necessary for all EU Member States to ratify all of the core UN human rights treaties. The most relevant of such instruments to the rights of economic migrants is the UN Migrant Workers Convention⁶. This Convention covers the entire migration process and provides many areas of protection for migrant workers and their families. Besides issues related to employment, it includes provisions on human rights, slavery and forced labour, personal liberty and security, protection against violence, confiscation of identity documents, expulsion, medical care, the education of migrant workers' children, family reunification, transfer of earnings, recruitment, and the right to the protection and assistance from the country of origin's consular services.

In addition to the UN Migrant Workers Convention, the International Labour Organization (ILO) conventions set internationally recognised labour standards that are of importance to all workers, including migrant workers. Most relevant are Conventions 97 and 143. Convention 97 is based on the principle of equal treatment of nationals and regular migrant worker in labour-related areas. Convention 143 aims to eliminate irregular migration and irregular employment, and sets requirements for the respect of the rights of migrants with irregular status.

When one looks at the ratification status of these three important conventions, one sees that the EU Member States are not doing well. None of the Member States have ratified the UN Migrant Workers Convention, even though both the European Parliament and the European Economic and Social Committee have, on several occasions, urged them to do so (European Parliament, 2009). As far as the ILO conventions are concerned, the results are only slightly better, with 10 Member States having ratified Convention 97, and 5 Member States having ratified Convention 143.

6 The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families was adopted in 1990 and entered into force in July 2003. For further information see: "Guide on Ratification", the International Steering Committee for the Campaign of the Ratification of the Migrants' Rights Convention, Geneva (2009).

This means that, in order to ensure international accountability, we have to look at ways to make the most of the implementation of the other UN conventions. All EU Member States have ratified other core human rights treaties such as the Committee on the Elimination of Discrimination Against Women (CEDAW), Committee on the Rights of the Child (CRC) and the Committee on the Elimination of Racial Discrimination (CERD) (17 December 2008).

However, recognition of rights on paper is not sufficient to guarantee their implementation. State parties have an obligation to submit regular reports to the monitoring committees set up under these treaties. Governments collect information from their relevant ministries and administrative units in order to draft the initial and subsequent periodic reports. This exercise prompts them to take stock and analyse their legislation and practices in relation to a given treaty.

Conclusion

In conclusion, we can state that there is a need for a common and transparent framework that is based on international human rights principles and standards, as well as on mutual accountability. The sectoral approach favoured by the European Commission, the European Council and the Member States complicates the migration management system, largely excludes semi- and low-skilled migrant workers and does not take into account respect for the basic human rights of all migrant workers and members of their families, regardless of their status. ■

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Undocumented Migrants' Right to Health and Education in Europe: Protection Needs vs Immigration Control

The immigration control mechanisms now implemented in EU Member States force undocumented migrants into a state of policy-driven social and physical destitution by curtailing their most fundamental rights to health and education; ineffective and inhumane, these policies are detrimental to Europe's social inclusion, human rights and public health responsibilities.

Eve Geddie

Platform for International Cooperation on Undocumented Migrants (PICUM)¹

Undocumented migrants are those without a residence permit authorising them to stay in their country of destination. They may have been unsuccessful in the asylum process, overstayed their visa or entered irregularly. While undocumented migrants have rights that are recognised and protected under international and European human rights law, their innate entitlement to hold rights is increasing being questioned and marks one of the greatest threats to the European human rights regime today (PICUM, 2007a).

The European Union is an institution founded on principles of democracy, human rights and rule of law, and these remain the pillars on which the credibility and sustainability of the expanding Union rely. The EU's Charter on Fundamental Rights formally recognises the importance of social equality and prohibits "discrimination on any ground"², while its 2008 annual human rights report pledges "the same importance to economic, social and cultural rights as to civil and political rights" (European Community, 2008, p.43). In clear conflict with these stated ideals however, policies are developed by the EU and its Member States that effectively strip migrants of their innate social rights on the grounds of their administrative status.

Undocumented migrants in Europe

The routes to becoming undocumented are complex and often the result of arbitrary policies and procedures over which the migrant has little or no control (MRCI, 2008, p.19). It is the experience of PICUM and those within its network that the majority of undocumented migrants enter Europe legally, but after a period, encounter difficulties and find themselves without the relevant permit for residence or

employment. Irregularity is the result of an administrative infringement and not a criminal offence; irregular migration is a process "fuelled by exploitation, redundancy, misinformation and administrative delays" (Ibid, p.30).

Once they have an unregulated status, migrants are systematically denied those elements that constitute a basic standard of living and face a *de facto* violation of their fundamental rights. As the trend to link migration control mechanisms to social services increases, undocumented migrants' fear of discovery and deportation hugely limits their ability to access their social rights or seek redress against violence, abuse and exploitation. By seeking to deter migrants from entering Europe through unauthorised means and compelling those living in an irregular situation to leave of their own accord through the creation of an intolerable set of living conditions, these policies rely on the violation, not the recognition, of fundamental human rights. Consequently, the most impoverished and socially excluded members of European society are systematically denied the means of obtaining a basic standard of living. Their lack of adequate housing, education, health care and fair working conditions creates a state of extreme poverty and destitution, belying the myth of a socially inclusive Europe³.

While undocumented migrants constitute a considerable proportion of Europe's migrant population, they have remained invisible to policymakers and there are few social strategies that address their needs. This paper will outline the tenets of the right to health and the right to education, and explore the extent to which undocumented migrants residing in Europe may enjoy these rights.

Undocumented migrants' right to health

Non-discrimination is a core guiding principle in the protection of human rights. Everyone is entitled to human rights without discrimination of any kind. This means that human rights are for all human beings, regardless of "race, colour, sex, language, religion, political or other opinion, national or social origin,

property, birth or other status". Non-discrimination protects vulnerable individuals and groups from the denial and violation of their human rights.

The right to the highest attainable standard of health is a fundamental human right protected by international law. An important element of the right to health is that both health care and other essential conditions for health must be affordable to all without discrimination. Thus, authorities are under an obligation to ensure that health policies and programmes consciously address the different needs of those facing barriers in accessing care.

The definition of right to health as provided by the UN International Covenant on Economic, Social and Cultural Rights, Article 12(1) affirms that State Parties recognise: "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health". The content of this provision has been further clarified by the Committee on Economic, Social and Cultural Rights (CESCR), established to monitor the implementation of the Convention, in its General Comment 14:

States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal migrants, to preventive, curative and palliative health services; abstaining from enforcing discriminatory practices as a State policy. . . .

Undocumented migrants' access to health care in Europe

While no Member State's legislation specifically forbids access for undocumented migrants, publicly subsidised health care, either partially or fully, is not entirely guaranteed in Europe. In some countries, all health care (even emergency care) is provided only on a payment basis and treatments are generally unaffordable for undocumented migrants (PICUM, 2007b).

Besides the common hindrances facing undocumented migrants at the legislative level, there are many other practical obstacles in all European countries linked to procedures and administrative conditions, discrimination, language and cultural barriers, medical fees, and so forth. Many undocu-

1 PICUM leads an independent network of over 107 member organisations providing humanitarian support and protection to undocumented migrants in 25 countries across Europe and beyond. For more information visit www.picum.org.

2 Chapter III, Article 21(1) of the Charter of Fundamental Rights of the European Union.

3 The 2000 Nice Summit marked the EU Member States' adoption of a social affairs agenda, setting out their future priorities. This agenda confirmed their dedication to issues such as employee protection, gender equality, poverty reduction and tackling discrimination.

mented migrants are unable to pay medical fees in those countries where they are requested to do so. Those undocumented migrants who do seek health care generally opt for the services provided by NGO clinics and hospital emergency units.

Research shows that undocumented migrants mainly seek health care when they are severely ill (PICUM, 2007a). In fact, a high percentage do not access any kind of health care, even in countries where they are entitled. Health is commonly not their main concern, because often all of their energy is exhausted in acquiring the minimum subsistence necessary for survival. Many undocumented migrants lack information about their right to access medical services in the country where they live. On many occasions, they do not seek medical help because they have an enormous fear of being discovered and deported. They easily confuse the levels of administrations and public authorities, and often fear that hospitals or health centres will inform the police of their presence.

There are many vulnerable groups of undocumented migrants as regards access to health care, including women, children and people with severe chronic diseases such as HIV/AIDS. Disadvantaged on the basis of their gender and administrative status, undocumented women are particularly exposed by the inability to access health care services. Across Europe, undocumented women are giving birth at home alone, or putting their lives at risk to obtain abortions as they lack entitlements or are too fearful to avail themselves of treatment in hospitals or clinics. Those suffering abuse and health-related crises often have no idea what their rights are, and may face repercussions if they contact the police or seek assistance. Women's health is inexorably linked to the accessibility of preventative care, immunisations, health education, family planning, and pre- and post-natal care, yet the basic entitlements taken for granted in Europe are systematically denied to undocumented women. They have no access to medical services and support programmes for psychological trauma caused by sexual violence, and, while they have priority needs in the area of reproductive health and rights, there are significant legal and practical barriers preventing their access to information and services

Undocumented migrants' right to education

The right to education is both a fundamental human right and an enabling right that is necessary for the realisation of other human rights. The UN body responsible for monitoring the implementation of economic social and cultural rights has affirmed the importance of education as:

the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the

*means to participate fully in their communities*⁴.

Education plays a vital role in empowering women, safeguarding children, tackling social injustice and promoting integration⁵. In Europe, it is generally taken for granted that all children, regardless of gender or background, will be able to complete a full course of primary schooling. While European governments have committed themselves to the promotion of free and equal education in developing countries as a means of tackling extreme poverty and gender inequality, they deny this right to those without a valid residence permit.

The right to education for children is confirmed and consecrated by a wide range of international conventions, which recognise the right of instruction as a fundamental right of every child (PICUM, 2007a, pp. 40–43). The Convention on the Rights of the Child (CRC) is the fundamental instrument in the protection of children's rights at international level. Article 28 of the convention guarantees access to education for all children, including those who are undocumented. The article stresses obligations regarding children's right to access education free from discrimination of any kind.

States Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all.

The principle of non-discrimination reported in Article 28, and more directly in Article 2, comprehensively guarantees the right to education without distinction between undocumented children and children whose residence is authorised.

Therefore, all migrant children, irrespective of their status, should have access to the same statutory education as national children. Any limitation regarding the enjoyment of these rights, such as administrative and practical barriers, should be removed as they are contrary to international obligations

Undocumented migrants' access to education in Europe

Despite the protections afforded to undocumented children under international law, growing tensions exist in Europe between their protection needs and the immigration control agenda. Education has

emerged as a key issue in this struggle. In some EU Member States, undocumented children are refused access to schools on the basis of their status; while in others, immigration police use the education system as a means of detecting and deporting undocumented families. Exploitation, discrimination and the increased rates of detention facing undocumented minors severely limits their education. The importance of schooling for a child's formation and social integration is an established and incontrovertible fact. For undocumented children, however, the educational system holds added significance as it often initiates the process through which they may become regularised. In some countries, regular school attendance enables children to receive residence permits when they reach 18 years of age⁶.

Generally speaking, at the legislative level, access to compulsory education is granted to all children in the EU. The right to education for undocumented children is explicitly referenced in Belgian, Italian and Dutch legislation; in France, Spain and Poland, undocumented children are implicitly included in the reference to 'all children'; while Hungarian and Maltese law only mentions the right to education for those with a valid residence permit (PICUM, 2009, p.16). On a practical level, however, numerous difficulties emerge for those with an irregular migration status. These barriers may be practical, such as lack of identification; institutional, such as discriminatory legislation; or broadly societal, such as the fear of being detected. As a result, both compulsory education and higher education can be difficult for undocumented youth to obtain⁷.

Identity documents are often needed by schools to prove the number of students in attendance so they may receive reimbursement from the state. In some cases, schools may provide services for a particular catchment area and require students to prove residence in that area before enrolment. Fear of authorities is another leading factor that prevents undocumented migrants from entering education; while in most countries, police roundups in schools are rare, the fear of being detected is so embedded that many parents prefer not to risk sending their children to school⁸. Additional costs can also pose a significant barrier; while access to primary education is free, undocumented families are excluded from economic aid for extra expenses such as books, transportation, and so forth. Poor knowledge of the

6 In Italy and France, for example, the conferral of a residence permit once the student reaches adulthood is tied to physical presence in the territory for a certain number of years and having followed a scholastic course.

7 Although individual countries vary in their definitions, compulsory education is generally defined as primary and secondary education from 6 to 16 years of age.

8 As French Interior Minister, Nicolas Sarkozy initiated a policy whereby immigration police visited schools to detect undocumented parents when they went to fetch their children.

4 Committee on Economic Social and Cultural Rights, Article 1 of General Comment No. 13 on the right to education.

5 As underlined in the report Integrating Immigrant Children into Schools in Europe, "Almost all European countries comply fully with this basic right, extending it to all immigrant children, irrespective of their residential status. In other words, families of refugees or asylum seekers or those who are irregularly resident, no less than those with long term residential status, may all enroll their children at a school in the host country" (EC, 2004, p. 67).

national language can limit undocumented families' ability to enrol their children in school and sustain their attendance. The precarious living conditions experienced by undocumented families are also shown to have a direct affect upon their children's schooling; those forced to move regularly can rarely complete an entire school year. A specific problem cited in many countries, and a clear form of discrimination against undocumented students, is the fact that they are not regularly issued diplomas at the end of their scholastic career.

Conclusion

Inequality and discrimination in Europe's social systems continue to be widespread, with the educational attainment and health status of migrants and minorities lagging behind that of majority groups. There remains a large gap between the theoretical entitlements granted by law to all and the concrete practices experienced by undocumented migrants. The current barriers implemented at the policy level have placed an enormous strain on local actors such as NGOs, health care and educational professionals, as well as local authorities, who witness firsthand the humanitarian crisis they cause.

Despite this bleak picture, many positive examples of collective responses exist at local levels which have enabled undocumented migrants to enjoy their rights. Civil society actors across Europe have reacted strongly against the inhumane policy-driven destitution experienced by undocumented migrants. Individuals have come together, founded associations or formed informal networks, to curtail the effects of migration control mechanisms, help irregular migrants to overcome numerous practical barriers and finally, raise awareness about the issue to encourage real policy change.

These organisations often work with limited resources to guarantee a basic standard of living and defend the fundamental rights of undocumented migrants. Furthermore, there is a worrying tendency across Europe to criminalise and penalise those providing humanitarian and social assistance. Professional groups, such as social workers, church groups, doctors and teachers, experience clashes between their professional ethics and the incriminatory discourse regarding undocumented migrants.

Due to the difficulties facing undocumented migrants in accessing health care, many civil society organisations are offering these services themselves, referring migrants to other agencies that provide such services, and working with social services to try to integrate undocumented migrants into the public service system. Several initiatives have also emerged which seek to protect the right to education for undocumented children residing in Europe; in France, the Network for Education Without Borders (Réseau Education Sans Frontiers – RESF) grew from a gathering of trade unions, parent's associations, community groups and educational

institutions who were committed to the protection of non-deportation of undocumented student at all educational levels.

While civil society actions may provide a short-term solution to the issues facing undocumented migrants, a more sustainable and accountable response must urgently be developed at the policy level. The European Union and its Member States are obliged to uphold the human rights of those within their jurisdiction. While Member States may control their borders, immigration and social policies must be coherent with their human rights obligations. Under human rights law, migrants without a valid residence permit should not face limitations on their fundamental rights on the grounds of their immigration status. Any distinction made in relation to undocumented migrants seeking to realise their innate entitlement to health care, adequate housing, fair working conditions and education are thus in violation of universal principles of human rights protection. ■

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Racism and Racial Discrimination

Racism and discrimination towards migrants in the areas of employment, education and health continues to be worrying in Europe.

Luciano Scagliotti European Network Against Racism (ENAR)

In the words of the European Commission against Racism and Intolerance, “the situation continues to be worrying” in Europe (ECRI, 2009, p.7).

There has been a continuous increase in racially motivated incidents and crimes in Europe, including violent attacks, against visible minorities, namely people of African and Asian descent. The Roma people also face widespread negative attitudes and prejudice as well as discrimination and exclusion in all areas of life. Religious discrimination is a daily experience for minorities and faith-based groups, particularly Muslim and Jewish communities. Immigrants, both documented and undocumented, are vulnerable to various contemporary forms of racism, including slavery and various forms of institutionalised/legalised discrimination. There is also evidence of manifestations of racism and xenophobia against EU citizens – particularly against nationals of Bulgaria and Romania.

Although situations vary from country to country, surveys conducted in 2008 show the persistence of racism and racial discrimination in a number of areas, including housing, employment, education, health, policing and racial profiling, violence and crime, access to goods and services, and in the media and political discourse¹. Ethnic and religious minorities are more likely to be homeless or live in poor quality housing. Racial discrimination in employment remains a major barrier to the economic and social inclusion of minorities, and immigrants and refugees are particularly vulnerable to the effects of the current global economic crisis. Unequal access, unequal outcomes and unequal attainment mark the participation of minorities in the educational field, due to direct and indirect barriers to access, segregation provisions and the lower quality of education granted. Access to available health care is limited by legal status as well as by factors such as habitat segregation, employment, mechanisms of social insurance and poverty. Law enforcement agencies reportedly do not respond appropriately to racist crime and are even perpetrators of racist practices and abuse against ethnic and religious minorities; racial and ethnic profiling is increasingly used as an accepted method in the fight against both crime and terrorism, despite it proving ineffec-

tive and even counterproductive. Racist crime and the mistreatment of ethnic and religious minorities is gaining more and more public acceptance. An increase in racist violence and crime is reported in Bulgaria and Cyprus, while a decrease is noted only in Belgium, France, Germany and Slovenia.

Members of ethnic minorities, including immigrants, have difficulty accessing crucial mechanisms. Recourse to legal remedies is often prevented by lack of information and basic instruments (mandatory by law), like judicial interpreters and translated documents. Financial services, including insurance, are generally more expensive for non-nationals; furthermore, there are very few examples of targeted services, even at the minimum level of providing information in different languages. A significant increase in racism in the media is also noticeable, as well as an increase in support for racist and xenophobic political parties. Xenophobic attitudes have also become normal in the positions taken by mainstream parties.

Antidiscrimination policies

Almost all European countries have adopted legal provisions against racial discrimination. Nevertheless, there are still important gaps to be filled, the most important being the distance and inconsistency between legislation and its implementation. Furthermore, some countries are weakening equality legislation through non-specific provisions contained in other laws (such as immigration laws) and through security and antiterrorism measures². Legal remedies are often barely accessible to members of vulnerable groups; specialised bodies are limited in power and scope and under-resourced; and law enforcement agencies are neither specifically trained nor monitored for discriminatory behaviour.

At the EU level, a positive development is the adoption by the European Council (seven years after the original Commission proposal) of the Framework decision on combating racism and xenophobia (2008). Although watered down during the inter-governmental negotiations, it may prove to be an important instrument, but needs to be consistently implemented by Member States, which does not seem to be a priority for any of the European governments.

As regards antidiscrimination legislation, the

EU claims that the so-called ‘Race Directive’ (EC, 2000) is the most advanced legislation in the world. Unfortunately, the Race Directive has serious limitations: Article 2 excludes “any treatment which arises from the legal status of the third country nationals”, thus allowing Member States to adopt discriminatory immigration laws and creating a de facto barrier to access by immigrants to legal remedies against racial and multiple discriminations. Furthermore, implementation in Member States is far from in full compliance with the EU legislation, a distance that has forced the European Commission to initiate infringement procedures against several Member States.

The same gap can be noticed in relation to the implementation of other policies, particularly migration, integration and social inclusion.

Migration policies

Racism and racial discrimination can, but should not, be confused with the unequal treatment of third country nationals. Nevertheless, over-restrictive migration policies can undermine the principle of non-discrimination as well as the EU’s commitment to fight racism. Drawing a line between racial discrimination and discrimination on grounds of nationality is difficult: third country nationals are, to a large extent, members of Europe’s ethnic and religious minorities. As a consequence, those minorities are disproportionately affected by discrimination, including lawful and structural discrimination on the grounds of nationality. Racist crime, including violence, is often caused or aggravated by negative narratives and perceptions about migrants and asylum seekers.

EU and Member States’ policies are often based solely on a utilitarian approach, focusing on the economic role of migrants, rather than on respect for their fundamental rights. The European Commission recently confirmed this approach, stating that “promoting further channels for legal immigration should match the skills of immigrants against national labour market needs” (SEC, 2009). While it seems reasonable to take into account the labour market dynamics, making it the main approach can endanger fundamental rights. In the words of UNESCO:

There is no guarantee that the logic of economics and that of human rights will lead to exactly the same protections and to exactly the same degree; indeed, where one is systematically subordinated to the other, such convergence seems unlikely. Perhaps

¹ For a detailed description and analysis of the situation in the EU 27, see the ENAR Shadow reports, available on the ENAR website (www.enar-eu.org).

² The most remarkable example is the recent legislation adopted in Italy under the so-called ‘Security Package’, which is expected to (and already has) negatively affect the fundamental rights of immigrants and asylum seekers as well as the public perception of ethnic and religious minorities, including the Roma people.

more importantly, however, the economic logic that is used to justify a set of rights in the context of legal migration pulls in largely the opposite direction when confronted with the issue of how to deal with irregular migrants; neither rights-as-incentive nor rights-as-just-deserts leave any conceptual space for a robust protection regime of that vulnerable group of people (as current EU legislation in this field amply demonstrates). (MacDonald & Cholewinski, 2007)

Additionally, the link established in public discourse, both by politicians and the media, between security issues (including terrorism), immigrants, and members of ethnic and religious minorities has fuelled and legitimised widespread racist and xenophobic attitudes, a trend confirmed by the success of extreme Right-wing parties supporting overtly racist and xenophobic positions in the last European Parliament elections. It cannot go unnoticed that the negative perception and representation of immigrants affects not only third country nationals, but EU citizens as well, particularly those who are citizens of the 'new' Member States or belong to certain ethnic, religious and linguistic minorities, namely Roma and Muslims.

Integration policies

The Common Basic Principles (CBPs) for immigrant integration adopted by the Justice and Home Affairs Council of 19 November 2004 provide a very good basis for framing effective integration policies, with a strong link to respect for fundamental rights. Unfortunately, five years later, surveys show that few Member States have actually implemented these principles, and, those that have, to a very limited extent. Rather than mainstreaming the Common Basic Principles into other policies, EU governments have often mainstreamed security and control issues into integration. Provisions like language and integration tests have often been misinterpreted and misused to restrict immigrants' fundamental rights.

Social inclusion

Antidiscrimination and social inclusion are linked by a direct and mutual relationship. Equal treatment and non-discrimination are a pre-requisite for successful inclusion into the host society; social and economic inclusion is an unavoidable step towards equality. Unfortunately, both at the EU and the national level, the link is often ignored. Social inclusion plans of action often mention discrimination as an issue to be addressed, but rarely include specific measures to deal with the disadvantages faced by ethnic and religious minorities. Antidiscrimination is too often limited to the legal protection of individuals, rather than actively promoting equality through social and educational provisions, including positive action. There are very few examples of a positive integration of antidiscrimination and social inclusion policies. The situation of the Roma people is a clear example

of the vicious cycle of racial discrimination and social exclusion. Roma in the EU suffer systematic and institutionalised social exclusion, which affects access to children's education, health care, employment and housing, and strengthens the discrimination against them as well as negative public perceptions.

Challenges

Eradicating racial discrimination requires an integrated approach, based on respect for fundamental human rights.

As far as immigrants and asylum seekers are concerned, the European Network Against Racism has put forward 15 principles (2009) as the basis for a non-discriminatory approach:

- Promote positive values, conceptions and principles:** Public perceptions often become political assumptions and these are more often than not based on the premise that migrants should be restricted from fully exercising their human rights.
- Use positive terminology in political discourse:** Terminology must not perpetuate a negative image of migrants.
- Take a human rights-based approach:** The implementation of community law must be framed in conformity with international human rights obligations.
- Comply with human rights instruments:** The EU should ensure that all its actions, decisions, regulations, directives and measures are in line with international human rights standards.
- Make use of demographic data to challenge assumptions:** Demographic and other statistics should be used to publicise how much migrants contribute socially, economically and culturally.
- Ensure antidiscrimination for all:** Emphasis must be placed on antidiscrimination for all, irrespective of status or nationality.
- Respect the link between antidiscrimination, migration, integration and social inclusion:** Integration must not be used as a means of restricting the exercise of human rights of migrants and must not exclude or discriminate on any ground, whether on the basis of race or nationality or social or any other status.
- Enforce existing labour laws:** Strengthening the implementation and enforcement of existing labour laws under national and community law and under ILO conventions must be a priority.
- Protect workers' rights:** Fundamental human rights must cover all workers irrespective of legal status or skills and avoid direct or indirect penalisation of those who face exploitation, for example, through the application of detention and deportation policies.
- Ensure policy coherence:** Policy coherence with the EU employment and social policies,

the Lisbon Strategy and the fundamental rights agenda is an essential prerequisite for effective policy making.

- Promote gender sensitive and age sensitive policy making:** The specific needs of migrant women must be adequately addressed, as well as those of unaccompanied minors, young people, elderly people and specifically young people in employment.
- Ensure participation:** Migrants' voices must be heard in decision making on migration policy.
- Ensure equality in education:** It is important to pursue policies that promote the educational attainment of migrant children as well as the education needs of migrants more generally, including the second generation.
- Recognise the global context:** An effective approach must tackle poverty and social exclusion, especially within the context of the global economic crisis.
- Be proactive not reactive:** The achievement of a positive approach to migration requires policymakers and civil society to be proactive by pursuing a rights-based approach to migration.

The same principles, mutatis mutandis, should apply to policies concerning ethnic and religious minorities. The European Union and its Member States should actively combat negative associations that stigmatise specific groups, such as the Roma and Muslims, with particular attention to the language used by the media and political actors. Fundamental human rights, such as freedom of religion, freedom of movement and the right to family life, should not be jeopardised under any circumstances. Members of ethnic and religious minorities should be protected against discrimination in employment, housing, education and health care; this should include positive measures to deal with disadvantages and to accommodate cultural diversities. Minority communities should also have a say in the decision-making process and in policy making. ■

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Reframing Immigration, Integration and Asylum Policies from a Gender Perspective: Ensuring Gender-Fair Policies

A new gender-based migration approach is urgently needed to address the inequalities and discrimination that migrant women suffer.

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With input from the members of ENoMW²

While migration and gender has for a long time remained an invisible issue in policies, especially at the EU level, since the 1980s research projects have been flourishing at the local, national, European and international levels. These research projects have challenged both mainstream research and immigration policies, which have for a long time focused on the male migrant worker, reinforcing a model of migrant women as only expected to assist their husbands and children, rather than seen as active in their own right. This representation of migrant women does not reflect the reality of women's migration, as argued by Kofman et al. (2000), who point out that "women were present almost from the beginning of post-war migration both as primary migrants and working alongside male partners". However, this representation has been at the heart of the different migratory regimes, which are highly gendered³.

We need to question policies and, for this, the voice of migrant women's organisations needs to be heard to understand what is really happening on the ground: What are the specific impacts of immigration policies on women? Are asylum procedures sensitive enough to gender? Do supposedly gender neutral integration policies actually work for migrant women? This report will highlight key challenges to demonstrate the need to reframe these policies and underline key recommendations to move in the direction of policies that take into account the real situation of women.

1 The European Women's Lobby (EWL) is the largest alliance of women's non-governmental organisations in the European Union, bringing together thousands of member organisations in Europe <www.womenlobby.org>.

2 This article has benefited from key inputs from all the members of the European Network of Migrant Women (ENoMW) (www.migrantwomennetwork.org) through the project "Equal Rights. Equal Voices. Migrant Women in the European Union", carried out by EWL in partnership with ENoMW. We would also like to thank Eleanore Kofman, Middlesex University, for her valuable comments.

3 It is essential to take into account that gender is intersectional: race, age, sexual orientation, marital status, socioeconomic status and other grounds of discrimination interconnect with gender.

Reframing labour and family immigration policies

The first challenge towards a reframing of immigration policies is to challenge the dominant perception of female migrants as 'unskilled' migrants⁴: they are indeed rarely seen as having the skills needed to contribute to the knowledge economy, which is restricted to occupations dominated by men in areas such as finance, science and technology. This perception is even more dominant in relation to women who come under family immigration. However, the share of women immigrants holding a tertiary degree in Organisation for Economic Co-operation and Development (OECD) countries is only three percentage points below that of men and, in some countries, there is an equal share or even higher proportion of foreign-born non-OECD female migrants in skilled occupations than native-born (Kofman & Raghuram, 2009). However, immigration regulations have an impact on the ability of highly qualified women to migrate. Kofman and Raghuram (2009) compared the modes of selection of highly qualified migrants from a gender perspective and found that the sectoral and earnings based selection practised in most European countries implicitly favours men, while the Canadian system, under which immigration is based on education and language attainment, has led to an increase in highly qualified female migrants.

The second challenge, as pointed out by Gregoriou (2008), is to link the immigration debate to the problem of aging western societies, the issue of care provision and feminised care labour, and to the difficulty of recognising and regulating the informal economy of cheap and flexible labour. This link is essential to deal with the increasing migration of female domestic workers who are providing indispensable care services to a growing number of EU citizens who need support: families with children, those with disabilities, the elderly and others. While their labour is "instrumental for liberating us from the responsibility of reproductive labour and rendering us fit for the gender-blind framework of the workplace", these 'reconciliators' are usually excluded from

4 It should be noted that the categorisation of skilled and unskilled work also needs to be deconstructed as research has long pointed out that the notion of 'skill' is socially constructed and highly gendered (Phillips & Taylor, 1980).

protection under national labour codes and do not have access to labour visas, or face specific barriers to having their status regularised, which results in many of them being undocumented with virtually no social rights⁵.

The third challenge is related to the increasing restrictions imposed by family immigration policies and their gendered-nature. Kraler and Kofman (2009) point out that the criteria (in particular the income requirements) for family reunification make it more difficult for women to qualify. To meet the income requirements, women need to work fulltime, which makes it difficult for those who have childcare responsibilities and no access to subsidised childcare, which is often dependent on having long-term residence status. The fact that women in Southern Europe are concentrated in informal work is an additional barrier to family reunification.

Recommendations

1. Frame gender-sensitive labour migration policies: As highlighted by the Organization for Security and Co-operation in Europe (OSCE, 2009), there is an urgent need to frame gender-sensitive labour migration policies that:

- Develop enabling environments that provide equality of employment opportunities and access to benefits to both migrant men and women
- Follow a 'two-way' approach, encompassing general migrant protection provisions and those specifically targeting female migrant workers in order to empower them with choices, to access resources and to claim rights
- Introduce temporary special measures to compensate for past discrimination that may adversely affect female migrants' current situations

2. Conduct needs assessments: Member States should ensure that labour market needs assessments carried out in their countries take into account the need for domestic and private care-related work.

5 This issue has been highlighted by organisations such as the Mediterranean Institute of Gender Studies (MIGS) in Cyprus <www.medinstgenderstudies.org>, Kalayaan in the United Kingdom <www.kalayaan.org.uk> and the European network RESPECT <www.respectnetwork.eu>.

- 3. Conduct a gender-impact assessment of bilateral labour agreements and migration policies:** A gender-impact assessment of bilateral labour agreements and all migration policies, including family reunification, must be conducted to ensure that these policies do not discriminate indirectly or directly against migrant women.

Reframing asylum policies from a gender perspective

Women's experiences of political activities and of persecution may differ from those of men. Both politics and persecution have historically been interpreted by Member States through the framework of male experience, thus often excluding women's political opinions on gender roles as well as acts of gender-based violence and/or discrimination by either state or non-state actors. The 1951 UN Convention on the Status of Refugees does not specifically refer to gender as a ground for persecution, but each ground must be analysed from a gender perspective as asylum is not gender neutral. The European Women's Lobby (EWL) and other organisations, such as the Refugee Women's Resource Project at Asylum Aid in the United Kingdom, have been calling on EU Member States to apply the United Nations High Commission for Refugees (UNHCR) Gender Guidelines (2002) on International Protection with regards to Gender-Related Persecution (see EWL and Refugee Women's Resource Project at Asylum Aid, 2007).

Without such guidance it is very difficult to ensure that the gendered nature of persecution, of which women are the prime victims, is fully understood and that women's asylum claims are given equal and fair assessment. We are referring to situations where heterosexual, bisexual and lesbian women fear various forms of gender-based violence and discrimination by state and non-state actors, including where they are in danger of being killed or subjected to physical and mental violence by their husband/partner, family or the state; persecuted for opposing gender-discriminatory norms or laws; raped in situations of conflict and war; and along with their girl children are subjected to practices that are carried out in the name of 'culture', such as female genital mutilation or forced marriage. Without guidance there is also a risk that some asylum-seeking women struggling for their human rights and those of others will be depoliticised and regarded as passive victims of abuse, instead of being recognised as agents in their own right and as women human rights defenders. Similarly, it is crucial that asylum procedures are gender sensitive to ensure that women benefit equally from a non-discriminatory process, for example, through the choice of the gender of the interviewer and ensuring that country information relating to the situation of women is taken into account.

Recommendations

- 1. Establish a Gender Unit within the European Asylum Support Office:** Such a Unit would prove vital in providing an institutional framework to coordinate gender specific issues within the broader asylum support system.
- 2. Member States should adopt, and the European Commission should promote, gender-sensitive asylum guidelines:** Within the framework of practical cooperation, the EWL calls for an EU ad-hoc gender expert group to establish and promote EU gender-sensitive asylum guidelines with the aim of assisting asylum determining authorities in interpreting gender-specific asylum claims.
- 3. Develop gender-disaggregated data and studies:** It is particularly urgent in the context of the Dublin system to undertake a study on the disparities between Member States concerning the granting of protection on the basis of gender-based persecution and the forms this protection takes.
- 4. Country of origin information (COI) must be gender sensitive:** COI should include information regarding the situation of women in countries of origin, both legally and de facto.

Removing the main obstacles to migrant women's integration⁶

At the EWL seminar in 2007 on "Equal Rights. Equal Voices. Migrant Women in the European Union", migrant women's organisations (which are now working together in the framework of the newly created European Network of Migrant Women) identified five main areas crucial to migrant women's integration. These areas are:

- 1. Legal status:** An important feature of family migration policies is the dependency of the spouse and the right to stay dependent on the sponsor. However, this dependency is reinforced in countries where spouses' access to the labour market is barred. This is an additional obstacle to women who have experienced domestic violence making an official complaint and can result in 'brain waste', with highly qualified migrant women remaining unemployed or in occupations far below their qualifications. Finally, because of the gendered nature of labour migration, as we have seen above, many migrant women are undocumented in Europe, do not have access to fundamental rights and face additional barriers to regularisation because of the informal nature of their work.

- 2. Employment and education:** The gendered nature of labour migration results in many women entering European countries through family immigration regimes or in sectors such as domestic work, working below their qualifications. As emphasised by Kofman et al. (2009), the process of recognition of qualifications of non-EU country nationals is a major obstacle to labour integration, as well as the lack of support structures (such as professional, affordable and accessible language courses and childcare facilities). Multiple discriminations in the workplace also need to be tackled.
- 3. Sexual, health and reproductive rights:** Migrant women are facing limited awareness and lack of access to sexual health education, while service providers lack understanding of the health needs and cultural specifics of migrant women. Conditional access to health care also needs to be removed.
- 4. Violence against migrant women:** Migrant women are not free from violence, and very often their experiences are further exacerbated by their lack of language skills, extended family and knowledge of the existing support system. Furthermore, they may face specific forms of violence such as female genital mutilation or honour-based violence. It is, however, essential to develop a specific approach that does not fall into the trap of stigmatisation and to remove obstacles such as conditional access to shelters based on legal status.
- 5. Participation in public and political life:** The right to vote and to access European citizenship are essential to ensure migrants' full participation in public and political life. However, migrants face additional obstacles to using these rights such as lack of information on the host country's political system in different languages, and also lack of migrant women role models or capacity-building programmes for migrant women activists. Migrant women are particularly underrepresented in public and political life.

Recommendations

Legal status:

1. Automatically grant independent status and a work permit to the spouse of the principal legal status holder at the earliest opportunity in order to fully guarantee and protect their rights and to facilitate their social integration.
2. The law of the country of residence should be applied when it comes to personal status.
3. Undocumented migrant women should have full access to their basic fundamental rights and gender-sensitive channels of regularisation need to be developed.

⁶ The challenges and recommendations set out in this section are taken from Greiner (2008) and EWL (2007); please consult these documents for full list.

Employment and education:

- All migrant women, whatever their status, should have access to professional, affordable and accessible language courses, and care services for all dependants (children, older people, disabled persons).
- Recognise qualifications acquired abroad and ensure access to life-long learning.

Sexual, health and reproductive rights:

- Migrant women, irrespective of their legal status, should have access to public funds to ensure safe, equal, culturally sensitive health services and rights, in particular sexual and reproductive health services and rights.
- Educational health tools on migrant women's health need to be developed for service providers.

Violence against migrant women:

- Guarantee all migrant women, regardless of their status, access to designated services and shelters for victims of domestic and sexual violence, and further develop the existing infrastructure if necessary.
- Statutory agencies need to involve experts from migrant communities and service providers should be provided with training.
- Specific legislation needs to be implemented that guarantees that abused migrant women do not remain legally and economically dependent on the perpetrators of violence.

Participation in public and political life:

- Clear, simple and gender-sensitive procedures to acquire permanent status and citizenship rights need to be made available.
- Funding should be made available for migrant women's NGOs to provide training to migrant women activists.

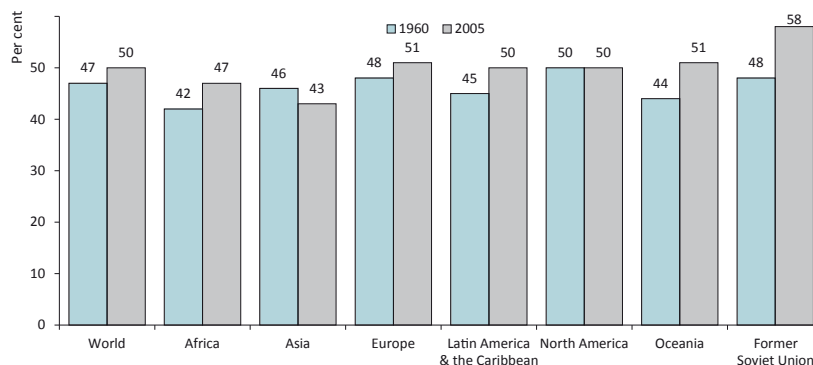
Conclusion

Despite the Treaty of the European Community requirement that the European Community should "eliminate inequalities and...promote the equality between women and men in all its activities"⁷ (i.e., gender mainstreaming), in practice most of the Member States and the European Union have failed to integrate a gender perspective into their policies on immigration, integration and asylum. There has, nevertheless, been increasing acknowledgement of the need to integrate a gender perspective in recent policy papers⁸, but how this will be done

7 A consolidated version of the Treaty establishing the European Community (2002) is available at <eur-lex.europa.eu/en/treaties/dat/12002E/pdf/12002E_EN.pdf>.

8 See, for example: The European Commission's Communication on "A common agenda for integration" COM (2005) 389; The European Parliament Kratsa report on

Figure 5: Proportion of women in migrant stocks, by region, 1960 and 2005



Source: United Nations 2006

still remains to be seen and is one of the main challenges. The gender bias of current policies needs to be urgently addressed and lessons could be drawn from the Canadian example where a gender-based analysis of immigration, settlement and integration programmes has been instituted. It is also important for civil society to play a key role in supporting the implementation of these commitments. Consultation and funding are essential in this regard. Migrant women's organisations should be included in consultative bodies and in framing research and impact assessments at local, national, European and international levels. This is not possible without funding for migrant women's organisations and organisations supporting migrant women, as well as for gender equality, social and antidiscrimination policies. This is even more important in times of economic crisis, as progress towards women's rights is at risk of being jeopardised.

Finally, it is essential to note that reframing immigration, integration and asylum policies from a gender perspective is an essential step to ensure gender-fair policies, but this needs to be accompanied by a reframing of all policies from a women's rights-based approach to ensure a coherent policy framework. As pointed out by Jean-Michel Baer of the European Commission, "Migration, labour market or education policy initiatives will have only limited success in removing barriers to inclusion and economic growth if they are not articulated with policies that address wider economic and social inequalities" (EC, 2009). This would mean looking at the gendered and fundamental rights impact of not only social and economic policies within the European Union, but also of external relations, development and trade policies. ■

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Migrant Youth: From Integration to Transculturalism

With its ageing population, Europe needs to admit the importance of young migrants to its economy and to fully support their integration into European society.

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Age, migration and Europe: A reality to be taken into account

Europe is currently facing important demographic changes. The percentage of young people within European societies is decreasing sharply, and this will have extremely important consequences for the European social model, particularly in the areas of welfare, education and employment. Current birth rates in Europe are not sufficient to allow the population to renew itself. Between 2005 and 2030, the working age population (15 to 64) is projected to fall by 20.8 million. Moreover, the demographic dependency ratio, defined as the ratio of the population dependent population (aged 0 to 14 and over 65) to the non-dependent population (aged between 15 and 64 years), will rise from a rate of 49:51 (i.e., 49% of the population dependent) in 2005 to 66:34 (66% of the population dependent) in 2030 (EYF, 2008a; EYF, 2008b).

On the other hand, young people represent an important percentage of migrant communities, whose higher fertility rates are already benefiting European demographics. Indeed, according to the United Nations Population Fund (UNFPA), young people historically make up a large share of the migrant population. If the definition of youth includes young people up to the age of 29², young people represent half of global migrant flows (UNFPA, 2006). The population in Europe will slightly increase until 2050 due to net immigration flows. Without immigration, the European population would have already started to decline (EC, 2005).

¹ The European Youth Forum (EYF) is an independent, democratic, youth-led platform representing 99 National Youth Councils and International Youth Organisations from across Europe: 38 National Youth Councils and 61 International Non-Governmental Youth Organisations, which are federations of youth organisations in themselves. The EYF works to empower young people to participate actively in society to improve their own lives by representing and advocating for their needs and interests and those of their organisations towards the European institutions, the Council of Europe and the United Nations. Representation, internal democracy, independence, openness and inclusion are among the main principles for the functioning of the EYF and its member organisations.

² As is the case in the UNFPA report; however, the European Youth Forum considers a person to be young up to 35 years of age.

Despite these statistics, the youth perspective is rarely considered in national and international debate on migration. A further understanding of the needs of young migrants is needed and the important role played by young migrants in European society should be acknowledged.

Unacceptable double standards: Incentives and disincentives for young migrants

There are many points of view from which the relationship between migration and youth can be framed within the European context. The current European policies frame migration within the Lisbon Growth and Jobs Strategy, focusing on the need to effectively tackle demographic changes in order to ensure growth.

Many provisions have been introduced in key areas such as employment and education to maximise economic growth, implying the need for Europe to be the most competitive and knowledge-based economy. These provisions have a crucial impact on the lives of young migrants.

The European Union has put in place special conditions of entry and residence for third-country nationals for the purposes of highly qualified employment (EC, 2007), including a Blue Card permit system. The Blue Card scheme (which will come into force in 2011) is similar to the US Green Card system, but is only valid for two years, although renewable. Applicants must have a one-year EU job contract with a salary of at least three times the minimum wage. Blue Card holders are treated equally in relation to national workers, limited only in their access to education grants, housing and social assistance. The Blue Card system aims at attracting highly qualified workers by fast tracking procedures, eventually increasing mobility within the EU.

A Directive on the conditions of admission of third-country nationals for the purposes of education, school student exchange, unremunerated training or voluntary service was also adopted (2004/114/EC). In 2001, the first Erasmus Mundus programme, an EU cooperation and mobility programme in the field of higher education, was launched. The second phase of the programme for the period 2009 to 2013 is now being implemented.

Although these initiatives are important, they exclusively target elite migrants and contribute to establishing different categories of migrants, among which only some are identified as 'useful' in terms of economic growth. Furthermore, the needs of other categories of migrants are not taken into account.

For instance, the European Union has introduced a Directive on Family Reunification of Third-Country Nationals (Directive 2003/86/EC), which hints at a toughening of the conditions for reunification and leaves a significant part of sovereignty to the Member States. Some countries have begun to fear abuse of family reunification procedures and have passed bills that have been highly controversial, and perhaps even discriminatory and in contravention of the Geneva Convention of 12 August 1949. Such moves could result in an increase in the number of separated children and youth. This is even more significant considering the fact that family reunification is still the main reason to migrate in many EU countries (EYF, 2008b).

At this point, it should be mentioned that the Directive on Common Standards and Procedures in Member States for Returning Illegally Staying Third-Country Nationals (Return Directive 2008/115/EC) does take into account the specific situation of vulnerable groups, including minors, unaccompanied minors and single parents with minor children. Indeed, it ensures basic rights to them such as emergency health care, the essential treatment of illness and access to basic education. However, at the same time, the document sets out exceptions in relation to conditions of detention of third-country nationals during the period granted to them to voluntarily return to their countries of origin. In particular, the Directive allows for the detention of minors and families, although this should be a measure of last resort. The detention of migrant minors for reasons related to their residence status is at odds with international human rights standards.

The needs of young migrants are certainly not duly taken into account by such policies and legislation. Specific attention should be given to child and youth migrants regardless of the reason for their decision to migrate, their level of education, or their economic or other status. The European policies on migration, including the European Common Immigration Policy, draw from economic growth paradigms, overlaid by security, and establish a hierarchy among migrant groups. As a consequence, they ultimately strengthen prejudice and fail to acknowledge the tremendous benefits that young migrants bring to Europe, in addition to their contribution to European economic growth.

Difficulties experienced by migrant minors wishing to reunite with their families, detention conditions imposed on unaccompanied minors, degrading and humiliating detention conditions, and

discrimination experienced by young migrants in the field of employment, education, and access to health and social services are against international law standards and, sadly, undermine the credibility of a European Union claiming to be the stronghold of fundamental rights and freedoms.

Migration, cultural diversity and youth

The link between migration and cultural diversity is one of the most exploited arguments and sources of controversy and debate. Although important, focusing exclusively on this link by identifying either the extraordinary added value brought to Europe by migration in terms of diversity, as many civil society organisations do, or the threat represented by non-European migrants, which is often the core message of populist political propaganda, corresponds to the same cultural model. Although apparently opposite points of view, both draw from the assumption that Europe is not a diverse society and from the dichotomy of 'us' and 'them', which, even though applied on the larger European scale, is typical of the discourses developed in the context of nation states.

However, young people represent an extremely diverse group of people, cultural diversity being only one aspect of their diversity. Young people hold a wide range of political views, enjoy different cultural activities, belong to groups expressing different trends, believe in different Gods or are atheist, have same sex partners or different sex partners, and have different ethnic origins, among other things. Young Europeans already belong to different cultural traditions, which may play an important role in shaping their ways of being, or not. In this sense, the weight given to cultural differences needs to be downsized.

Migrant youth bring additional value to European diversity. This being said, the risk of identifying them as a homogeneous group should be avoided as this is at odds with the concept of diversity itself. In this sense, although young migrants surely share many similar experiences because of their migrant status, they are and should be considered a diverse group, rather than a homogeneous entity where migrant status is the predominant defining feature.

Young migrants are a resource for European societies, although everyone, including the migrants, bears an enormous responsibility for ensuring that their full potential is developed. Indeed, the role of young migrants in society has to be framed within the existing patterns related to the participation and contribution of young people to society. Young people are indeed a major source of social change; they are the ones actively promoting improvements and holding ideals, and they have the energy and commitment to redress injustice. Young migrants could also bring about positive change, but they often experience difficulties compared to their European peers. In this respect, although other groups of young Europeans are surely subjected to social

and economic distress, young migrants bear the existing inequalities at the global level, for which Europe is partially responsible. In addition, they are not protected from discrimination on the grounds of nationality and/or migrant status³, and they experience prejudice because of both their age and their migrant status.

Ensuring the participation and integration of young migrants within European societies has a lot in common with the challenge of ensuring the participation and integration of young people in general, although characterised by additional and specific difficulties. The successful integration of young migrants is often hindered by restrictions in the fields of education and employment, even when holding a long-term residence permit, by difficulties in contributing to political life, by long and bureaucratic procedures to access nationality, by a lack of legal protection against discrimination, and so forth. Practices established in these key areas of life differ greatly from one country to another, but the overall picture is not very encouraging. Only a few countries have adopted and implemented policies on the aforementioned areas that are favourable to the integration of migrants (Niessen et al., 2007).

The integration of young migrants should ideally contribute to breaking down cultural barriers and, ultimately, to changing the very predominance of the existing cultural discourse, which considers cultural differences as the most difficult differences to cope with. For this to happen, we need to reflect on current European policies and on the responsibility of both national governments and European institutions to ensure the effective integration of migrants and young migrants into society. This implies the existence of legislation and policies ensuring equal opportunities for young migrants, as well as special actions aimed at promoting their capacity to take decisions autonomously, enabling them to think critically, and providing them with the whole set of opportunities to allow them to actively contribute to civil and political life. At the same time, a reflection needs to be stimulated and developed with and within migrant communities themselves to promote mutual understanding, avoid any manipulation of presumed cultural differences, and to question ties and allegiances based on stereotypes and nationalism.

The way forward: Involving young migrants in shaping their own future

The process leading from integration to transculturalism, implying, as explained above, a downsizing of the cultural component, is certainly a difficult one. However, this process could represent an alternative

to the current intercultural and multicultural models, which do not take a genuine stand against the opposition of cultures, and to the model of diversity based on collective rather than individual features.

Towards this aim, the move from integration to transculturalism should not take place without the active involvement of young migrants. Education plays a major role in promoting new visions and new patterns of integration coming from the migrant communities themselves. In this respect, both formal and non-formal education can provide further occasion for young migrants to reflect upon their own future and their role within European societies. This reflection should be developed jointly with their non-migrant peers and should allow young Europeans to frame European issues in the context of a globalised world, where European realities are intertwined with global dynamics, migration being one of them. Such a process requires formal and non-formal education actors to have a better capacity to reach out to young migrants and to provide them with the space they need to develop their full autonomy.

Civil society organisations as well as the media bear an enormous responsibility to ensure government accountability for the need to promote the integration of young migrants and to provide further and alternative ways to participate and for individual development. The European standards on political participation (Council of Europe, 1992) should be effectively implemented, while at the same time supporting other forms of participation. Participation in civil society, volunteering and engagement in awareness-raising activities need to be adequately stimulated.

Towards this, the European Youth Forum believes that youth organisations must play an important role in integrating migrants and building a transcultural society. The structure of democratic youth organisations gives young people the possibility to experience and learn about the principles of participative democracy and active citizenship.

The inclusion of migrant organisations in existing youth organisation networks, and the exchange of both experiences and resources, can benefit the development and empowerment of migrant organisations – empowering individual migrant youth.

Conclusion

The youth perspective needs to be further taken into account when designing and implementing policies on migration. Statistics show that the link between age and migration is a crucial one and cannot be overlooked anymore. Young migrants and young non-migrants face many similar challenges and encounter many barriers in attempting to become autonomous and to fully participate in society. Therefore, joint efforts and actions should be undertaken by both youth organisations and migrant organisations in order to effectively tackle these challenges.

Institutional stakeholders have a duty to design

³ The European antidiscrimination law does not provide any protection against discrimination on the grounds of nationality and migrant status. It provides protection against discrimination based on age only in the field of employment and occupation (Directive 2000/78/EC).

and implement migration policies embedding human rights and fundamental freedoms. Towards this aim, the human rights of migrants, including the most vulnerable groups within them, such as minors, young migrants and asylum seekers, need to be respected, regardless of their migrant status; this principle should be the cornerstone for decision makers when tackling migration issues.

Finally, integration requires considerable effort in terms of raising awareness, changing cultural patterns and promoting a genuine model of diversity where individuals no longer need to strongly belong to ethnically-based communities in order to advocate for their rights. In a context where multiple identities are recognised, the importance of the cultural component will be diminished and the discourse around integration will no longer be organised around cultural cleavages. In this post-integration reality, young migrants and migrants in general will be considered simply as individuals, despite migrant status and ethnic origin, living within political entities that do necessarily need to be based on nations and nationalities to exist. ■

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The Rights of Albanian Emigrants and Returnees in Albania

Although Albania has improved its legal framework for migration, there are weaknesses in relation to the implementation of the framework, including a lack of financial resources and well-trained human resources.

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The migration phenomenon in Albania

Migration is an important phenomenon in Albania. Official statistics indicate that the number of people who attempt to make an irregular border crossing is still high². During 2008, border police stopped 16,032 potential emigrants from crossing the Albanian border irregularly. The main driver continues to be the lack of employment opportunities and poverty in Albania. While border control and management have been strengthened (EC, 2008), reflected in the large number of apprehended potential irregular migrants, there are still cases of irregular migration from and into Albania. Due to its nature, it is not easy to collect accurate data on the number of irregular border crossings. Migration issues are considered a priority for Albania due to the high number of emigrants, with around 27.5 per cent of the population living abroad (IOM, 2008). The fight against irregular migration has been included in the EU's agenda for Albania and migration management is an integral part of government policy in Albania.

The return of irregular migrants to and from Albania is carried out in two ways: voluntary return and forced return. The number of voluntary returns of irregular immigrants is quite limited, as the majority of irregular emigrants leave Albania at any cost due to poverty and lack of opportunities to earn a living. Forced return is mainly covered by the readmission agreements that Albania has signed with most European countries and with the European Union,

which is one of the main tools used to fight irregular migration.

Legal framework for migrants in Albania

Over the past few years, Albania has made progress in approving new legislation for migrants and border management in order to fulfil its obligations under its Association and Stabilisation Agreement with the EU, the various readmission agreements, and other international standards. The legal framework in this area has been improved and it is almost complete.

More concretely, the Albanian Government has approved the National Strategy on Migration (DCM No.760, 2004) and its Plan of Action (DCM No.296, 2005), which foresee all the necessary steps to be taken by the Albanian Government for the development of a comprehensive state policy on migration; to address important issues relating to the protection of the rights of Albanian emigrants abroad; and for the establishment and consolidation of Albanian communities abroad. Among the problems faced by Albanian communities abroad is a lack of information regarding their rights and duties in receiving countries, as well as difficulties related to their economic and social integration. The services provided by Albanian organisations abroad are not at the level that they should be to assist Albanian emigrants in the integration process. The diplomatic missions (embassies) should also play a more active role in this regard.

Albania has established cooperation with its neighbouring countries for border control and migration management, in particular, through the establishment of joint border crossing points (JBSPs). In September 2007, Albania adopted a new National Strategy for Integrated Border Management and a related Action Plan. This Strategy and the existing Strategy on Migration provide a series of consolidated measures aimed at improving the performance of the institutions involved in border control.

In July 2008, a new law on foreigners was approved setting out principles and regulations for foreigners entering Albania and guaranteeing their rights. The new law 'On the control and supervision of the State Border', approved in January 2009, provides a good legal basis for the respect of the rights of migrants at border crossing points³. It is, however, too early to assess the effectiveness of its

implementation.

The legal framework for migration in Albania is also governed by various international instruments ratified by Albania. Efforts to channel migration fluxes have focused on the seasonal employment of Albanian citizens under bilateral agreements. Albania has already signed such agreements with Greece, Italy and Germany, but there has been a low implementation rate. This situation must be primarily addressed by policymakers, because the Stabilisation Association Agreement (SAA) with the EU also serves as a promotional instrument for seasonal employment, which in turn stimulates the signing of bilateral agreements, increasing possibilities for legal immigration.

Additionally, Albania has started negotiations for visa liberalisation with the EU and is working on the production of a biometric passport; the computerisation of civil registry data has already been completed.

Problems in practice

Albania has made progress on the adoption of new migration legislation in conformity with European standards, but the main problem is with the implementation of the legal framework, and, notably, the lack of financial resources and well-trained workforce.

Despite the progress made, one of the problems encountered by AHC during its monitoring activities was the non-application of the provisions of the readmission agreements in relation to people returned to Albania by other countries. The return of illegal migrants from other countries is done without preliminary notification and without the necessary documents translated in both languages – procedures that are necessary to guarantee the rights of returnees.

Infrastructure at border crossing points

While progress has been made at some border crossing points (BCPs) in terms of reception facilities for readmitted persons, further investment is needed at many others. Readmitted persons stay at the BCPs until their registration and identification procedures are finalised, except when they are convicted of, or being investigated for, a criminal offence. Problems occur when the legal procedures for notification of returnees are not respected, which often results in 100 to 150 returnees arriving at once at the same BCP without identification documents. These people are of different ages, some with health problems,

1 Founded on 19 December 1990, the Albanian Helsinki Committee (AHC) is the first organisation for the protection of human rights and freedoms in Albania. The AHC's leading mission is to contribute to improving respect for human rights and strengthening the rule of law in accordance with the Helsinki Final Act and other international legal obligations undertaken by the Council of Europe and United Nations, and in line with human rights norms promoted by the European Union. Migrants' rights have been one of the main areas of AHC activity since 2000. AHC's activities and interventions in this field have been realised due to the financial support and the contribution of the Norwegian Helsinki Committee, which is one of AHC's main partners.

2 For more information, see the Report of Albanian State Police on the Progress Work during 2008, available from: <www.mrp.gov.al>.

3 The AHC has offered legal and other assistance to improve the legal framework in this field in conformity with human rights standards.

and consist of minors, women, trafficked persons, and so forth. Under these circumstances, the legal procedures take time and readmitted persons stay at the BCP for several hours and even days (when there are problems with their identification). The situation is becoming more problematic due to the limited number of border police, the condition of the premises, the lack of phytosanitary, veterinary and health services, and inadequate quantities of food. Some BCPs have undergone reconstruction, such as Hani i Hotit, and improvements have been made in others⁴. However, in some of the BCPs, infrastructural capacity is poor; only 15 out of 26 have been linked electronically via the Total Information Management System (TIMS) and equipped with the relevant facilities. The current infrastructure does not allow for returned persons to be treated in compliance with European and international human rights standards. There is a need to ensure facilities that offer services for women and children, and persons claiming to be victims of human rights violations (particularly at Kapshtica, Tushemisht, Tre-Urat, and Saranda Harbour BCPs). In addition, there is a lack of facilities built in compliance with the law for those deported through penal precession and returned to Albania. A lack of proper facilities for interviewing returnees was noted at some border crossing points, including: Qafe Bota, Gorrice, the GOS point at Bajza, Saranda, and the Port of Vlora. Lack of heating and food, as well as lack of logistical and technical equipment is a concern at almost all BCPs.

On the matter of the implementation of obligations undertaken by the Albanian Government in connection with the Strategy on Migration, and in accordance with the the EU Aquis, institutional coordination is needed, as well as the speedy enactment of legislation for the reintegration of Albanian migrants who have voluntarily returned. Towards reintegration, the Albanian Government should ensure the insurance of work permits and the effective implementation of the law, as well as recognising and acting in potential migration zones and conducting information campaigns for migrants and foreigners residing in Albania (SOROS, 2008).

Professional capacities of border control point administration

Several specialised training sessions have been conducted for BCP staff by the Training Department of the General Directorate of State Police, in close cooperation with different international and national actors⁵. AHC has contributed in this direction, organising four different training sessions with the border administration in Korca, Shkodra, Tirana and Gjirokastra region on respecting human rights. A broader, longer-term training policy aimed

at building capacity to detect falsified documents, illegal migrants or victims of trafficking has yet to be implemented. Although there are training sessions for staff from the respective institutions on border management, a lack of sufficient border staff and high staff turnover have been identified as issues.

Monitoring of the rights of Albanian emigrants

The observation of the rights of Albanian emigrants who live in Greece and of rights violation cases (of Albanians) before the Greek courts and the European Court of Human Rights (ECHR) in Strasbourg is an important tool in protecting migrant's rights. Several cases brought against the Greek State for the violation of the rights of Albanian emigrants have been won at the ECHR in Strasbourg and reparation ordered⁶.

In addition, AHC has noticed that Albanian organisations abroad are charged with the task of tackling the problems of Albanian emigrants who live out of the country. Such organisations need to be more organised, cooperative and professional, and to network among themselves in order to provide better lobby groups to advocate for the rights of Albanian emigrants. State authorities should also strengthen their cooperation with Albanian organisations abroad; the State should play an active role in increasing their professional capacities and meet frequently with them in order to better understand their needs and help them fight for the rights of Albanian emigrants. ■

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4 However, Shkodra Lake BCP is still not operational.

5 Such as PAMECA, ICITAP, Delegation of European Commission, International Organization for Migration (IOM), and different embassies, among others.

6 AHC has been cooperating closely with the Greek Helsinki Monitoring on the observation and monitoring of the rights of Albania migrants. For more information see <www.ahc.org.al>.

Immigration in Belgium

Belgium's emphasis on migration management according to labour market needs has led to restrictive measures against documented and undocumented migrant workers. The detention of undocumented migrants, as practised by Belgian authorities, violates migrants' human rights.

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Vulnerability of migrant workers¹

Since 1974, Belgian borders have been officially closed to labour migration. However, this closure has not been a reality. Labour migration has remained possible for highly qualified workers and low skilled workers also manage to enter irregularly or through other migration channels, such as asylum or marriage, which is also becoming more and more restrictive. Currently, like other European countries, Belgium has a large group of undocumented migrants who work mostly in undeclared jobs to survive. Many of these migrants are experiencing labour rights violations.

The labour of undocumented migrants is seen as something that needs to be eradicated, both because it is assumed to involve social fraud and because it is believed to attract more irregular migration. In Belgium, the law reserves the heaviest sanctions for employers who hire workers without residence and/or work permits. In the last decade, efforts to fight irregular migration and employment have been stepped up. Several police and inspection services work with the Foreigners' Office to conduct large-scale workplace raids.

While the accession of new countries to the European Union regularised large groups of undocumented workers, transitory measures still restrict access for new EU citizens to the labour market as paid workers. Because of the free movement of services, however, they can work freely as independent contractors. Restrictions for A8 Countries² were lifted on 1 May 2009, but those for Bulgarians and Romanians remain in place.

In 2008, in line with the debate at the European level, the discourse on labour migration shifted. From the very start of her term, Annemie Turtelboom, Minister of Migration (Flemish Liberals) indicated her preference for migration management according to labour market needs: "we should pick

and choose 'useful' immigrants, and restrict the arrival of migrants that depend on social benefits". The shift in the debate was inspired by the growing labour shortage, especially in the Flemish north and before the global economic crisis in the second half of 2008.

This shift also changed the nature of discussions about undocumented migrants. Not only did the Minister of Migration announce, in March 2008, the regularisation of people with jobs, she also pushed the condition of having a job, or at least of having the skills to find one, as a requirement for the regularisation of migrants for humanitarian reasons. Furthermore, migrants should, preferably, be restricted to jobs in professions experiencing labour shortages.

What is missing in these debates is a reflection on the impact of restrictive migration measures on

the position of both documented and undocumented workers in the workplace. Workplace raids mostly result in undocumented workers being deported, or simply disappearing, and labour rights violations often remain unaddressed. Although the law provides for heavy sanctions on employers, these sanctions are difficult to enforce, if they are ever imposed. Hiring undocumented workers remains highly attractive to unscrupulous employers. The EU Directive on sanctions for employers of undocumented workers, adopted in 2008, is unlikely to change this situation.

EU accession has not saved new EU workers from this precarious situation. Many of them are still part of the irregular labour market: Bulgarians, Romanians and Polish were among the main nationalities deported in recent years. Many others are

BOX 6: Regularisation: Hope and despair

Rix Depasse
CIRE

Following a complaint by the Forum Asile et Migrations, a platform of more than 120 organisations of which the CIRE is an active member, the Federal Ombudsman¹ produced a report² in November 2008 recommending that the Foreigners' Office ensure a clearer line of conduct on dealing with regularisation requests by persons of irregular stay.

The administration of the Foreigners' Office has the discretionary power to evaluate individually each regularisation request. However, the Ombudsman noted that, "in spite of what the administration contends, the current Directives are far from being clear". No text of legal value specifies the criteria for regularisation, in spite of the promise by the Minister of Immigration, Annemie Turtelboom, who declared in mid-2008 that she would implement a government agreement of March 2008 by providing precise criteria for the regularisation of a number of categories of undocumented immigrants.

According to the Ombudsman, this legal and political situation triggers "judicial uncertainty and a lack of legitimate trust" by these people. The content of the government agreement gave them the hope of regularisation, while, in reality, the administration proceeded with arrests, detentions and expulsions. Judicial uncertainty was also reflected in the divergent responses given to the various undocumented migrants: people who carried out hunger strikes often received different responses in terms of residence and work permits than others in a similar situation who did not participate in this kind of action. It is worth noting that the year 2008 was characterised by numerous protests by undocumented migrants; notably, the occupation of buildings, often leading to hunger strikes. Hundreds of people were involved in these protests, which took place in universities, churches, disused offices and even cranes.

The Ombudsman concluded that such extreme actions tend to be reinforced when the State's response is uncertain. However, this appeal was not seriously addressed until July 2009 when, after political reorganisation, a new Immigration Minister was assigned. The new political configuration has brought about new measures for regularisation that address the demands of the Federal Ombudsman for legislation, giving a clear line of conduct on regularisation.

1 The Federal Ombudsman is an independent and impartial institution that examines complaints regarding the acts and functioning of Federal administrative authorities.

2 This report is available from: <www.federaalombudsman.be/fr/bibliotheque/recommandations/recommandations-officielles/2008/ro-0803>; the media release by CIRE is available from <www.cire.irisnet.be/ressources/presse/2008-11-13.html>.

1 By Sabine Craenen, OR.C.A

2 The term A8 refers to the 8 Central and Eastern European countries that joined the EU in 2004.

misclassified as independent contractors, which leaves their actual employers with no obligation to respect their labour rights. In the debates on transitory measures, the labour conditions of the A8 workers are barely considered.

The announced opportunity for undocumented migrants to regularise their status has not yet materialised (as at July 2009)³. In the meantime, workers have been lured into 'buying' work contracts and working for companies offering them a 'declared job', or even more dubious propositions, all in the hope of enhancing their chances for regularisation.

Even legal status, if it remains precarious, does not end vulnerability. Regularised migrants needing a job to prolong their status are willing to tolerate any conditions. Work permits tied to one employer make workers dependent on that employer. Social organisations trying to assist these workers are facing a serious dilemma: to accept rights abuses or risk the migrant losing his/her status? If the authorities have not yet realised this, unions and social organisations are raising serious concerns about the current work permit system.

Migrants and asylum seekers behind bars⁴

Since the end of the nineties, detention has been broadly used by Belgian authorities to prevent illegal entry or to implement orders of removal. Several categories of foreigners may be subject to detention: those who are turned back at (air)ports, apply for asylum in transit zones or are staying illegally in Belgium. Some asylum seekers also risk being locked up, namely, applicants that Belgium wants to transfer to another European country or whose application is considered 'abusive'.

In 2007, 7,506 foreigners were detained in 5 detention centres, less than in previous years when the number rose above 8,000. This fall may be due to a rise in the average duration of detention: from 26.9 days in 2006 to 29.4 in 2007 (Office des Etrangers, 2008, pp.116–119). The maximum legal detention in Belgium is five months. However, every time a foreigner opposes removal, the detention order is considered anew, lengthening the detention period.

More asylum seekers in detention

In 2006, new legislation extended the scope of detention for asylum seekers. As a result, more people in search of international protection have been detained. In 2007 and 2008, around 1,600 asylum seekers were detained; in 2004, this figure was less than 1,200⁵.

Specifically targeted for detention are asylum applicants to be transferred to another EU country under the Dublin II Regulation, which aims to determine the State responsible for the examination of an asylum application (European Council, 2003). Since June 2007, an asylum applicant may be detained, not only after the requested State has agreed to take him/her back, but also from the date of the application if Belgium intends to request another State to declare itself responsible for the examination. Detention in such cases can be lengthy: often over two months. In 2008, 921 persons were detained under the 'Dublin scheme' and 1,019 decisions taken to transfer asylum applicants to other Member States.

One of the 'Dublin countries' to which Belgium removes a lot of asylum applicants is Greece. These asylum seekers are usually Iraqis and Afghans who enter the EU after crossing the Aegean Sea from Turkey. In Greece, asylum seekers encounter many problems: detention and ill treatment by the police, no access to decent reception facilities, and slow and unfair asylum procedures. This situation was highlighted by NGOs and, in February 2009, by the Council of the Europe Commissioner for Human Rights. In 2008, the United Nations High Commissioner for Refugees (UNHCR) publicly asked EU Member States not to send asylum applicants back to Greece (UNHCR, 2008). However, Belgium continues to detain asylum applicants to be transferred to Greece and has even re-established identity control at Brussels airport on the flights from Athens in order to lock up potential asylum seekers who passed through Greece as quickly as possible.

Detention of minors

Since the introduction of strict limitations on the detention of unaccompanied minors in 2007⁶, the detention of families with children has changed drastically. In 2007, 188 families with 398 children were detained; in 2008, these figures dropped to 137 families with 270 children (Office des Etrangers, 2008, p.119; Centre pour l'égalité des chances et la lutte contre le racisme, 2009, p.131). The main reason for this was the launch in October 2008 of an alternative scheme run by the Federal Immigration Service. Under this scheme, families that Belgium intends to remove due to their irregular stay or their transfer to another 'Dublin country' are not detained

(CBAR). Reports of these meetings are available at: www.cbar-bchv.be/reunions.htm. For 2004, the figures come from a report published in 2006 by several NGOs visiting detention centres: Centres fermés pour étrangers: Etat des lieux, p.13, Brussels, available at <www.jrsbelgium.org/images/stories/docs/french/etat-des-lieux-centres-fermes.pdf>.

6 Before June 2007, unaccompanied minors were detained to prevent their irregular entry into Belgium. They are now hosted in 'Observation and Orientation Centres', except those whose minority is disputed by the authorities and who may be detained while their age is determined (maximum six days).

in the first instance, but are placed in 'return houses' where they retain (conditional) freedom of movement. Such families are assigned a coach whose job is to motivate them to abide by the removal order and to facilitate their removal. It is too early to assess the operation of this new model, although NGOs fear that it may fail due to lack of trust between the family and the coach, because the coach is not independent and as the only option is 'removal'. However, this scheme is a significant improvement on detention, which has a strong negative impact on the mental health of children. Unfortunately, families who apply for asylum at Brussels airport do not fall within the scheme and remain in detention.

Detention conditions and regulations

The administrative detention of foreigners is regulated by the Royal Decree of 2 August 2002, which defines detainees' rights and obligations. On 10 December 2008, the Council of State cancelled some provisions related to visits by family, access to information and isolation in case of suicide risk. Interestingly, the Council of State noted that, in many respects, administratively detained foreigners have fewer rights than mainstream prisoners. Moreover, the Council of State has stipulated that it is not admissible that the centres where foreigners prevented from entering Belgium are detained awaiting return, the so-called INAD ('inadmissible') centres, are excluded from the scope of the Royal Decree, and stipulated that they should receive their specific regulation (Conseil d'Etat, 2008).

Some aspects of detention conditions are very harsh, namely, the lack of privacy linked to the obligation to live in a group, the strict timetable, and also the disciplinary regime (punishments, day-long isolation). NGOs have noted the disproportionate use of restraint by detention centre staff to control aggressive detainees. Particularly worrying is the injection of sedatives without consent. Detainees can complain, but the efficacy and transparency of the complaint system have been judged insufficient by the Centre pour l'égalité des chances et la lutte contre le racisme (2008).

Between September 2007 and November 2008, four deaths occurred in detention centres in Belgium, among them two suicides; between 2001 and 2006, there was only one. This sharp increase raises questions about the detention conditions and the appropriateness of medical care in detention centres.

Legal assistance in detention

Although the Royal Decree gives foreigners in detention the right to free legal assistance, many obstacles prevent detainees from effectively exercising this right. Such obstacles include lack of timely and adequate information about rights, procedures and appeals; problems communicating with

(continued on page 78)

3 In July, after political reorganisation a new Minister of Immigration was assigned and the government announced a regularisation campaign which is to take place between 15 September and 15 December 2009.

4 Written in May 2009 by Christophe Renders, JRS.

5 These figures are not official. For 2007 and 2008, they were compiled from information given by the Federal Immigration Service (Office des Etrangers) during meetings organised by the Comité Belge d'Aide aux Réfugiés

Migration: The Case of Bosnia Herzegovina

The unique state structure of Bosnia Herzegovina and the novelty of its migration policy pose challenges for the implementation of its legal framework for migration.

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Bosnia Herzegovina's unique institutional structure

Bosnia Herzegovina (BiH) has a unique state structure. It is the only federation in which one of the federal units is also set up as a federation. This bears on its institutional structure, and its policy and legislative functioning. Migration is a rather new policy and legislative area for the country. To understand migration issues in BiH, a short description of the country's institutional structure is useful.

The current state structure of Bosnia Herzegovina is the result of the General Agreement for Peace in Bosnia and Herzegovina (known as the Dayton Agreement), signed on 14 December 1995, which ended four years of war (1992 to 1995). BiH consists of a state (national) level, two entities – the Federation of Bosnia Herzegovina (FBiH) and Republic of Srpska (RS) – and the Brcko District, created in 1999. The country is based on a rigid system of national-ethnic political representation that provides full citizenship rights and powers to three constituent peoples (Bosniacs, Croats and Serbs) and limited citizenship rights to a fourth group called *ostali* (others)¹. Each of the BiH levels has its own structure and government. The state level has a presidency (tripartite presidency), a bicameral parliament (Parliamentary Assembly of BiH and House of People), and a Government with its Council of Ministers (a total of nine ministries). The Federation of BiH has three distinct levels of administration: the entity government, cantons (10) and municipalities (79). RS consists of two administrative and political levels: the entity government and municipalities (62).

The constant battle between the national state government and the two entity levels regarding attribution of competences locks BiH. Two opposite visions of statehood are held by each of the state entities: one of a strong and centralised state and the other of a highly decentralised state (almost a federation of states) with the concentration of power at the entity level. These two visions result in delayed or halted implementation of policies; entity officers

¹ According to the BiH Constitution, only citizens belonging to the constituent population are eligible to run for president of BiH or RS.

employ a veto strategy as a tool in negotiations on the assignment of power and responsibility. The result is a country that struggles to find agreement on policy and implementation and in which each part acts independently and sometimes contradictorily.

Lack of statistical data

The overarching problem in relation to statistical data is that the last census was conducted in 1991, before the war. Due to the structural fragmentation of BiH and the several levels and centres of powers, data is not always available and collected in a standardised way. Data and information is collected at several levels, but is not shared. The Agency for Statistics is not able to provide data on the number of foreigners living in BiH or on migration flows. However, in a more positive step, from April 2009, the State Agency for Work and Employment has agreed to include among its labour market indicators a table on the number of work permits granted to foreign nationals. Unfortunately, the absence of disaggregated gender data does not allow for any analysis in relation to foreign women.

Even though a centralised Information Management System has been established for the purpose of migration monitoring, as at July 2008 it was still not working at full capacity (Ministry of Security & IOM, 2008).

Migration law in BiH

According to the BiH Constitution², the state is responsible for migration, visa and asylum affairs. Competences are divided among three ministries: the Ministry of Security, Ministry of Foreign Affairs, and Ministry of Human Rights and Refugees³. The lead institution is the Ministry of Security with its organisational unit; while competences over vital sectors like health, employment and education belong to the FBiH and RS.

Since April 2008, BiH has had a new umbrella

² BiH Constitution, Article 3, para 1, line (f): Policy and regulation of immigration affairs, refugees and asylum.

³ It is important to remember that the major movement of people in BiH was generated by the war (March 1992 to November 1995); more than 2.2 million people reportedly left their homes. For a country of 4.4 million inhabitants this meant a movement of almost 50 per cent of the population. According to the latest data provided by UNHCR, from 1996 to the end of 2008, 1,026,692 people were returned, but only 467,297 to their place of origin. BiH still has approximately 124,529 displaced persons: 55,894 in the FBiH, 67,523 in the RS and 1,112 in Brcko District (UNHCR, 2008).

Law on the Movement and Stay of Aliens and Asylum (LMSAA), which can be regarded as a major accomplishment towards migration policy development. This law offers a framework for the development of future legislation and for realising harmonisation between laws and competences in the fragmented political and legislative scenario.

Illegal migration

It was just after the war that BiH institutions started to build the infrastructure necessary to secure and monitor borders and migrations flow. Prior to this, BiH had no experience in border management, being part of the former Yugoslavia and with no external borders. The BiH Border Police (BP) manage passenger movement through all official border crossing points. It is difficult to control the flow of migration in and out of BiH. Only 14 out of the 55 international border crossings have some technology to support the registration of passages, which together with the geographical nature of the country made it possible last year for 432 (identified) illegal crossings into BiH from Montenegro and Serbia. Readmission data shows that the border with Croatia is used to exit BiH to reach Western Europe, while the borders with Montenegro and Serbia are used to enter BiH for transit migration and other illegal activities. Data for 2007 shows that a total of 34,203 people entered BiH, and 3,120 failed to exit, which can be considered an indirect indication that BiH is being used as a transit country for the irregular migration of citizens belonging to Serbia, Montenegro, Kosovo, Albania and Croatia.

A unique case: 'In-country' illegal migrants

BiH is not a country with a high influx of refugees; registered flows are mainly related to the Balkan wars (the conflict in Croatia from 1991 to 1995, and the NATO intervention in 1999 in the Federal Republic of Yugoslavia). Figures show 7,257 refugees from Croatia, who nearly all live in RS (7,037), and 170 refugees from Serbia/Kosovo, who all live in FBiH (UNHCR, 2008).

When it comes to asylum seekers, the majority of cases are 'in-country' situations. Once more, there are links to the Balkan wars in the 1990s. In 2007, due to a change in legislation, two groups found themselves in the position of seeking asylum: the first group are people originally coming from Serbia/Kosovo who had the status of refugees; the other group are BiH naturalised citizens, originally from Africa and Asian countries, who arrived in BiH during

the war to defend the Bosnian-Muslim population. Called *mujahedin*, these Islamic combatants came to BiH during the war as volunteers and were rewarded for their services with citizenship of the Federation of BiH. Although the Dayton Agreement stipulates that “all foreign military instructors and volunteers had to leave Bosnia”, many remained and married (Azinovic, 2007). After 9/11, however, things started to change. The issue culminated with the amendment of the Law on Citizenship in 2006, when the Citizens Review Commission examined 1,200 citizenships awarded during the war and immediately after and found irregularities in 612 cases. In some cases, citizenship was obtained under a false name. Recently, there have been accusations that this group of naturalised citizen’s human rights have been violated. What is certainly true is that this sensitive issue has been used to polarise public opinion.

Economic migration

Given that any data related to population is an estimate based on the census of 1991, data provided by World Bank estimates that the immigrant population in BiH is equal to 1 per cent (40,000) of the actual population. According to the recently established Service for Foreigners’ Affairs (SFA), the sole immigration authority for BiH, during 2007 there were more than 2,980 requests for temporary residence (based on marriage to a BiH national, work permit or family reunification) and 3,226 applications for extension of temporary permits.

The new LMSAA says that foreign residents who have a temporary (up to one-year) or permanent permit to stay are equal to BiH nationals in regards to labour rights. All other rights as described in the Council Directive 2003/109/EC in relation to education, health, social security and so forth are within the competence of the entities. This means that these rights are not guaranteed, and there is a need for the coordination and harmonisation of entity regulations with the LMSAA in each of these sectors. At present, foreign residents do not participate in political life in BiH at any of the administrative levels (municipalities/entities or state).

The largest number of residence permits in BiH are issued to citizens from neighbouring countries (Serbia, Montenegro, Croatia, Macedonia), and the second largest number to citizens of Turkey and China. For Chinese citizens, BiH is regarded as a final destination; the majority of Chinese migrants are entrepreneurs involved in small shops and catering. The last relevant group is composed of nationals of EU countries, employed in private and not-for-profit sectors, as well as in the various international bodies and diplomatic institutions. As citizens of EU countries are entitled to visa-free entry, it is impossible to verify their actual number.

Brain drain and remittances

Regarding the emigration of BiH citizens, there is little (and inadequate) data available. Top destina-

tions for BiH emigrants are Croatia, Germany, Austria and the USA. According to third-country information, in the EU alone there are 300,000 BiH citizens.

The first outflow of highly qualified migrants from BiH was generated by the war. With the country severely damaged, low incomes and the lack of a national strategy on education and private sector issues, highly qualified workers looked for solutions abroad. The United Nations Development Programme (UNDP) estimates that more than 92,000 young people left BiH between 1996 and 2001. According to a report done by the Commission for Coordination of Youth Issues in BiH, in 2007, more 57 per cent of youth would leave the country if offered an opportunity; this data correlates with the youth unemployment estimate, which is 58.2 per cent (Commission for Coordination of Youth Issues in BiH, 2007). In any case, it is not possible to estimate migration balances due to the lack of baseline information. In BiH, it is possible to be registered as unemployed, while working abroad, due to the poor or lack of centralised data on diaspora.

According to information provided by the World Bank (2007), BiH remittances peaked in 2007 when the country was among the top ten remittance countries in Europe and Asia and among the top five when considering remittances as a proportion of GDP. Remittances were approximately USD 19 billion, equal to 17.2 per cent of GDP, a trend that continued in 2008 (USAID, 2008). This calculation only takes into account remittances through official bank channels. According to global estimates, unofficial remittances are likely to be another 50 per cent on top of this.

The global economic crisis is expected to impact on BiH citizens through reduced remittances. Unfortunately the governments of BiH do not seem interested or able to develop policies to diminish the impact of the expected reduction in remittances, or to support employment and economic development. This is illustrated by the stand-by arrangement signed with the International Monetary Fund (IMF) under which a flat 10 per cent cut in public expenses, in each sector and per category, was the only policy measure adopted. This highly unpopular measure was justified as a condition imposed by the IMF; citizens were not informed of the details of the agreement with the IMF and were expected to passively accept it. The latest developments show that not all sectors and categories (workers, public administration) are being treated equally; politicians are protecting their privileges and salaries while imposing the cost cuts on the most vulnerable categories. ■

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The Impact of the Financial Crisis on Bulgarian Migrants

Being a net exporter of people, Bulgaria shapes its migration policies to reduce emigration flows and stimulate the return of Bulgarian nationals to improve the demographic balance and increase labour supply.

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Historical background

The final decade of the Twentieth Century witnessed the largest economic experiment of recent times as former communist countries implemented economic reforms designed to expedite their transformation into market-based economies. The transformation process has influenced the direction of economic policies and shaped social policies, business practices and institutions. The collapse of the central planning system in Europe also provided the citizens of these communist regimes with greater opportunities to migrate abroad. The first post-communist emigration wave from Bulgaria started soon after the liberalisation of State passport regulations and the abolition of the exit visa requirements in 1989. Nearly one-quarter of a million Bulgarians left the country in this particular year. They were mainly comprised of Bulgarians of Turkish descent whose departure was more motivated by political rather than economic considerations. It was not until the mid-1990s that the pattern of Bulgarian emigration flows could be characterised as primarily driven by economic factors. In this early period, Bulgarian emigration was mainly directed towards Central European destinations, notably the Czech Republic, Hungary and Austria.

The economic circumstances influencing migration flows since the 1990s can be divided into three periods. The first period (1990–2000) is characterised by the start of the transition and the economic downturn resulting from a number of radical economic and social reforms (e.g., the liberalisation of prices and trade conditions; privatisation and mass layoffs; liquidation of existing cooperatives in the agricultural sector, which caused high rural unemployment). During this period, the lack of jobs and poverty stimulated emigration. According to some sources, the number of immigrants in the period from 1989 to 2000 amounted to 691 thousand people (BAS & UNPF, 2005, p.71).

The second period (2000–2007) is characterised by an improvement in the economic and social environment, and an increase in job opportunities and income levels. These factors contributed to a decrease in emigration flows and an increase in immigration. After 2002, the emigration flow stabilised at a level of about seven per cent of the

population (UNPF, 2007, p.86). However, the country remained relatively poor – GDP per capita was 33.9 per cent of the Western European level from 2000 to 2002¹. Poor living standards, compared with the EU-25, made Bulgaria less attractive to immigrants and turned it mostly into a ‘transit’ country on the way to Western Europe.

The third period of Bulgaria’s economic development starts in 2007, when the country became a member of the EU. Its new status as a member of the European Union changed the structure of Bulgarian emigration to Western Europe, while also increasing the attractiveness of the country to immigrants.

Migration flows: Quantitative and qualitative dimensions

As pointed out above, Bulgaria is a net exporter of people, as the number of emigrants significantly exceeds that of immigrants and refugees. Moreover, Bulgaria’s population is decreasing. In 1989, the country had a population of 8,987,000, whereas in 2009 the population had dropped to just 7,204,687. This reduction is the result of both the negative balance of births and deaths, and more emigration than immigration.

Large waves of emigration have become a serious problem for Bulgaria due to its negative impact on population growth and the present labour shortage resulting from the country’s economic revival. After 2002, the emigration wave involved some 90,000 people per year. However, according to some projections, the emigration flow should decrease and stabilise at about 6,000 to 8,000 people per year after 2010. This decrease might reflect what is referred to as ‘emigration exhaustion’ in the country.

A number of studies show that emigration readiness is not high among young people. The structure of the emigration flows can be traced for the period from 2002 to 2008. The level of highly qualified emigrants has dropped from 17 per cent to 9 per cent, but the number of low-qualified workers has increased. According to a 2001 census, potential long-term emigrants mainly consisted of educated young people, including women of fertile age; while low-qualified people mostly declared an intention to emigrate only for short-term, seasonal labour. In recent years, there has been a growing tendency towards temporary seasonal, rather than permanent

migration, with the preferred destinations being Greece, Italy, the Netherlands, Germany and Spain. The intention to emigrate for short-term mobility has increased from 26 per cent in 2001 to 42.4 per cent in 2007 (National Representative Survey, 2007, p.87). The main motives underpinning this trend are interpreted to be primarily of economic nature. The rise in temporary or circular and repeated economic migration, which is predominantly undocumented, is attributed to increased unemployment in certain regions of Bulgaria. The opportunity to stay in the Schengen states for three months without a visa provides an additional incentive². It is believed that many Bulgarians exploit this opportunity to undertake illegal employment in Europe, while residing there legally for three months.

Immigrants in Bulgaria: Young and highly educated

Immigration flows are insignificant compared to emigration flows. The total number of immigrants, according to the last census, was 18,688 in 2001. The statistics on permanently resident foreigners outline an increase to 55,653 in 2006. In the same year, 77 per cent of immigrants came from Europe, 19 per cent from Asia, 2 per cent from America, 1 per cent from Africa and 1 per cent were stateless. The countries of origin of European immigrants included mainly Turkey, the Russian Federation, Ukraine, the Republic of Macedonia and Moldova (85.2% of all European immigrants). People from China and Armenia predominated the flow from Asia (Council of Ministers, 2008).

It is important to underline that immigrants are not a homogeneous group. They include permanent residents, people with long-term stay (16%), people granted humanitarian status or refugee status (11%), people with double citizenship or who are stateless (6%), and short-term residents (4%). Most immigrants to Bulgaria are relatively young: 30 per cent are in the age group between 18 and 30 years, while 26 per cent are aged between 31 and 40 years. Immigrants are relatively well educated: 21 per cent have higher education and 56 per cent of the employed immigrants have their own trade business or are employees in joint venture companies or international companies active in Bulgaria. Thirty-eight per cent of immigrants to Bulgaria are engaged in low-qualified occupations. An interesting question is

¹ According to UNICEF Trans Monce Database and National Statistical Office.

² Bulgaria was removed from the ‘black Schengen list’ in April 2001, which means that Bulgarian citizens can travel freely within the Schengen area for three months.

the extent to which immigrants are involved in illegal activities and the 'grey economy'. The cited survey does not confirm the widespread opinion that immigrants are strongly involved in this sector (UNFPA et al., 2007).

Migration policy: Limiting emigration and attracting Bulgarian nationals

The Bulgarian migration policy is based on international commitments and agreements in the field. It follows the generally acknowledged principles regarding migrants and focuses particularly on emigration. The Government is currently undertaking steps to develop a consistent policy in the field of migration, including the development of strategic documents and action plans related to emigration and immigration. These steps were motivated by widespread debate on the decreasing demographic trends and labour shortages. The aim of the policy is to reduce and stabilise emigration flows and to stimulate immigration to improve the demographic balance and increase labour supply.

Assuming that present upward immigration trends continue, the National Emigration and Immigration Strategy of the Republic of Bulgaria (May 2008) underlines the need, among other things, for intensive public debate about the socioeconomic role of immigration, to improve existing legislation to unify legal norms concerning immigration problems, and to further develop the information system for immigrants regulating procedures for recognising the education and professional qualifications of immigrants. The immigration policy is focused on ethnic Bulgarians living abroad. There are four main directions of action: (i) facilitating procedures for obtaining Bulgarian citizenship, (ii) providing scholarships for children of ethnic Bulgarian origin from other countries and who wish to stay in Bulgaria, (iii) activating and expanding spheres of cooperation with Bulgarian emigrants abroad, and (iv) elaborating a policy to attract ethnic Bulgarians to settle in Bulgaria and to encourage their entrepreneurship in Bulgaria. To complement these measures, the Bulgarian Government has implemented the so-called 'Green Card' for foreign workers, introduced in April 2008, as an instrument for attracting immigrants of Bulgarian origin by providing better conditions for economic and social integration.

Remittances and their impacts

It is widely considered that migrant remittances, defined as cash or in-kind transfers from migrants to relatives and friends in their country of origin, play a significant role in maintaining basic living standards for many households in countries of origin. Over the last decade, migrant remittances have assumed increased significance for many transitional economies. Data released by the Bulgarian National Bank confirm that the amount of money sent by Bulgarian residents abroad to relatives in their home country has, over recent years, steadily

increased, both in absolute terms and in relation to GDP. Given the existence of both informal methods of transfer and in-kind transfers, remittance flows are probably underreported. According to data released by the Agency for Bulgarians Abroad³, at least 300,000 Bulgarian migrants send amounts ranging from between USD 100 to USD 300 to their families in Bulgaria on a monthly basis. For example, in 2007 such transfers accounted for about 5 per cent of Bulgarian GDP.

The scale of these remittances raises important questions about their potential impact on Bulgaria's economy and whether or not the gain through remittances counterbalances the 'brain-drain' experienced by the country through permanent emigration. Remittances are used primarily to cover basic needs, but also to purchase durable and investment goods. A study on the effects of migrant remittances on the Bulgarian economy emphasises their increased use for the purchase of real estate. Research by the Institute for Market Economics on the real estate market showed that over the period from 2002 to 2004, about 10 per cent of real estate purchased in large Bulgarian cities was financed by migrant remittances.

There is no clear indication of how remittance flows to Bulgaria will evolve in the context of the global financial crisis. It is likely that the flows will decrease as world remittances are expected to drop by 7 per cent to 10 per cent in 2009. The tendency to use informal channels for transfers is also stronger during times, such as now, when there is a lack of trust in the banking system.

Influence of the global economic crisis on Bulgarian migration

In the past months there has been a lot of speculation regarding the potential return of short-term Bulgarian migrants due to the effects of the global economic crisis on Western economies. When the usual destination countries for Bulgarian emigrants undergo periods of recession and increased unemployment (such as Spain, which is experiencing unemployment of 17.4%), policy measures are targeted at the return of migrants through financial support. At the same time, official statistics indicate that the increase in unemployment in Bulgaria has been smaller than expected. In March 2009, the unemployment rate was approximately 7 per cent due to some measures undertaken by the Government to preserve employment levels. The Government is allocating funds to employers who are ready to keep workers on part time contracts.

Trade unions in Bulgaria also think that one of the reasons for Bulgarian migrants to return could be the possibility of receiving unemployment benefits in Bulgaria for employment periods in some other

European countries. The stigmatisation of migrant communities in economically rich countries may also be a reason for the return of short-term emigrants.

This spring, a new political party, 'The Other Bulgaria', was established in Bulgaria, claiming to represent Bulgarian emigrants. Bulgarian emigrants in Greece have started to return to Bulgaria en masse, claimed the leader of the new party, Bozhidar Tomalevski, on a working visit to Greece. He predicted that there could be a wave of up to 150,000 Bulgarians returning from Greece over the next year out of an estimated total of 360,000 Bulgarians currently living in Greece. He called on the Bulgarian Government to deal with the problem of illegal Bulgarian workers in Greece and stated that his party, which was set up by Bulgarian emigrants, would put forward new, adequate political measures to assist Bulgarian emigrants and their families.

However, there is no clear evidence to suggest that there will be a massive flow of returns. Given that the global economic crisis is also affecting Bulgaria's economy, although in a delayed manner, migrants who invested money to go to economically rich countries may prefer to stay where they are and wait for improvements. ■

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³ The Agency for Bulgarians Abroad (ABA) is a state institution tasked with collecting data about expatriate Bulgarians. It also coordinates and supports the activities of state institutions towards expatriate Bulgarians.

The Asylum System in the Republic of Croatia – Some Aspects of the Position of Asylum Seekers and Asylees under the Legislation and in Practice

Despite its low number of asylum applications, Croatia must improve the implementation of the recently adopted EU legislation. In particular, the issue of refugees' integration needs to be addressed.

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Introduction

The asylum system in the Republic of Croatia (RoC) started to develop more intensively from 2003. Today, after significant effort, Croatia's asylum legislation generally complies with international standards and the European Union *acquis* on asylum. The asylum system is now in place in Croatia, even though Croatia is still not a destination country for asylum seekers. The number of asylum applications each year, as well as the number of asylees² and persons under subsidiary protection³, is still low. Although the asylum system is rather new and the new Law on Asylum (LoA) has only been in place since 2008, several shortcomings have come to light. In the future development of the asylum system in Croatia, emphasis should be placed on the integration of asylees into Croatian society and on Croatia's policy in relation to asylees.

The development of the asylum system

The first LoA in the Republic of Croatia was adopted in 2003 and entered into force on 1 July 2004. Prior to that, the legal basis for 'refugee' status was provided by a few provisions in the Act on Movement and Stay of Aliens. Following the EU accession process, a

new LoA entered into the force on 1 January 2008, which is generally aligned with the EU *acquis* on asylum. The main authority responsible for asylum and migration issues in the RoC is the Ministry of Interior (Mol)⁴.

According to Mol statistics, since 2003, there have been 864 asylum applications in the RoC; only 4–7 of these were granted asylee status (for 13 persons) and, since the new LoA entered into force, another 4 persons were granted subsidiary protection in 2008/09. In the past, there were no exact figures on how many persons who expressed their intention to apply for asylum were rejected at Croatia's borders and returned to their countries of origin, and there was no information on whether or not all who express their intention to apply for asylum had the opportunity to actually lodge an asylum application. Hence, it was considered necessary⁵ to closely monitor actual practices in the RoC with regard to illegal migrants and asylum seekers.

There have been some important achievements in the development of the asylum system in the RoC. The EU integration process was the driving force for Croatia to conform with the EU *acquis* on asylum and border management. However, legislation adopted for EU accession must be implemented properly and balanced with other international obligations in relation to refugees. While the new LoA is a step forward, a number of issues need to be addressed before Croatia's asylum legislation is in line with EU and international standards; in particular, (i) the penalisation and detention of asylum seekers, (ii) the violation of the rights of asylum seekers and asylees and (iii) issues with the rights of asylees and their

integration⁶. Each of these will be discussed in turn in the following sections.

Penalisation and detention of asylum seekers

Since the first LoA came into force in July 2004, until the implementation of the border monitoring project in March 2009, a misdemeanour procedure was conducted against almost all foreigners found to have illegally crossed the border or who were illegally residing within Croatian territory, which usually included asylum seekers as well, although the LoA⁷ prescribes that asylum seekers shall not be punished for illegal entry⁸.

There was no unique practice in regard to the accommodation of those asylum seekers who were caught crossing the border illegally. Under the LoA, asylum seekers should be accommodated in the Reception Centre for Asylum Seekers in Kutina, which is an open camp in which asylum seekers have freedom of movement. However, contrary to the provisions of the LoA, which precisely prescribes in which cases and under which circumstances asylum seekers can be detained and their freedom of movement restricted, the majority of asylum seekers caught illegally crossing the border or who were illegally residing within Croatian territory were detained along with other illegal migrants in the Aliens Reception Centre in Jeevo based on the Law on Foreigners (LoF). According to the LoF, they can be held in this Centre for up to 180 days, which can be prolonged for another 180 days, although the LoA stipulates that the movement of asylum seekers can be restricted for a period of up to 3 months, and,

6 These issues were identified based on data collected through cooperation with the Mol and the direct work of the CLC with asylum seekers and asylees in the RoC via the provision of free legal assistance to those categories of persons.

7 Article 21 of the LoA prescribes that an alien who illegally enters the Republic of Croatia, coming directly from a territory where his/her life or freedom has been threatened shall not be punished for illegal entry or stay if he/she submits an asylum application without delay and if he/she presents valid reasons for his/her illegal entry or stay.

8 According to the new Law on Foreigners (LoF), in cases of illegal residence and illegal border crossing, the Mol is the competent authority to decide on deportation, without conducting a misdemeanour procedure.

1 The Croatian Law Centre (CLC) is a non-governmental organisation founded in 1994 with the main goal to establish and promote rule of law in Croatia. Since 2003, the CLC has been, through various projects, actively involved in the development of the asylum system.

2 Under the Law on Asylum (LoA), an 'asylum seeker' is an alien who has applied for asylum regarding which a final decision has not yet been made and an 'asylee' is an alien who has been granted asylum under the LoA. 'Asylee' was used in the LoA to distinguish between 'refugees', which is a term used to describe refugees from the war in ex Yugoslavia in the 1990s.

3 Under the LoA, 'subsidiary protection' is the protection granted to an alien who does not fulfil conditions for asylum, but for whom there exists a justified belief that he/she would be, if returning to his/her country of origin, exposed to the risk of suffering serious harm, and who is not able, or due to this risk is unwilling, to avail himself/herself of the protection of that country.

4 The Mol is the competent authority for deciding upon asylum applications. An appeal against the Ministry's decision can be lodged with the Commission for Asylum, and a lawsuit against the Commission's decision can be initiated before the Administrative Court of the RoC.

5 In order to monitor access to the asylum procedure, the CLC obtained funding under the Matra Programme of the Netherlands Ministry of Foreign Affairs, in cooperation with the Dutch Refugee Council, and supported by United Nations High Commission for Refugees (UNHCR). The project is carried out in cooperation with the Mol. The monitoring of border police interviews with intercepted irregular migrants began on 1 March 2009.

for justified reasons, may be extended for another month. This detention is a clear violation of their right to freedom of movement.

Asylum seekers' rights

According to the LoA, asylum seekers are entitled to residence in the RoC, provision of basic living and accommodation facilities, health care, elementary and secondary education, financial support, free legal aid, humanitarian aid, the right to work, and freedom of religion and religious upbringing of their children. However, issues have arisen in relation to access to education. Although the LoA prescribes that asylum seekers are entitled to elementary and secondary education under the same conditions as Croatian nationals and that this right should be made available within three months from the day of submission of the asylum application (or within one year in the case where the asylum seeker is not familiar with the Croatian language), there have been some problems in practice. Due to the lack of a programme for learning the Croatian language, different approaches and standards are applied to a minor asylum seeker of school age: those who are from neighbouring countries and speak a language similar to Croatian are sent to school, but this is not the case where the asylum seeker speaks an entirely different language. The problem has arisen because the ministry responsible for education failed to pass the programme for learning the Croatian language, history and culture for asylum seekers and asylees within 120 days from the day that the LoA entered into force. In practice, the MoI is dealing with this problem on a case-by-case basis, but other competent ministries, such as the Ministry of Education, are not fulfilling their obligations prescribed by law.

Rights of asylees and persons under subsidiary protection and their integration

According to the LoA, asylees and persons under subsidiary protection are entitled to residence in the RoC, accommodation, work, health care, education, freedom of religion and religious upbringing of children, free legal aid, social welfare and family reunification. In addition, asylees are entitled to assistance in inclusion into Croatian social life, i.e., to integration. Issues have arisen in relation to both accommodation and integration. The Ordinance on the accommodation of asylum seekers, asylees, aliens under subsidiary protection and aliens under temporary protection provides that asylees who are unable to find accommodation shall be provided with accommodation in the accommodation facilities which the RoC has at its disposal for that purpose within thirty days from when the granting of asylum becomes final. Such accommodation includes residence in an appropriate accommodation unit where basic hygienic needs can be met and that allows for the independent preparation of food. However, in practice, once a person is granted the status of asylee, he/she can be accommodated in the

Reception Centre for Asylum Seekers for months.

There are currently only thirteen asylees in Croatia. But even with such a small number, the system is not functioning due to insufficient budget funds. Furthermore, asylees and persons under subsidiary protection who are accommodated in the Reception Centre for Asylum Seekers are not entitled to financial support.

Integration is also lacking support from the authorities that are supposed to be involved in the process. According to the LoA, the competent ministries shall ensure conditions for the inclusion of asylees into the cultural, economic and social life in Croatia. In that process, special attention shall be paid to the organisation of Croatian language courses; other courses, seminars and education and professional training; and the provision of information about Croatian history, culture and state organisation. However, to date, language courses have not been provided to asylees on time. This inhibits them from integrating into society. Lack of language skills can also prevent them from finding employment and financially supporting themselves. Furthermore, persons under subsidiary protection are not entitled to language courses and other benefits of the integration process.

Conclusion and recommendations

Although the issues outlined above can be attributed to the asylum system being relatively new and untested, there is certainly a need for a review of the current system to:

- Change the practices regarding the detention of asylum seekers
- Implement hearings before the Administrative Court with the aim to determine the facts
- Further strengthen the legislation and institutions in terms of the integration of asylees
- Improve cooperation among competent ministries with regard to asylum seekers' and asylees' rights

Croatia has not yet fully adopted policies and procedures to cope with the transition from being a transit country to a refugee receiving country. In this regard, any legislative or practical shortcoming that prevents people in need of protection from applying for asylum will continue to force their movement toward the EU.

On accession to the EU, Croatian borders will become the external borders of the EU; it is expected that Croatia will change from a transit country to a destination country for asylum seekers and that the number of asylum seekers, as well as the persons granted protection will increase.

In an effort to further develop asylum policies and strengthen the refugee capacities and institutions in the RoC, the following recommendations are made:

1. The asylum procedures should follow the national

legislation and should be in full accordance with international refugee and human rights frameworks.

2. In practice, asylum procedures should be improved through education and awareness raising about asylum issues for state authorities, international organisations and NGOs.
3. Constructive cooperation between all the relevant actors, including state authorities, ombudsmen, international organisations and NGOs, should be strengthened to facilitate increased transparency and the quality of procedures in general. ■

Immigration and Intercultural Education

The increase in immigration in Cyprus raises new integration issues. An intercultural education system would help in establishing social cohesion and peace.

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The island of Cyprus has historically been characterised by diversity and multiculturalism. During the late 1990s, Cyprus rapidly shifted from a state experiencing emigration, to an immigrant recipient country. International developments in the economic and political arena have significantly affected the policies of Cyprus on migration. The collapse of the Soviet Bloc, the escalating globalisation of the neo-liberal model, Cyprus's accession to the EU and domestic economic progress in certain sectors (e.g., tourism and construction) led Cyprus to reconsider its restrictive approach to immigration. The vast majority of immigrants come to the island as low-skilled and service oriented workers, attracted by the needs of the domestic labour market (Trimikliniotis, 2008). Cyprus's sudden shift to an immigrant host country caught the Government of Cyprus and the society unprepared for the socioeconomic challenges and opportunities that immigrants have brought to the island (Mainwaring, 2008). As a result, immigrants are facing racism, xenophobia, political and civic exclusion, and marginalisation.

It is currently estimated that 160,000 third country migrants and 60,000 EU citizens live in Cyprus (Trimikliniotis, 2008). Immigrants are often depicted as a 'burden' on the social and economic sectors of the country. An example is the discourse used by the media and police when identifying undocumented immigrants. They call such processes 'operation broom', implying that the police are 'cleaning' the island. Such perceptions and practices are a reflection of the overall political and legal immigration framework. Immigrants' residence in Cyprus is characterised by transition, uncertainty and, in most cases, temporality. Immigrants are often exploited by employers as they can only stay in the country if they are working or studying at a local university or college. In recent years, policies directed towards immigrants have been established; however, most of these are legalistic and regulatory in nature, ignoring the social issues (Triandafyllidou & Gropas, 2007, pp. 45, 57).

In relation to education, migration leads to an increase in diversity in schools. This transformation has created new challenges for the education system in Cyprus and has had a major impact on the

work of teachers. One of the major fields in which the successful or unsuccessful inclusion of immigrants is tested in Cyprus is the education system.

Education and immigrants in Cyprus

Following the division of the island in 1974, the process of homogenisation within each of the two major communities in Cyprus (i.e., the Greek Cypriots and Turkish Cypriots) has intensified for political reasons. This has been the basis for the development of a monocultural education system within the education system of the Greek Cypriots and Turkish Cypriots (Zembylas, in press). Of the current inhabitants, 13.7 per cent are non-Cypriots (Statistical Service of the Republic of Cyprus, 2006). The changing profile of the population in Cyprus has affected the schools and the education system. In the 1995/96 school year, the percentage of non-indigenous students was 4.41 per cent; in 2007/08 this percentage rose to 7.7 per cent (Ministry of Education and Culture, 2007a & 2007b). There are now some Cypriot schools where non-indigenous students constitute a significant majority (80 to 90%).

Although Cyprus offers free education to all of its residents, including migrants' children, it has a very poor record for an intercultural approach in its curriculum and education system (Zembylas, in press). Many migrant children also face exclusion and marginalisation due to the status of their parents (Trimikliniotis & Demetriou, 2007). For example, there have been cases where schools have requested to see the parent's 'residence permit' before enrolling a child. Although the issue was resolved by the Attorney General and a circular sent to all teachers, there is still confusion and uncertainty about the rights of migrant children. Therefore, 'equal opportunities for all children' remains an unfulfilled goal in Cyprus. In light of experiences in other European countries that show that second-generation immigrants are more likely to feel alienated within the host country's society (Gregg, 2006), it is important to pay attention to those policies that will make inclusion successful for these vulnerable groups. Research shows that second generation immigrants demonstrate lower performance in school than first generation (EC, 2008). Hence, it is crucial that children of immigrants are given the opportunity to effectively participate in education and society.

Intercultural education is relatively new to Cypriot schools. According to Zembylas and Iasonos (in press), the first serious attempt to address

the issue took place in 2002 when the Ministry of Education and Culture sent a circular to public schools (titled Intercultural Education). This circular attempted to present the Government's policy on intercultural education. The issues on which the policy focused included the provision of measures for language support (e.g., the teaching of Greek as a second language to non-indigenous students) and the provision of measures to facilitate the smooth integration of non-indigenous students into the Greek-Cypriot education system and society. These language provisions – which are still in place – do not seem sufficient to equally serve all students regardless of ethnicity, origin and religion (Zembylas, in press). However, it is important to acknowledge that there are a few 'multicultural' schools that manage to demonstrate remarkable results in terms of the successful inclusion of immigrant students (Demetriou, 2009).

In 2004, a Commission for Educational Reform (2004) was appointed by the Government to oversee the process of developing and implementing education reform in public schools. This Commission expressed concern about the narrowly ethnocentric and culturally monolithic Cypriot education system, which did not account for intercultural education. According to Zembylas and Iasonos (in press), the measures and policies suggested and implemented by the Ministry were considered inadequate by the Commission because they primarily targeted non-indigenous students and their Greek 'language deficiency', while neglecting wider issues of nationalism, racism and intolerance. The European Commission against Racism and Intolerance (ECRI, 2006) emphasised the lack of thorough understanding of, and genuine sensitivity to, human rights by many teachers. Research conducted in Cyprus demonstrated that the policies enforced both at the philosophical and practical level are mostly grounded in the notion of assimilation rather than integration, and that the education system views the diversity of non-indigenous children as a deficiency that needs to be treated quickly so that these children can be assimilated (Angelides et al., 2004; Panayiotopoulos & Nicolaidou, 2007; Zembylas, in Press).

The model of intercultural education currently being implemented in Cyprus elementary schools is a mainstreaming programme in which language learners attend classes with indigenous Greek-speaking children. Following the example of the French Zones Educatif Priorité, a number of public schools in Cyprus have become part of a Zone of

Educational Priority (ZEP). ZEP networks have schools with high numbers of non-indigenous students, but not all such schools are included; there are a number of schools in Cyprus with high numbers of non-indigenous students that are not in a ZEP network. ZEP schools receive additional help, such as extra hours for assisting non-indigenous students to learn the language. However, the role of ZEP schools is not just to provide language support; they also promote multiculturalism and foster closer links between schools and the community. In addition, the Pedagogical Institute of Cyprus organises in-service training for teachers in intercultural education, but attendance is voluntary and during teachers' free time.

The successful inclusion of immigrant children in the education system can also empower immigrant parents (NESSE, 2008). In Cyprus, parents associations are vital decision-making and lobbying bodies that influence policies. The participation of immigrant parents in such associations will potentially alter the status of immigrant parents and transform them into active participants in political and civil society.

The majority of immigrants arrive in Cyprus without their families. The education system must adjust to this reality. The Ministry of Education and some NGOs are offering evening courses for adult immigrants. However, these evening courses are not free and mostly focus on learning the Greek language together with some vocational training (Demetriou, 2009). These courses are inadequate to meet the goal of an inclusive multicultural society.

Conclusion

Increased immigration to a country provides new challenges, and the education system has an important role to play in meeting these challenges. Intercultural education is a vital medium for social cohesion and peace in an era during which Cyprus has become a popular destination for immigrants, refugees and asylum seekers. The Government has to re-evaluate its policies on intercultural education and consider the important implications of changes on the philosophy and practices of the education system. The intercultural education strategy and policies must be holistic and cover all spheres of public life. Only when immigrants are treated as potential citizens of the state with rights will they feel included and invested in, for the common good. Cyprus's unresolved political problem complicates efforts to address the alienation of immigrants in all aspects of public life, including education. Despite the challenges, Cyprus can use intercultural education as a medium to build more inclusion and social cohesion by promoting equal rights and participation for all.

One important aspect that needs to be addressed is teacher preparation programmes. Current programmes fail to prepare teachers to engage in the difficult work with migrant children, which requires a shift in values, attitudes and

practices, and limits their ability to address fundamental social justice issues. To promote intercultural education, teacher preparation programmes need to be designed so that they provide teachers with opportunities to critically reflect on their values and practices, as well as on the impact their work has on the community. Such opportunities may include participation in a field-based inquiry into racism and discrimination, shadowing successful teachers in schools where intercultural education is a primary objective, participating in workshops that analyse empirical data about racism and examine stereotypes, and facilitating the development of inclusive curricula.

The fundamental assumptions and practices of EU education systems need to be critically analysed. Governments and ministries of education need to demonstrate the strong political will needed to deal with difficult and contentious issues, such as intercultural education, and to critically examine those practices that are institutionalised in the education system that marginalise immigrant parents and their children. Convincing governments to reform exclusionary practices into a more inclusive framework is not an easy task. However, it is a task worth pursuing if one believes in social justice and education for all. ■

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Migration and the Roma Minority in the Czech Republic

The economic crisis has worsened the situation of foreign workers and Roma people in the Czech Republic. They suffer from unemployment, substandard work conditions, institutionalised discrimination and racial hatred.

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The Czech Republic is facing numerous problems, as are many countries, as a result of the global economic crisis. Such problems include increasing unemployment, a decrease in industrial production, and the degradation of health and educational systems, to name a few. A new issue that has come to light due to the global economic crisis is the case of migrant workers. These people, who helped build the Czech economy by living and working abroad in precarious conditions, have been the first victims of the crisis. In comparison (but no less important), the problems faced by the Roma people have been known for decades. Increasing violence against the Roma and the growth of fascist and neo-Nazi groups have become a pressing problem, and one that divides Czech society.

Situation of the Roma minority¹

While the economic situation has deteriorated for the majority of people in the Czech Republic, socially excluded groups, including the elderly, single mothers and the Roma community, have borne the brunt of the economic crisis. Not all Roma people, who according to reliable estimates represent a minority of almost 250,000 in the Czech Republic, are affected by social exclusion, but the social and economic downturn has affected most of them. Data from 2006 reveals that 80,000 Roma live in as many as 300 socially excluded locations, and in 80 per cent of these locations the Roma constitute the majority (Gabal Analysis & Consulting, 2006). Reasons for the current situation include institutionalised discrimination, recent events and the Government's lack of interest in solving the problem.

In January 2008, the Agency for Social Integration in Roma Locations officially commenced operations. Its aim is to improve the living conditions of socially excluded Roma, abolish the 'ghettos', or at least substantially improving the quality of life in these locations, work towards the integration of Roma people into society, and assist a significant number of Roma to gain access to education, work opportunities and better housing.

The non-governmental sector hoped that the Agency represented a change in the State's attitude

towards social exclusion. However, the Agency commenced operations several months after the official date, and only in twelve locations. In the document defining the Agency's remit, the terms 'Roma' and 'socially excluded person' are used interchangeably. Thus, it would seem that the Roma are by definition socially excluded people, and vice versa. Surprisingly, the document does not clearly state how racist prejudice plays a role in the situation of the Roma people.

The Agency's main task is to make money available to pay for services (such as health care and education), and, as such, the Agency had been preparing to cooperate with interested parties on various projects in the target locations. However, as the Agency is a government body, it is bound by internal regulations, which prevented it from following its original plan of funding projects implemented by other organisation. Instead, the Agency has been relegated to an advice-giving role on solving the problems in the given locations. Thus, initial hopes for the Agency and for a change in the State's attitude towards the Roma people have not been fulfilled.

The deteriorating economic situation in socially excluded locations has not received the necessary attention of the Government. Socially excluded Roma people have tried to improve their economic situation themselves by borrowing money from informal creditors and loan companies, as many do not qualify for loans from commercial banks. Informal creditors (i.e., individuals) lend money at high interest rates and without any written contract, often reclaiming their money using violent means. Loan companies lend money at lower interest rates than these individuals, but bind their clients to contracts containing onerous conditions. Debtors are often confronted with unexpected and unpleasant surprises after entering into these contracts, creating a dependency on the creditor. If the debtor is late with just one payment, the total outstanding amount can increase to many times the original amount by the end of the year. The indebtedness often ends with a distraint being ordered upon the debtors' income, dispossessing them of the means to support themselves.

Inhabitants of some socially excluded locations suffer not only from serious economic problems, but also from racial hatred. The racist marches in Litvinov in 2008, during which Roma from the Janov suburb faced the growing manifestations of racism from both neo-Nazi groups and other inhabitants of the neighbourhood, were an alarming example. The current racial crisis is the result of long-ignored

problems in socially excluded locations, and, with the deteriorating economic situation, it is likely that extremism will appear more often. Another case that received extensive media coverage was the arson attack on a family in Vítkov in March 2009. Unknown assailants attacked the house of a Roma family at night, throwing incendiary bottles through the windows. The ensuing fire caused severe injuries to both parents and especially to their two-year-old daughter who suffered burns to 80 per cent of her body. The case is not being investigated as an act of racism, although it is the fourth arson attack on Roma in the area in the last seven months. In connection with this case, the Minister of the Interior, I. Langer, said it is necessary for the Roma to realise "it is not normal not to work and not to send their children to school, such behaviour will provide an impetus for racially motivated attacks".²

Another example of the Roma people's human rights being violated is segregation in the education system. Special schools for the Roma were replaced by vocational schools, but in many places these still act as instruments of ethnic segregation. But segregation happens, even if Roma parents succeed in enrolling their children in a 'normal' elementary school. A good example is the town of Valašské Meziří, where 20 children were registered for school, 10 of them Roma. From September, the school proposes to divide the children into two ethnic classes. The headmaster explains that parents of non-Roma children will move their children to other schools if they are in the same class as Roma children.

Throughout the year, an increasing number of Roma have applied for asylum in Canada, which the Czech Government puts down to economic reasons. There are many reasons why the Roma do not feel welcome in the Czech Republic, and the problems the Roma face are multi-layered. Fear of the increasing fascist tendencies in Czech society is a big issue, as is the oppressive economic situation. To reduce the whole complex of problems that drive the Roma to emigrate to simply 'economic problems' is a sign of insufficient understanding of the matter.

Situation of immigrant workers³

In 2008, the number of foreigners in the Czech Republic grew significantly beyond figures for 2007. By the end of the year, there were 438,301 foreigners, according to statistics from the Directorate of Immigration Police, an increase of 43,144 on figures for

² Czech TV programme CT24, 22:30, 20.4.2009

³ This section was written by Pavel Porízek.

¹ This section was written by Saša Uhlová.

the previous year and the second largest increase in the past 10 years. Of those, 172,927 were foreign nationals with permanent residence and 265,374 were foreign nationals with a long-term residence permit exceeding 90 days (CSU, 2009a). In total, 361,709 were employed as at 31 December 2008 – 284,551 by local companies (CSU, 2009b). Of the foreigners employed by local companies, 141,101 were nationals of EU, European Economic Area (EEA) and European Free Trade Association (EFTA) countries and 143,450 nationals of third countries.⁴ Employed foreigners were concentrated in the capital (31.7%) and in the Central Bohemia region (15.0%) (CSU 2009c). In 2008, 3,829 persons were detected residing illegally in the Czech Republic, following a decreasing trend (Czech Helsinki Committee, 2008, p.97).

There has been a visible change in the pattern of foreign nationals with a decrease in the number of foreign workers from Bulgaria and the Ukraine, contrasted by an increase in foreigners from Vietnam and Mongolia. There is a growing concentration of foreign workers in the Czech Republic, especially in the 'industrial zones' – not just from third countries, but also EU nationals. Government papers⁵ admit that neither local authorities, nor the general public are entirely prepared for such a surge of foreigners. The municipalities are having trouble absorbing the newcomers and there is an apparent tension between foreign workers and local residents.

The global economic crisis started to affect foreign workers in the Czech Republic during 2008, with the situation peaking in the first months of 2009 (by February 20,000 work permits were cancelled and a total of 68,000 are expected to be cancelled by the middle of the year). The Ministry of the Interior reacted by establishing a project of 'voluntary return'. The goal is to offer help to foreigners from third countries residing legally in the Czech Republic, who have lost their jobs due to the present economic crisis and want to return to their home country, but cannot afford it. The Czech Republic offers not only to arrange their flight, pay for their ticket and provide assistance before and during the return journey, but also contributes EUR 500 to cover the costs associated with leaving the Czech Republic (Ministry of the Interior, 2009). By the end of April 2009, more than 1,500 immigrants had taken up the offer.

During 2008, the exploitation of foreign workers by job agencies persisted, exacerbated by the global economic crisis. These workers, viewed as cheap labour, are willing to work hard in 'substandard'

conditions or conditions clearly unequal to those of Czech employees in the same company. They are dependent on the employer to an almost slave-like degree.⁶ This dependency is caused by a number of factors, be it the need to repay a loan taken to 'buy' the chance to work in the Czech job market, or the fear of losing employment (Czech Helsinki Committee, 2008, p.100).

Under the current public health insurance system, certain groups of foreigners are unjustly disadvantaged. Since December 2007, it is no longer possible for a relative of an EU or Czech citizen to request permanent residence immediately after gaining the status of citizen's relative. Instead, unless employed by a local company, they must live on a temporary stay permit for two years and have no access to the public health insurance system during that time. This limits them to commercial health insurance with all its disadvantages (narrower range of health care, no legal claim to it and, often, inadequate health insurance, especially for those with an illness or aged over 70). As for foreigners from third countries who are not related to EU citizens, by being excluded from the public health insurance system, neither the duration of the foreigner's stay in the Czech Republic or the amount of their (or their relatives') contribution to resources used to cover the costs of health care are taken into account.⁷

In the course of 2008, the Ministry of the Interior, together with other authorities, prepared to implement the 'Green Card' project, which is designed to solve the shortcomings of the current system of foreign worker recruitment, and to make the whole system more flexible (especially towards highly qualified workers) and easily adaptable to the immediate needs of employers.⁸ However, the Ministry of the Interior limited the list of countries whose citizens are entitled to request a Green Card, excluding Vietnamese, Mongolian, Russian and Moldovan nationals. A Green Card is issued by the Ministry of the Interior for a period of up to three years and combines a work permit with a long-term residence permit. The status of a foreigner with a

Green Card is undoubtedly stronger and more advantageous than that of a foreigner with a long-term visa/work permit, but so far uptake has been low.⁹

In 2008, the Ombudsman highlighted a number of shortcomings in visa practice, as well as in the monitoring of the Office of the Immigration Police Inspectorate (Konevova Street, Prague). Based on many stories in the media, the Ombudsman concluded in mid-2008 that the situation at the Office had returned after some improvement to its alarming state of affairs (i.e., illicit trading of queue numbers, running out of all queue numbers immediately after opening, etc.), which the Ombudsman perceived to be evidence of serious misconduct, especially as these practices create conditions conducive to non-standard procedures and corruption. In the last quarter of 2008, conditions were significantly improved due to the adoption of a number of measures (personnel reinforcements of policemen and civilian employees, separate entrances for third country foreigners and EU citizens and their relatives, the setting up of another detached office in Prague, which reduced the number of applicants at Konevova Street) (Ombudsman, 2008, pp. 76-77).

The situation of foreigners in the Czech Republic needs to be observed very carefully, because this group has been significantly affected by the economic crisis, which deepened their social exclusion, especially among foreigners in industrial agglomerations. The evident stagnation of the number of foreigners can be considered temporary. On the contrary, the number of foreigners is expected to rise, and integration will be (and in fact is) a great challenge for the Czech Republic. ■

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4 The number of these foreigners according to nationality: Ukrainian 81,072; Vietnamese 16,254; Mongolian 12,990. For details see <www.czso.cz/csu/cizinci.nsf/datove_udaje/ciz_zamestnanost>.

5 Report on "Conception of integration of foreigners in 2008", realisation and suggestion of another process, IV. Process of realisation of "Conception of integration of strangers in 2009", Interior Ministry document authorised by government decree on 16 February 2009 n. 183.

6 Many stories illustrating horrible and alarming work and living conditions of foreign agency employees are available from: <www.migraceonline.cz/czechmade>.

7 The Ombudsman referred to this problem (Press release Nerovné postavení cizinců v R v postupu k veřejnému zdravotnímu pojištění from 11 March 2009), <www.ochrance.cz/dokumenty/dokument.php?back=/cinnost/index.php&doc=1454>, also referred to in Report of human rights' state in the Czech Republic 2008, Chapter 9.3: Problems in health insurance of some categories of foreigners from third countries, who permanently stay in the Czech Republic, page 98 and also in the Report of the Czech Helsinki Committee about human rights' state in 2008, from 4 May 2009, part on Foreigners' situation.

8 The project has been authorised by government decree n. 1174 from 22 October 2007 about condition simplifications for employment of qualified foreign workers. For details see <www.mvcr.cz/clanek/migrace-novy-clanek-890951.aspx?q=Y2hudW09NQ%3d%3d>.

9 There is no interest in Green Cards: so far only one foreigner has received one at EURO weekly's server (Klepalova, 2009).

Incoherence between Migration and Development Policies: The Case of France

The French Government is increasingly using aid to promote its geopolitical interests. A new ministry, bringing together migration, integration, national identity and development was created in 2007. The French Government clearly intends to gear development policy towards migration control, using part of the Official Development Assistance (ODA) budget. This is the first time that such a link between the fight against illegal migration and development has been made so overtly in France.

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Coherence upside down: When migration control drives development cooperation

In 2007, a new French Government was formed including a new ministry called the Ministry of Immigration, Integration, National Identity and Co-Development (MIIDS). According to MIIDS, the term 'co-development' refers to all development assistance projects involving migrants living in France, whatever form they take. This term was replaced by the term 'cooperative development'¹ in March 2008, which encompasses both co-development and:

...sectoral development assistance projects in countries of origin where there is a strong emigration towards France. These should contribute to control migration flows. (CICI, 2008, p.172)

This change illustrates the Ministry's ambition to influence French development policy to link migration control to development. MIIDS has three objectives: to place migration at the centre of development policy; to organise migration in a 'concerted' way with countries of origin; and to support migrants' efforts for development in their country of origin.

The Inter-ministerial Committee for International Cooperation and Development (CICID) is responsible for coordinating French development policy. It was co-chaired by the MFA and the Ministry of Economy and Finance, until the decree of 22 November 2007 gave MIIDS a seat in the CICID at the same level as the two other ministries. This allows the MIIDS to weigh in on French development policy. The MIIDS is also a board member of the French Development Agency, which manages a growing part of ODA, and of other bodies involved in development cooperation. Hence, migration is increasingly being mainstreamed in ODA programmes. It is systematically

mentioned in partnership framework documents (which are negotiated with partner countries and define the priorities of French aid for five years), and ODA resources are being mobilised in bilateral agreements for the 'concerted management of migratory flows'.

Whereas MIIDS is becoming more and more important in the planning and management of French ODA, interestingly, the MFA is completely absent from the Inter-ministerial Committee for Immigration Control (CICI), which deals with migration policy issues. While bilateral agreements on the concerted management of migration flows do include a chapter on development policy, the Minister for Foreign Affairs (who is officially responsible for policy coherence) is neither consulted nor involved in the negotiations, except in relation to visa and consular matters. French development policy is, therefore, coherent with short-term migration objectives. This is not in line with France's policy coherence commitment² at the European Union level, which should lead France to reform its migration policy to make it coherent with development objectives (not the other way around). The Organisation for Economic Co-operation and Development/Development Assistance Committee (OECD/DAC), in its 2008 Peer Review of French development policy, recommends:

...to forestall the risk of development assistance policy being used to manage migratory flows, steps should be taken to ensure that the institutions involved in co-operation can assert the matter of the impact on developing countries in the discussion of migration policies. (2008, p.35)

This is absolutely not the case today.

So-called 'cooperative development' programme: Limited resources, wide objectives

In terms of financial resources, the MIIDS does not directly manage significant amounts of ODA. According to the DAC, in 2007/08, these resources

represented one or two per cent of French programmable bilateral aid³. In 2009, 25 million Euros was allocated to the cooperative development programme to implement three actions.

At the multilateral level, France plans to set up a trust fund with the African Development Bank, dedicated to cooperative development, containing 9 million Euros allocated for 3 years. This fund would support projects in Africa only regarding migrant remittances, micro-enterprise projects or migrants' projects. Through this fund, France intends to promote, at the multilateral level, its own approach to the migration and development nexus, which is that development aid should, as a matter of priority, be used to finance development projects in countries of origin. The theoretical basis for this position is that more development leads to less migration. This assumption is not only wrong (in the short and medium term, it is in fact the opposite), but can lead to the use of development aid as an incentive in negotiations with countries of origin on migration control.

At the national level, 3.5 million Euros will be allocated to provide assistance to migrants resettling in their country of origin. These projects are implemented by the French Office for Immigration and Integration and have nothing to do with development policy.

Most of the aid managed by the MIIDS is, in fact, allocated to the 'cooperative development' chapter of agreements on the 'concerted management of migration flows' (CICI, 2008). The geographic priorities include all countries where bilateral agreements on the 'concerted management of migration flows' have been either signed (Gabon, Congo, Benin, Senegal, Tunisia, Mauritius, Cape Verde), planned (Mali, Cameroon, Democratic Republic of Congo, Haiti, Mauritania etc.), or are crucial for migration

³ Country programmable aid (CPA) is the amount of aid that can be programmed at partner country level. CPA is defined by subtracting from total gross ODA aid that is unpredictable by nature, entails no cross-border flows, does not form part of cooperation agreements between governments, or is not country programmable by the donor.

¹ In French: 'développement solidaire'.

² Treaty on the Functioning of the European Union, Article 188d.

control (Algeria and Morocco) (CICI, 2008, p.177). Almost 18 million Euros will be used in 2009 on cooperative development for agreements already signed. MIIDS also intends to use additional resources from the MFA, which should be allocated to development projects planned under partnership framework documents.

Even if MIIDS directly manages only a small proportion of French aid, its influence on overall development policy is increasingly significant. This could lead to development policy being used for migration control objectives. With the negotiation of agreements on the 'concerted management of migratory flows', including the financing of development projects, a dangerous link has been made between migration control and ODA.

Agreements on 'concerted management of migration flows and cooperative development'

The European Pact on Migration and Asylum, adopted in October 2008, was one of the highest priorities of the French Presidency of the EU. It argues that the effective management of migration must include legal migration, the fight against illegal migration, and economic and social development of countries of origin. It is referred to as a "global approach to migration". The Pact emphasises the need to include migration issues in the definition of development policies. The Pact invites Member States to conclude agreements, at EU and national levels, with countries of origin and transit. It suggests that migration should become an important element in all external relations of Member States. This implies that Member States, in their relations with developing countries, should consider the quality of the dialogue on migration issues. Interestingly, there was not a single consultation with civil society organisations before the adoption of the Pact, not even with migrants and their associations, even though they will be directly impacted by the Pact.

The European Pact on Migration and Asylum was inspired by the French model of bilateral agreements on the 'concerted management of migration flows and cooperative development'. Agreements on the 'concerted management of migration flows' aim at selective migration by facilitating border controls and the repatriation of undocumented migrants, while at the same time selecting the best qualified workers according to French economic needs.

MIIDS has been in charge of negotiating these agreements since its creation. The first agreement, with Senegal, was in fact negotiated in 2006 by Nicolas Sarkozy when he was Interior Minister. There is no coherence between the content of this chapter and the content of the partnership framework documents. On the contrary, MIIDS intends to influence the content of these documents and guide them towards its migration control objectives. According to these agreements, civil society organisations, in France and in the developing

countries, are supposed to implement part of the development chapter.

While civil society organisations, and in particular migrants' organisations, are involved in the negotiations on partnership framework agreements, these organisations are excluded from discussions on agreements for the 'concerted management of migration flows'. The negotiation process for these agreements is definitely not transparent. It is extremely difficult to gain access to draft agreements before they are signed; they are only available once they are sent to Parliament for ratification in France.

In addition to the 'cooperative development' chapter, there are two other chapters. One deals with the conditions for legal migration and a list of jobs open to workers coming from developing countries, the other establishes a commitment to bilateral cooperation in the fight against illegal migration – a key aspect of these agreements. Some cooperation measures are funded by ODA. In the Senegalese agreement, the Senegalese police force is proposed to be modified in order to include the implementation of border patrols along its shores.

The French Government has set ambitious annual targets for the repatriation of undocumented migrants from France (26,000 people in 2008, 27,000 in 2009). In order to reach these targets, France needs to make sure that it receives support from countries of origin or transit in the delivery of the needed 'laissez-passer', to enable repatriation to be effectively carried out. Negotiations are being conducted with some countries considered by French authorities as not very cooperative in this regard, such as Cameroun, Guinea and Mauritania.

Most readmission negotiations not only include the repatriation of undocumented migrants, but also the repatriation of third-country nationals who transit through signatory countries. Most transit countries are reluctant to agree to repatriate such migrants. Readmitting their own nationals is also a very sensitive issue, as public opinion in transit countries is more and more concerned with the fate of their country fellows in France. This could explain the lack of transparency in negotiations, as officials are concerned about the public outcry (and resistance) if negotiations on such sensitive issues are made public. In countries where civil society is aware of what is at stake, such as Mali, negotiations have been more difficult. To achieve its goal, France offers incentives such as visas, regularisation (which is quite difficult as the European Pact now bans large-scale regularisations) and additional development aid.

So far, seven agreements have been signed with: Senegal (September 2006), Gabon (July 2007), Republic of Congo (October 2007), Benin (November 2007), Tunisia (April 2008), Cape Verde (November 2008) and Burkina Faso (January 2009). Agreements are foreseen with Mali (which has so far strongly resisted), Cameroun, Egypt, Haiti, the Philippines, Guinea, Mauritania and the Democratic Republic

of Congo. The target set by MIIDS is to sign seven agreements every year between 2009 and 2011.

Conclusions

The position of French NGOs on this trend is very clear: Using development aid as a tool in the fight against migration is not only dangerous, but also counterproductive.

Migration is part of human history. Instead of a simplistic cause-effect relationship (more development – less migration), the migration-development nexus – needs to be understood from a triple-win perspective, whereby migration benefits the country of origin, the host country and, first and foremost, the migrants themselves. This is not what the European Pact and the French model are proposing. Such Euro-centred, security-based and utilitarian policies will not only fail to stop migration, but, by pressuring countries of origin and transit to better control migration flows, they are opening the door for the widespread violation of migrants rights in the countries they live in, transit through or are forced to return to.

Migration from developing countries is driven by a wide range of causes such as poverty, conflict, lack of democracy, environmental degradation, corruption, unfair trade agreements and so on. Developed countries carry a part of the responsibility for this situation. One would expect developed countries to focus on finding a long-term solution to economic and social exclusion, rather than targeting those who are left with no other option than to migrate irregularly. Moreover, the UN Declaration on the Right to Development, adopted in 1986, clearly reminds us that development is a right and cannot be subjected to any condition.

During the French Presidency of the EU a strong movement originated in France leading to the 'Bridges, not walls!' citizen's summit in October 2008. This summit attracted 1000 civil society representatives from 30 countries. Seventy recommendations were produced during the summit, which called for, among other things, development aid to be disconnected from migration policy⁴. ■

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4 In November 2008, MIIDS hosted the Second Euro-African Inter-ministerial Conference on Migration and Development in Paris. Access to the conference was refused to a 'Bridges, not walls!' delegation, and a request to disseminate the summit recommendations to official delegates was denied (see <www.despontspasdesmurs.org>).

Immigration in Greece

Being located at a geographical crossroads, Greece's immigration policy is based on border control and the fight against so-called 'illegal immigration'. Even though immigrants represent a valuable workforce to Greece, they suffer from exploitation and legislative discrimination.

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The fight against 'illegal migration'

Instruments for the strengthening of European borders

Greece counted approximately 400,000 undocumented immigrants before the 2001 regularisation – falling to between 230,000 to 330,000 in 2004 (Kanellopoulos et al., 2006). According to the latest estimates, there were 205,000 undocumented immigrants in Greece in 2007. Albanians constitute the largest portion of undocumented immigrants (around 34%); however, reliable estimates of the percentage of undocumented immigrants from Africa, Asia and the Middle East are not available (Maroukis, 2008).

In recent years, the Frontier Control and Coastal Guard have strengthened controls on entry points, and further intensification is expected in the coming years. The European Union External Borders Fund (574/2007/CE) has a total budget of 1,820 million Euros at its disposal. Greece will receive 148 million Euros for the period from 2007 to 2013 within the frame of the Community multiannual programme for the management of external borders and has created a specific authority for the management of these funds (Naftemporiki, 19 December 2008). However, it is worth noting that, until now, efforts aimed at reducing informal immigration, which are mainly focused on increasing border controls, do not seem to prevent 'clandestines' from entering Greece: In 2008, 11,000 foreigners of 'illegal' status arrived on the island of Lesbos alone, double the number in 2007 and 10 times the number in 2003 (Eleftherotypia, 5 November 2008). The fact that Greece is located at a crossroads for undocumented immigrants from Eastern Europe, Africa and Asia on their way to the 'Western World', as well as its geographical characteristics (mountainous with long land borders and an abundance of small islands along the length of its immense sea border with Turkey), render the control of illegal immigration particularly difficult, both in relation to migrants arriving for the first time and those re-entering Greece after a previous expulsion.

In addition, Greece's immigration policy, which is based on frontier control, ignores the fact that many undocumented immigrants enter legally (often on a three-month tourist visa) and remain in the country

after the expiration of their visa, passing from legal to illegal status.

The criminalisation of undocumented migrants

According to data from police and port authorities, in 2007, 112,364 foreigners were arrested for illegal entry and stay in Greece (103,124 by police and 9,240 by port authorities), an increase of 12.4 per cent from 2006 (in which 91,783 were arrested) (Minister of Interior, 2008). In 2008, 146,337 foreigners were arrested for illegal entry and stay, an increase of 30.25 per cent¹. However, these figures do not take into account the situation where the same person is arrested more than once. In addition, the increase in 'arrests' for illegal entry or stay may be due to the increase in control structures for illegal immigration and stricter enforcement by police (an increase in the checking of identity papers). For example, it is very probable that these practices are more severe now than during the pre-2004 Olympic Games period.

Immigrants arrested because of their illegal status are kept in police detention cells or in detention centres until deportation. According to law, the period between the deportation decision and their expulsion cannot exceed three months. However, serious difficulties with the verification of detainees' identity and nationality often leads to the expiry of this period and renders expulsion impossible². Thus, detainees are released after three months until their next arrest, and the nefarious cycle of detention and illegal stay in Greece continues³.

1 Hellenic Police official data available from <www.astynomia.gr/images/stories/egklhm2008paper.pdf>.

2 For 2005 and 2006, among the 161,590 arrests of illegal immigrants, 133,800 were expelled or transferred to the country of entry origin.

3 A new amendment to Greece's existing legislation (June 2009) will allow authorities to classify as 'dangerous to public order and safety' any foreigner who is charged with committing a crime that carries a prison sentence of three months or more. This will lead to both legal and illegal foreigners being deported for misdemeanors, even if they are not convicted. The permitted detention period until expulsion has also been extended from three to nine months.

4 According to a study by the National Centre for Social Research (EKKE), 7 in 10 of those arrested for committing forgery in 2007 were immigrants. Complex procedures for obtaining residence permits and asylum might be to blame for fuelling this activity. In the same year, almost 93 per cent of those arrested for begging were migrants (Kathimerini, 2009).

The perception that an increase in criminality is related to the big wave of foreigners is reinforced by the fact that 45 per cent of detainees in Greece are foreigners (Varvitsiotis, 2007). However, there is no analytical data on the reasons for their detention; hence, it is unclear how many are detained merely for being 'illegal'⁴. The high proportion of foreigners among detainees may also be explained by the fact that many immigrants cannot cover bail or are ineligible for a commutable sentence.

Repatriation policies

The Greek State does not offer any incentive for voluntary return, nor does the existing legislation regulate voluntary return. Therefore, the term 'return' usually means 'obligatory return', and refers to the judicial and administrative process of expulsion of third-country nationals. Moreover, as well as not offering incentives for voluntary return, Greece's institutional framework creates obstacles, as there is no provision for the transfer of rights in relation to social insurance to the countries of returning migrants (excepting the Greek-Egyptian Agreement).

Cooperation between Greece and immigrant sending countries in the fight against illegal immigration

Bilateral police cooperation or readmission agreements between countries of origin and destination have been signed with Egypt (1984), Bulgaria, Romania, Lithuania and Croatia (all in the 1990s). A Readmission Protocol was also signed with Turkey in November 2001 (and came into force in August 2002) concerning the readmission of citizens of either country or third-country nationals who illegally enter the territory of either Greece or Turkey. However, according to a representative of the Ministry of Foreign Affairs, from April 2002 until May 2007, Turkey only accepted 1,646 readmissions of the 24,754 requests (6.65%) (Eleftheros Typos, 7 October 2007).

A number of agreements have also been signed between the EU and third countries. In February 2009, Albanian police and Frontex (the EU service for operational collaboration in the management of EU external borders) signed a collaboration agreement for the safeguarding of Albanian and EU borders in order to strengthen the fight against cross-border crime and illegal immigration. This collaboration involves information exchanges and professional training programmes for Albanian police officers.

Migrants in the Greek labour market

In Greece, the principal way for an 'illegal' immigrant worker to transmute from an illegal to a legal status is through regularisation programmes. So far, only three regularisation programmes have been run, in 1998, 2001 and 2006.

Quotas for legal immigrants and sub-quotas per nationality or sector

According to Greek Laws 3386/2005 and 3537/2007, a Committee is constituted in each region to prepare a report defining the region's workforce needs and the vacancies available to third-country nationals by activity, geographical prefecture and duration of employment. Based on this report, a co-ministerial decision determines the maximum number of residence permits for dependent work that can be granted to third-country nationals each year per prefecture according to nationality, type of work and duration of employment.

Third-country nationals are allowed to work in Greece at the invitation of a specific employer and in one of the defined types of employment/geographical areas, provided that the corresponding entry pass has been granted. The 'invitation' procedure is so complex that it takes 12 to 18 months from when the process starts to when the migrant worker actually arrives in Greece to take up the advertised job – a period during which labour market needs have probably changed (Triandafyllidou, 2008).

The impact of migration on the Greek economy

About 16 per cent of individuals insured by the Greek National Social Security Institution (IKA)⁵ and 15 per cent of those with medical insurance, are foreigners, and 52 per cent of these foreigners are Albanians (IKA, 2008). Immigrants pay annual contributions of 887 million Euros to the IKA and produce 2.6 per cent of Greece's GDP (Arvanitis, 2007). Their participation in Greece's national economy is significant as:

- They must pay insurance to Greek social security organisations before they can be regularised or to renew their residence permit.
- However, Greek social security organisations do not provide migrants with a retirement pension and the cost of providing medical benefits is low as most foreigners are young: In December 2007, 35.5 per cent of Albanian workers insured by IKA were under 29 years old (compared to 28.55% for Greeks), and 70.9 per cent were under 39 years old (compared to 61.55% for Greeks).

Exploitation of migrants as a cheap and flexible workforce and discrimination in the labour market

According to official IKA data, the average wage for a foreigner working in enterprise and construction

insured by IKA is 36.7 Euro per day, compared to the average wage for Greeks, which is 51.0 Euro. Excluding the construction sector, the average wage is 50.6 Euros for Greeks and 32.5 Euros for foreigners (IKA, December 2007). In other words, in the legal labour market, the average wage for a foreign dependent worker is 28 per cent lower than that for Greeks. In the construction sector, this difference increases to a massive 35.8 per cent.

Additionally, foreigners cannot work in the public sector, as Greek legislation does not allow them to take the official state examination for such work. This legal discrimination excludes not only immigrants with similar or equivalent qualifications, but also immigrants who were raised in Greece, who studied at Greek schools and universities, and who have exactly the same qualifications as Greek natives. Immigrants can, however, be 'rented' as interim workers or hired by temporary work agencies to provide work services in the public sector. The tragic case of Bulgarian immigrant Constantina Kouneva, General Secretary of the Janitors and Domestic Service Staff Union of Attiki (PEKOP), highlights the discrimination and exploitation suffered by migrants. Kouneva was attacked on December 2008 by assailants who threw acid into her face to punish her for trade union activities, for which she had received repeated death threats. The case brought to light the working conditions hidden behind the sub-contracting of services, especially in the public sector (she was working for a company undertaking contracting work for the cleaning of public amenities in the Athens Public Metro). Employees of such contracting companies, and immigrants in particular, are exposed to severe exploitation: the national media reported that these agencies often do not pay social service contributions or contributions for a health-risky job, nor do they pay overtime; they register fake working hours, force workers to sign blank papers declaring fake wages, and so forth (To Vima, 15 January 2009).

The above remarks concern only the legal labour market. Yet, it is estimated that, for 2007, undeclared employment represented 25 per cent of the volume of total employment (approximately 1,100,000 persons), which corresponds to more than 20 per cent of Gross National Product (GNP) (Labour Institute of the General Confederation of Greek Workers, 2008). Therefore, the size of the informal economy in Greece, along with the limited (both in number and in time) procedures for regularisation, supports the informal employment of immigrants. According to the latest Hellenic Migration Policy Institute (IMEPO) research (2008), undocumented immigrant workers mainly come from Albania, but small numbers from other countries such as Bulgaria, Georgia, Moldova, Romania, Egypt and Pakistan. Undocumented immigrant workers are primarily occupied in agricultural or domestic activities. Some work in hotels, restaurants, fisheries, raising stock and in private households. According to research results, for every

thousand legal immigrants, there are 243 'illegal immigrants' in the same areas (Lianos et al., 2008).

However, data on exploitation and discrimination in the grey labour market are almost inexistent. A noteworthy case in this regard is the case of Nea Manolada⁶, in which immigrant agricultural workers in the strawberry crops started a strike in reaction to the humiliating salary of 18 to 23 Euro per day for a 10 to 12 hour day. The publicity caused by the strike brought the problem to the attention of the Greek Parliament (08/05/2008 Debate). Let us recall here that, according to the latest General Collective Agreement (dated 18 April 2008), the minimal daily wage from 1 January 2008 was raised to 30.40 Euro for an unmarried worker and 33.45 Euro for married worker, and this is for a 6.40 hour working day. ■

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6 These events took place in the province of Ilia (in the Peloponnese), which produces 90 per cent of Greece's strawberries.

Migration in Hungary

Hungary's immigration policy focuses on the fight against illegal migration, but an explicit overall migration strategy is blatantly lacking.

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Hungary is a country of about 10 million inhabitants. It has been open to international migration since the systemic change in 1989. Hungary's immigration policy has been largely shaped by European integration, i.e., the harmonisation process and the transposition of European Union directives, the Schengen Acquis, the Hague Programme, and other EU policies and legal provisions. Policies on entry, exit and stay of third country citizens, on border management, labour regulations for foreigners, asylum, family reunion and respect for the human rights of migrants are fully harmonised with the respective international conventions and with the Acquis Communautaire of the EU. On 21 December 2007, Hungary joined the Schengen Area and Hungarian legal rules now include the Schengen legal provisions. As regards the expulsion of irregular migrants, alien policing authorities are governed by multilateral agreements between the EU and third countries and by bilateral readmission agreements.

While there have been some positive developments in the areas of detention and access to labour markets, the Reception Directive has not yet been fully transposed into national legislation. As a result, many current provisions of the Asylum Act still do not meet the required minimum standards of the EU Directive.

In addition, due to the broad formulation of this and other EU directives, the few amendments that have been made by the Hungarian Parliament so far have not significantly improved the lives of asylum seekers and refugees residing in Hungary.

Features of international migration in Hungary

The proportion of legal immigrants living in Hungary is relatively low compared to other European countries. At the end of 2007, there were 166,693 foreign citizens (1.6% of the total population) living in Hungary with either a residence or immigration permit for a period exceeding three months. Two-thirds of foreign citizens living legally in Hungary are from neighbouring countries and are mostly ethnic Hungarians (i.e., people of Hungarian origin, who are considered part of the broader Hungarian nation); approximately 12 per cent arrived from Asian countries (of which 8% are from China and Vietnam); and 12 per cent have citizenship of the

EU-15 countries. Since 2000, the annual number of people obtaining Hungarian citizenship has varied from 3,000 to 10,000, a group still dominated by ethnic Hungarians.

The number of foreign citizens immigrating to Hungary has varied from 20,000 to 23,000 since 2000. The majority of these migrants come from Romania, Serbia, Montenegro and the Ukraine. The number of asylum seekers arriving in Hungary has been changing year by year; the peak was in 2001 (9,554 persons), the lowest number of applicants was in 2004 (1,600 persons). In 2007, the number of asylum seekers went up to 3,419, and the top 5 countries of origin for asylum applicants were Vietnam, Serbia, China, Montenegro and Iraq. Last year, Serbians and Montenegrins represented more than half of the asylum applicants.

Immigration to Hungary from countries in Central and Eastern Europe, and from China and Vietnam is primarily labour migration, often based on seasonal or temporary employment or on business. On the other hand, immigration to Hungary from poverty stricken or war torn developing countries is mainly transit migration.

Irregular migration basically involves either transiting through Hungary without proper documents, illegal residing in Hungary, or the engagement by non-EU citizens in unlawful employment, typically of the seasonal or temporary kind. Of these, the main form of irregular migration is for transit purposes, but certain groups of irregular migrants do settle in Hungary.

Hungary's policy on irregular migration is shaped by the country's EU membership and by the fact that Hungary is in the Schengen Zone. In 2007, besides 166,600 legal migrants residing in the country, the estimated number of irregular migrants was between 30,000 and 50,000. According to expert estimates, about half of these irregular migrants are citizens of China, and the rest are distributed (in decreasing order of magnitude) between Vietnamese, Ukrainian,

Serbian (including Kosovo Albanians), African and other Asian immigrants. It is assumed that among the migrants with resident permits, the proportion of men is very high (it may even reach up to 80%) and that 90 to 95 per cent of the total are aged 20 to 59. Between 2000 and 2006, altogether 31,450 asylum seekers submitted applications for recognition of their status. The overwhelming majority of asylum applicants had arrived illegally into Hungarian territory.

From illegal to legal status

The largest flow of irregular migrants to Hungary is constituted by people who arrive legally, but extend their stay beyond the permitted time limits (i.e., 'overstayers'). No reliable estimate exists for the number of overstayers.

The number of 'border violations' peaked in the mid-1990s, with 27,000 to 30,000 border apprehensions of migrants. Since then, a significant and constantly decreasing tendency has been observed, resulting in an annual figure of around 8,000 to 10,000 people detected crossing the border illegally. Nowadays, compared to other neighbouring EU member countries, irregular border crossings into Hungary are insignificant. In 2007, migrants entering Hungary illegally and being apprehended at the borders arrived from the following countries (in decreasing order of number of apprehensions): Ukraine, Serbia (Kosovo region), Moldova, Romania, Turkey, China, Georgia, Bosnia Herzegovina and Vietnam. In the same year, the overwhelming majority of migrants entering Hungary illegally and being apprehended at the border were caught at official border crossing points located on roads. Somewhat less frequent were arrivals through the green borders (i.e., unguarded borders, in German *grüne Grenze*). A very small number of apprehended illegal migrants arrived by air.

Most irregular migrants attempt to legalise their residence with the help of various strategies. For most illegal migrants apprehended by the authori-

Table 1: Balance of asylum seekers arriving in Hungary by year of entry and according to mode of entry

Asylum seekers	2001	2002	2003	2004	2005	2006	2007	2008*
Total number	9,554	6,412	2,401	1,600	1,609	2,117	3,419	3,118
Entered legally	1,435	684	558	454	569	586	595	239
Entered illegally	8,119	5,728	1,843	1,146	1,040	1,531	2,824	2,879
Refugee status granted	174	104	178	149	97	99	169	n.a.

NOTE: *complete data not available for 2008

Source: Hungarian Central Statistical Office, Budapest (2008) and Office of Immigration and Nationality, Budapest (2009)

ties, entering the asylum process is the main way of legalising their stay in Hungary. In 1999, there were 11,500 asylum applications, with 5,100 submitted by citizens of the countries of former Yugoslavia and 6,000 by non-European citizens. Since then, there have been hardly any European applicants. In 2002, European asylum applicants amounted to only 7 per cent of all applicants. In recent years, the majority of asylum seekers have arrived from Asian countries such as Iraq and Afghanistan.

Marriage with a Hungarian citizen or with a citizen of another European Economic Area (EEA) country may lead to the legalisation of the status of an illegal migrant. Alternatively, since 2007, migrants are entitled to residence if a child is born of whom the migrant is the parent and the child is a Hungarian citizen or the citizen of another EEA country.

Hungarian authorities have initiated only one regularisation campaign. Law No. 29 of 2004 has introduced various modifications to existing Hungarian regulations. As a result of disseminating the regularisation offer among the relevant communities, altogether 1,406 people presented themselves to the alien police, of whom more than 60 per cent were Chinese or Vietnamese citizens.

In 2007, 3,419 people arrived in Hungary and submitted applications for refugee status. Out of these, 82 per cent arrived illegally, i.e., by crossing the border without documents or by overstaying. However, during the administrative process of determining their eligibility for refugee status, these people count as legal migrants. The majority of migrants who enter the country illegally only transit through Hungary on their way to other West European countries.

Conditions in reception facilities

According to the old Alien Act of 2001 on the Entry and Stay of Foreigners, persons who entered Hungary illegally and did not apply for asylum, or who were 'returned' from neighbouring countries within the framework of readmission agreements, could be detained in Border Guard Community Shelters. If such persons applied for asylum while in the shelters, they were given access to the refugee status determination procedure, but remained in confinement. Only the most vulnerable cases had access to open Refugee Reception Centres. The new Aliens Act of 2007 no longer provides for the deportation of illegal border-crossers on the basis of readmission agreements, which was ordered without a written administrative decision under the previous Aliens Act. According to the new Act, deportation may be ordered only by the decision of the immigration authority or of the court, and the period of detention has been decreased from one year to six months, including the period of detention prior to expulsion. Under the new Act, the third-country national now has the opportunity to lodge an appeal against the decision, but asylum-seekers may be detained during the period of their administrative procedure.

During a monitoring mission of the Hungarian Helsinki Committee and United Nations High Commission for Refugees (UNHCR) to several reception and detention facilities in October 2006, many asylum seekers complained about both the quantity and the quality of the meals provided, as well as about cultural and religious sensitivity, and the lack of information available about both the asylum procedure and reception conditions, including health care, access to the labour market and education. One area of concern is health care provided to mentally ill persons and victims of torture, both in detention and reception facilities. Another problem is with the individualised assessment of the asylum seeker's personal circumstances when ordering or maintaining detention, and the lack of documentation and information on the legal process provided in such facilities. Detention conditions, as well as the high security prison regime in some detention facilities, also pose a grave problem.

Although detention conditions have improved in the past few years, they vary among facilities. The detention centre of Nyírbátor at the Ukrainian border, for example, has a regime stricter than that of a high security prison. In other facilities such as in Győr, the building accommodating asylum seekers and other foreigners is unsuitable for housing people. Material conditions also vary according to the facility. While the Bicske reception centre used to be a housing complex for road workers and is considered an adequate reception facility, the Debrecen reception centre served as military barracks for the Soviet Army and the conditions have not changed much since their departure.

Immigration policy and debates in Hungary

The battle against illegal migration is an important pillar of Hungary's migration policy, based on EU policies and directives. Political discourse about illegal migration is strongly influenced by the official communications of the Office of Immigration and Nationality (OIN) and the Border Guard, which has recently been merged with the Police. Discourses about illegal migration arise mainly in connection with criminal policy (e.g., the fight against human smuggling and trafficking), security policy (e.g., measures taken against document falsification) and the protection of human rights (e.g., the right to family reunion). There is a lack of public debate about an overall migration strategy that considers the full scope of the social, economic and political interdependencies of the migration phenomenon. In addition, there is a rising xenophobic and nationalistic tendency among Hungarians, which is clearly seen if we look at the results of the latest EU parliamentary elections (the far-Right party, Jobbik, received almost 15% of the votes). The Right-wing media is against non-Hungarian migrants and sympathises only with ethnic Hungarians. Despite its shrinking population, which creates shortages in the national labour market, Hungary's migration policy is mainly

characterised by solidarity with Hungarian communities in neighbouring countries (diaspora politics).

Critics of the official migration policy often point out that the implementation of Hungarian migration policy is characterised by short-term, security-oriented treatment of the issue through defensive measures against non-Hungarian migrants, border control and residency rules, without a proper explicit overall migration strategy. ■

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The Institutionalisation of Racism and Xenophobia in Italy

The Italian Government has recently adopted a number of security-oriented measures, referred to as the ‘security package’, which severely harm the rights of immigrants and lead to the worrying legitimisation of xenophobia and racism.

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Lunaria

In April 2009, Thomas Hammarberg, the Commissioner for Human Rights of the Council of Europe, published a report (Hammarberg, 2009), written after his visit to Italy from 13 to 15 January. This report denounces the alarming tendency towards racism and xenophobia in Italy. It expresses true concern about immigration and security measures (described in the report as ‘draconian’), as well as about the census operation being conducted on the Roma population, because it involves the fingerprinting of even under-age children. Hammarberg suggests that the Italian authorities should:

...ensure a prompt reaction and condemn strongly and publicly all statements, irrespective of their origin, that generalize and, as a consequence, stigmatize certain ethnic or social groups, such as migrants and Roma or Sinti. They should also see to it that their own legislative or administrative initiatives cannot be construed as facilitating or encouraging the objectionable stigmatization of the above groups.

He also solicited the reintroduction of stricter rules in order to fight racist acts and violence through the revision of Law no. 85/2006 (which halved the punishment for the instigation of racial hatred); the institution of a National Agency for Human Rights; and the strengthening of the autonomy and effectiveness of UNAR (Ufficio Nazionale Antidiscriminazioni, ‘Razziali’).

Commissioner Hammarberg is not the only one to speak out about the Italian situation: Over the last two years, the measures adopted by the Italian Government on migration, ‘security’, and asylum, Italy’s ‘collective refusal’ of migrants arriving at its southern coasts, as well as measures that violate Roma and Sinti’s rights, have attracted international attention and generated public debate. The synergies between initiatives that institutionalise discrimination and the information campaign promoted by some national media, with the over-reporting of crime news involving citizens of foreign origin, have led to an increase in racist acts, including violence, perpetrated in all aspects of social life in Italy. In fact, Italy has culturally, politically and institutionally legitimised xenophobia and racism. The rhetoric of fear, used irresponsibly by politicians and institutional

figures, is gaining consensus among the public, feeding a dangerous intolerance that all too often turns into racist acts and violence. The immigration and security measures adopted by the Government have played a central role in this context.

The cultural legitimisation of discrimination started in the mid-1990s when Lega Nord – an autonomist and xenophobic political movement born in the North of Italy at the beginning of the nineties – leveraged the social and economic hardship experienced by some North Italian areas, due to globalisation and competition with emerging markets, for political gain. The rise in migratory flows gave the party an opportunity to frame an ‘outside’ enemy as a way of achieving an easy consensus; the aim was the conversion of the new ‘enemy’ into a scapegoat for every source of social and economic fragility.

At that time, Lega Nord was a minor political force; today it governs Italy and has the power to convert to law a citizenship model based on *ius sanguinis* (right of blood). This aim is being achieved with the popular support that Lega Nord overtly courted and stirred up.

The novelty of the approach taken by Lega Nord is that the difference between regular and irregular immigrants (which was a pillar of the previous Right-wing legislation) loses its relevance. Instead, an ancient distinction has gained significance: nationality outlines the border between who has the right to exist and who does not.

The shamelessness with which the legislators in Italy are increasing the distance between ‘us’ and ‘them’ is the main break from the past. The legitimacy of denigrating foreigners, sanctioned by the media and in some instances the legal system, manifests itself in racist and discriminatory acts and violence.

The new security package

The Italian Government has recently adopted a number of measures in the name of security that severely harm the rights of immigrants.

The so-called ‘*Pacchetto sicurezza*’ (security package) (Law no. 125/08, Decree no. 159/08, Decree no. 160/08 and Law no. 94/2009), approved by the Council of Ministers, is composed of different measures including standards on public security and new rules about family reunion. Here is a short review of these, and other, measures that affect the rights of immigrants in Italy:

- **Aggravating penalty:** Among the most severe measures approved is the introduction of the ‘aggravating penalty’ for irregular foreign citizens (Law no. 125/08). On the basis of this new rule, if an irregular foreign citizen commits an offence, the punishment is increased by one-third. In substance, being ‘foreign’ attracts different treatment than that given to Italian citizens committing the same offence. It is an overt violation of the constitutional principle of equality of all before the law.

- **Family reunion:** Decree no. 160/08 restricts the right to family reunion, limiting it to a major and not separated consort, under-age children, a major child where the child is totally disabled and an over sixty-five parent, but only if there are no other children living in the country of origin or if they cannot take care of their over sixty-five parent. In default of appropriate documentation issued by an authority in the country of origin to certify the family relationship, a DNA test is required from the consular authorities at the applicant’s expense. The minimum income level required in order to qualify for reunion is equal to the annual social security benefit (5,142 Euro), plus an additional half of this amount (2,571 Euro) for every reunion relative. So, if an immigrant wants to reunite with a partner or child, they must have a minimum annual income of 10,285 Euro. These restrictions limit one of the few chances immigrants have to enter Italy regularly outside annual immigration quotas.

- **Illegal immigration offence:** The security package introduces an ‘illegal immigration offence’. If a foreigner enters or stays illegally in Italy, the punishment foreseen in the draft law (compulsory arrest, summary procedure and imprisonment for six months to four years) has been replaced in the final law with a fine of 5,000 to 10,000 Euro and deportation. The law contemplates the opening of a criminal case. Making irregular immigration a criminal offence has other implications. Under the Penal Code, civil servants are required to inform security authorities of all criminal offences that they become aware of during their activities (Article 361 and 362). This means that if a civil servant gains knowledge of the irregular state of a foreign citizen, he/she must notify the authorities. The first episodes of reporting by medical and school managers have already occurred. As a consequence, the right to education as well as to urgent medical care are

now threatened, whereas until a short time ago these rights were guaranteed to youngsters and citizens regardless of their residence status.

- **Detention:** Under the security package, the maximum detention period in Identification and Expulsion Centres (CIEs) has been extended from 60 to 180 days. However, this extension does not guarantee that expulsion will be carried out within this time. Expulsion can only be realised after identification of the detainee by the embassy of the country of origin. If this identification does not arrive within 60 days, it is unlikely that it will arrive in 180 days. The reintroduction of detention in CIEs for asylum seekers subject to expulsion measures because of residence irregularities and the reduction of their jurisdictional protection in the case of rejection of the asylum request are the most important novelties of the Asylum Decree no. 159/08.
- **Citizenship tax:** Under the security package, declarations of election, purchase, renunciation and concession of citizenship are subject to a contribution of 200 Euro. These contributions will be assigned to the Minister for Interior, who must use half for cooperation and collaboration projects on immigration with countries of origin.
- **Residence permit fee:** The security package sets a fee for the necessary papers for the issuing or renewal of a residence permit of between 80 and 200 Euro. This is in addition to the amount that foreigners already pay to apply for a residence permit (7,212 Euro).
- **Integration:** The security package provides that foreigners will sign, together with the residence permit, an 'integration agreement' committing to specific 'integration goals'. Precise standards and modalities for this have not yet been defined. Foreigners living legally in Italy for a long time can request a long-term resident permit, which is conditional upon passing an Italian language test. Italian or foreign citizens can also be asked to prove the suitability of their habitation to register or to change their address on the residence register (which is the source of the address recorded on the identity card). Most foreigners currently live in very poor housing conditions, so this will be an obstacle to the registration of births, marriages and deaths. Failing to produce an identity card and residence permit when asked will attract a penalty of one-year's detention and a fine of up to 2000 Euro.
- **Obstacles to remittance flows:** Under the security package, managers of money transfer services are required to photocopy the client's identity card and residence permit. If the client does not have a permit, managers must inform the local police within 12 hours, or lose their licence. Photocopied documents must be kept for 10

years. This measure will have a negative effect on remittance flows and, therefore, on immigrants' families at home.

- **Legalisation of vigilante groups or 'rounds':** The mayors, in agreement with the prefects, can make use of the collaboration of unarmed associated citizens to inform police about urban social security threats and 'social degradation' situations. The mayors must first use associations constituted by former members of the police or army. It is important to note that some of the present associations that begun to practise this kind of activity before the approval of the security package are managed by Right-wing groups or individuals involved in fascism apology acts. See the example of Gaetano Saya, leader of 'black rounds', investigated in 2004 for racist propaganda and arrested in 2005 for creating a kind of 'parallel' police force in the fight against terrorism sector of the Italian intelligence service. These kinds of people are not the appropriate people to protect our society.
- **Discrimination against Roma and Sinti:** Particularly discriminatory treatment has been applied to gypsies. The Decree of the Prime Minister of 21 May 2008 declared "the emergency state in regard to Roma and Sinti settlements in the areas of Campania, Lazio and Lombardia". Through some ordinances of the President of Council of Ministers (No. 3676 to 3678 of 30 May 2008), the prefects of Rome, Milan and Naples have been elected Managing Commissioners in order to deal with the "gypsy emergency". The ordinances provide for the monitoring of authorised camps and of the location of illegal camps, and for the taking of a census of gypsies living in camps involving fingerprinting – even of children.

Lega Nord and the Government majority succeeded in persuading most of the public that the so-called 'security package' and all the strict rules on immigration will lead to major security improvements for all Italians. As a matter of fact, the main effect has been an increase in intolerance towards foreigners, which has led to more racist acts and violence.

The choice to intervene in the legal condition of foreigners only through safety laws and measures sends an important symbolic message: that so-called 'insecurity' is due to the presence of foreigners, who, as they were born in another country, are inclined to criminality by nature. It is exactly this rhetoric, deliberately based on fear and the perception of foreigners as a threat, that allows such laws, so explicitly detrimental to the rights of migrants, to exist. That is not all; the political use of these laws to spread, much more explicitly than in the past, the idea that intolerance toward foreign citizens, discriminatory behaviour, and even racist violence have some *raison d'être*, is reprehensible. Indeed the discriminatory effects of some measures

contained in Law no.94/2009, which makes illegal immigration an offence, appeared even before the final approval of this law, highlighting how the interaction between the political/media discourse and the legislative activity leads to the social stigmatisation of foreign citizens. ■

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National Report of the Republic of Macedonia

With its aspirations for EU membership, Macedonia has made some efforts to address the specific needs of Roma and to ensure the protection of their rights. Trafficking is also a widespread problem in Macedonia, a problem that requires the involvement of both the Government and civil society to solve.

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The Roma community in Macedonia

Macedonia recognises the Romany people as a constitutional people, and the Roma settlement of Suto Orizari is the first Roma municipality in Europe.

In Macedonia there are about 55,000 Roma, which is about 2.6 per cent of the total population. The Roma are in a unique situation to other minorities within the country (State Statistical Office, 2009). As a result a more serious approach is needed to address the specific needs and problems that this ethnic community is facing. Currently, the majority of the Roma in Macedonia live on the verge of existence, enduring severe poverty in non-urbanised settlements and without proper education. In recognition of this situation, in February 2005, the heads of the governments of Bulgaria, Slovakia, Serbia, Hungary, Croatia, Montenegro and the Czech Republic launched the 'Decade of Roma Inclusion 2005–2015', thereby committing to work towards uprooting discrimination and overcoming the unacceptable gap between the Roma and the rest of society. The Decade of Roma Inclusion identifies a number of priority areas on which states need to concentrate: employment, housing, health care and education. In Macedonia, the Ministry of Labour and Social Policy was appointed to coordinate activities related to the Decade. In order to further these objectives, the Ministry established a National Coordinative Body.

The Strategy for the Roma in the Republic of Macedonia and the Decade of Roma Inclusion are the first steps towards ensuring the protection of the rights of the Roma, steps that have emerged from the country's aspirations for EU membership.

Employment

The Constitution of the Republic of Macedonia guarantees the right to a job, free choice of employment, protection at the place of business and material security during temporary unemployment. It also guarantees accessibility to every position under equal conditions. The law on employment and insurance in case of unemployment provides for different social measures, such as: increased opportunities for employment (right to training, etc.), cash

contributions in case of unemployment, health care and so forth.

However, the situation of the Roma people in reference to this issue is different. The high unemployment among the Roma, caused by lack of education, their non-competitiveness on the labour market and their inability to access information about opportunities for employment, are the main reasons for this situation.

According to the Employment Agency of the Republic of Macedonia, 32 per cent of Roma were registered as unemployed (17,672) in 2008, of whom 42 per cent (7,410) were women and 90 per cent (15,925) were unqualified. To cope with the situation, the 2007 Operative Plan for Employment envisaged active measures to increase their employment, which included the employment of Roma in the public sector, subventions for employing single mothers, the support of family businesses, and training and re-training schedules. However, there was only limited progress as, in 2007, only 50 Roma who applied for the subvention benefits were employed (Government of the Republic of Macedonia, 2009).

Housing

Roma settlements are usually on the periphery of towns in non-urbanised areas that lack basic facilities. The biggest settlements are in Skopje, Kumanovo, Prilep, Bitola and Stip. The conditions in which most of the Roma live are below the level of proper housing. As an example, in Suto Orizari, more than half of the families live in a community in which each family member lives within a two to five square metre space, on average; half of them have no facilities for personal hygiene (bathing, etc.); about 60 per cent use water in their homes and 40 per cent use pumps in their yards or in public areas; 15 per cent use improvised toilets; and 1.5 per cent have no water in their homes (Government of the Republic of Macedonia, 2009).

However, there are isolated efforts on a local level to provide Roma settlements with access to communal services and infrastructure. In 2007, the water supply and sewage system and the streets in the Municipality of Suto Orizari were renovated, and the preparation of the urban plans for the large Roma settlements in Prilep and Bitola is underway.

The Ministry of Transport and Communications provides a certain amount of social housing, but, unfortunately, there is no information as to whether

or not such housing is really accessible to the Roma. With the help of the World Bank and UN Habitat, the Ministry of Transport and Communications drafted a law to legalise buildings built illegally. This law is expected to improve the housing situation of the Roma.

Health care

The situation of health care among the Roma population has its particularities because of the convergence of various factors, such as their dire economic situation, low housing standard, insufficient hygiene, absence of health insurance, insufficient primary health care, low level of health education, culture and the cost of medical services, among others. Unfortunately, no special measures aimed at improving medical services for the Roma have been implemented. Furthermore, there have been no significant efforts by the Government to deal with the main problems, such as the exclusion of the Roma from access to health insurance and impediments to access to medical services resulting from the lack of personal identification documents. For these reasons, the Roma remain extremely poorly represented in health care institutions.

Education

Within the framework of the Roma Decade, an Educational Fund for the Roma was established. The aim of this Fund is to improve the sustainability of Roma education programmes by giving priority to non-segregated education.

The general education situation among the Roma is unsatisfactory, and illiteracy and low education levels contribute to poverty among the Roma in Macedonia. The Education Development Programme shows that the percentage of persons with no education or unfinished primary education on a national level is 14 per cent; the percentage of those with primary education is 35 per cent, which means that about half of the Roma population are either illiterate or half literate. Thus, the compulsory character of primary and secondary education as stipulated by law is not respected in reality (Ibid.).

The main reasons for this among the Roma population are the dire economic situation of most families, the non-regulated citizenship of a large number of Roma children, which makes their inclusion in the educational process difficult, the absence of pre-school education, insufficient knowledge of the Macedonian language and

inability to follow the programmes in Macedonian language, illiteracy of the parents, lack of motivation among children to attend school, frequent cases of marriages between minors, and segregation and discrimination at schools.

There are numerous examples of Roma children being enrolled in classes for children with mental disabilities due to their insufficient knowledge of the Macedonian language, even though they are perfectly healthy. Moreover, the Roma children are not accepted at school, i.e., the other students avoid sitting with them or socialising with them, some of the teachers do not spend enough time with them and various other types of discrimination.

Because of this worrying situation, it is necessary to prepare specific measures to stimulate and support the educational process, as well as various forms of assistance (for example free textbooks).

The Ministry of Education and Science has made an effort to increase the number of Roma students, with letters of recommendation to primary and secondary schools, and by increasing the quota for Roma at some universities. However, the problems in education have still not been comprehensively addressed, and the approach taken by competent institutions remains inadequate.

Antidiscrimination legislation

Equality and non-discrimination are the basic international norms regarding human rights. Human rights and protection from discrimination are especially important for the vulnerable, marginalised, and socially excluded individuals and groups. Hence, there is a need to adopt a legal framework for protection.

The Ministry of Labour and Social Policy has drafted an antidiscrimination law that prohibits discrimination on both racial and ethnic grounds. Nevertheless, even though the adoption of this law is necessary, in particular for the protection of the human rights of marginalised groups like the Roma community, it has not yet been adopted, even though it was supposed to be approved in September 2008.

Human trafficking in the Republic of Macedonia

Human trafficking, especially of women and children, is a widespread problem in the Republic of Macedonia. It is manifested in different forms and its goal is to exploit the victim in different ways.

The analysis carried out by the services of the Ministry of Interior shows that the victims of human trafficking in the Republic of Macedonia are usually girls or women coming from the countries of the former Soviet Union, who entered the country illegally or through well-established networks for the illegal transit of migrants. Apart from foreigners, in recent times, Macedonian citizens have also been registered as victims of trafficking. These are often minors who are solicited for prostitution, which increases

the probability of them falling into the human trafficking chain.

Domestic and international legislation

In 2001, the Government of the Republic of Macedonia adopted a decision to establish a National Commission to fight human trafficking and illegal migration. According to the decision, the National Commission's task is to monitor and analyse the situation of human trafficking and illegal migration and to coordinate the activities of competent institutions, such as international and non-governmental organisations, working in this area. In 2002, the Republic of Macedonia adopted a National Programme to fight human trafficking and illegal migration, which included a commitment to actively participate in the efforts of the international community in the fight against human trafficking as one of the most serious forms of organised crime.

In 2006, a National Strategy for Fighting Human Trafficking and Illegal Migration was drafted. The strategy establishes the directions and priorities for dealing with this type of crime. The plan includes prevention, identification, assistance, support and protection, as well as return and reintegration of the victims, proper criminal prosecution, international cooperation, the establishment of a single information system and informative propaganda with the purpose of influencing public opinion.

The Republic of Macedonia has prescribed and ratified many international instruments against human trafficking and the protection of human rights. After the signing and ratification of the Stabilisation and Association Agreement with the European Union in 2004, the Republic of Macedonia agreed to harmonise its legislation for the purpose of combating organised crime and human trafficking more efficiently. The agreement with the European Union led to a number of reforms of the Criminal Code in the areas of the smuggling of migrants, human trafficking, trafficking of minors, sexual abuse and witness protection.

Progress is needed

Despite the progress made in standardising legislation within the framework of the EU, the internal legal order in this area needs further amendment in order to operationalise these solutions. Even though a lot has been done in the last few years in the field of protection of the victims of human trafficking, the main problems remain, i.e., insufficient education of the potential victims of human trafficking and lack of prevention of this crime.

More effort should be invested in education and training on the topic of human trafficking, specifically by introducing certain topics related to this phenomenon in the regular curriculum of schools and universities. Education and training should be systematic, as a continuous process is the only way to achieve satisfactory results.

Furthermore, success in fighting human traf-

ficking and illegal migration is related to specialised and targeted education of the groups most directly involved in the process. These groups include police officers, public prosecutors, judges, lawyers, prison staff, social workers, medical staff, educators, diplomatic-consular officials, military officers participating in military missions, members of NGOs, media representatives, and professionals taking care of and helping victims of human trafficking. The focus of their actions in the field of education must be on raising awareness about the seriousness of the problem and its damaging consequences, as well as how it can be prevented.

Additionally, the seriousness of the problem requires the urgent ratification and implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, which was signed by the Republic of Macedonia on 17 December 2005. ■

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Immigrants in Malta

The high number of migrants in Malta poses a real challenge, especially as xenophobia and human rights infringements are increasing. To address this, Malta needs to review its automatic detention policy for ‘irregular’ migrants.

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Irregular immigration

In the last few years, Malta has witnessed a considerable increase in irregular immigration. The irregular immigration phenomenon in Malta started in 2001 with the arrival of 1,686 asylum seekers; in 2008, 2,775 boat people were registered as irregular immigrants in Malta. Most of these immigrants are from Sub-Saharan Africa, attempting to emigrate to Europe. Malta is a densely populated island country, with 1,282 inhabitants per square kilometre. It is at the crossroads of the Mediterranean, making it one of the main routes for ‘boat people’ from North Africa headed to mainland Europe.

Upon joining the EU, Malta became subject to the Dublin Convention, which provides that asylum seekers must remain in the country where they land. Thus, all boat people passing through the Maltese search and rescue area are referred back to Malta.

Dealing with the high number of migrants is a challenge for Maltese authorities and has caused the Maltese people to become increasingly insular and xenophobic. Malta has asked for aid from the EU and for the immigration burden to be more fairly shared. Malta deals with the immigration problem by systematically detaining all migrants and asylum seekers. In the last few years, the island has introduced asylum legislation (Refugee Act 2000) and reinforced its immigration legislation in line with the criteria for admission to the EU. Since 2005, the Reception Conditions Directive has been integrated into national policy and the EU authorities have become increasingly concerned about the welfare of vulnerable persons held in open and closed centres (Policy Paper 2005).

Detention

Malta has maintained its automatic detention policy for irregular migrants. On arrival, irregular migrants are held in closed detention centres for up to 18 months, after which they are transferred to open centres. This policy clearly violates international human rights laws and standards. Migrants are detained before proper medical screening, potentially putting the health of other detainees and staff at risk. NGOs and journalists have limited and restricted access to detention centres. Four of the administrative detention centres are in a deplorable

condition and fail to meet legally binding international standards.

Detention centres are overcrowded, with the overflow of immigrants living in tents. Detainees are managed by army and police officials, who are responsible for security, accommodation, meeting basic needs, providing access to medical care and day-to-day administration. These soldiers are not trained to look after people, and are clearly not the right people to be entrusted with this task. A report drawn up by the French NGO Médecins du Monde (MdM) in 2007 criticised the living conditions in Malta’s overcrowded closed detention centres as “detrimental” and “incompatible with a minimal respect for human rights” (MdM, 2007).

A United Nations Working Group on Arbitrary Detention that visited Malta in January 2009 described the conditions at the Safi and Lyster Barracks camps as “appalling” and detrimental to the health of those confined there (Malta Independent, 2009). They also pointed out that asylum applications take far too long to be processed: some migrants are still waiting to be interviewed on their applications after six months in Malta. The so-called ‘fast track’ system is not much better: it is intended for the most vulnerable people, but it still takes up to three months to release these individuals from detention centres.

In 2008 and during the first five months of 2009 a record number of boat people arrived in Malta (Frontexwatch, 2009). Médecins sans Frontières (MSF) suspended its humanitarian services at the detention centres on 13 March 2009 because the conditions were so appalling and inhuman (MSF, 2009). MSF Malta complained of poor sanitary conditions and a lack of facilities in many of the detention centres, including hot water and clothes. The assessment of migrants in vulnerable condition (the young and pregnant women) was taking far too long. People who arrived in a good state of health were deteriorating while in detention. The absence of a pharmacy in centres meant that medicines prescribed to immigrants were not delivered on time, or at all, making adequate and effective treatment impossible. The lack of a proper isolation area means that immigrants with infectious diseases are being kept with healthy individuals. MSF has advised the Government of the critical situation and requested that measures be taken since October 2008. While acknowledging that Malta needs EU help to cope, MSF insisted that Malta do its part by adhering to international and EU basic reception standards for immigrants.

Malta is a signatory to various UN and international conventions respecting the dignity of refugees and asylum seekers and has a national code of conduct issued by the Ministry for Justice and Home Affairs on the entitlements, responsibilities and obligations of detainees. Various reports on the state of Maltese detention centres categorise Malta as a backward third world country where human rights and human dignity and respect have not yet been discovered!

Government response

The Maltese Government needs to achieve a balance between security and humanitarian concerns, taking into consideration the rights of asylum seekers. Efforts are being made to improve conditions; however, the number of migrants is continuously increasing: in 2008, there were 2,775 new arrivals, compared to 1,702 the year before.

Declaring that its resources are over-extended, Malta has called upon the international community to help tackle its refugee problem through burden sharing and resettlement schemes. The EU, which is the real magnet for those fleeing Africa, needs to develop a consistent response. Malta’s request for assistance is not to be construed as an abdication of its international obligations, but as an expression of a genuine need for short-term help. Such assistance is not viewed as a permanent solution, which Malta recognises can only be found within the framework of a long-term approach addressing the root causes of emigration from Africa. The Maltese Government comments that illegal immigration is a problem that should be shared by the world as a whole. It is worth noting that such appeals are being made by the EU and UN delegations visiting Malta, to little effect (DOI, 2009). It is time to translate them into practice.

Justice Commissioner Jacques Barrot reiterated that the island had been allocated over €126 million in funds to spend from 2007 to 2013 in the field of asylum, immigration and borders. Barrot criticised Malta for spending only €18 million (Malta Today, 2009b). According to estimates published in the local media, Malta was allocated €24.4 million in 2007; €32.5 in 2008 and €18 million for each year until 2013, plus other entitlements and grants.

Malta should utilise EU aid to eradicate hardship and ensure respect for human rights and the dignity of immigrants.

Social assistance to refugees

The Government of Malta offers asylum seekers and refugees free accommodation in open centres,

as well as an allowance for food and transport for unemployed immigrants. Services and the duration of the period for which services are offered are regulated by an 'integration and service agreement' or a 'return and service agreement'. Refugees are given social security benefits and are also assisted with a rent subsidy.

Since January 2007, the daily allowance for unemployed refugees in open centres varies according to their status. A person with temporary humanitarian protection is given €4.65, an asylum seeker awaiting a reply from the Refugee Commission receives €4.65, and a rejected asylum seeker receives €3.5. Couples with children receive €2.33 for every child. Those with refugee status receive weekly social security benefits, which amount to €81.20 plus €8.14 for every dependant. Both refugees and individuals with temporary humanitarian protection are entitled to work after being issued a work permit by the Employment Licence Unit, valid for one year. Upon employment, all social security benefits and allowances are stopped. All allowances given in the open centres, as well as social security benefits and rent subsidies to refugees, are taken from the government budget. All immigrants, irrespective of their status, are entitled to free health care.

In April 2009, there were changes to these rules. The Employment Training Corporation stopped renewing work permits for asylum seekers whose applications had been rejected twice (Vassallo, 2009). OAIWAS, the government agency for the integration of migrants that coordinates open centres, began to encourage rejected asylum seekers to leave the open accommodation centres. Since April 2009, permission to remain in open centres is limited to a maximum of six months, after which all existing benefits – including the per diem allowance – are automatically suspended. Before this policy change, failed asylum seekers could reside in an open centre after their period of mandatory detention, and were also eligible to receive a 'per diem' allowance.

It should be noted that, if not supplemented by charity organisations, asylum seekers and rejected asylum seekers living on allowances are on par or worse off than people living on 'two dollars a day' in a developing country. Under the new policy, failed asylum seekers can no longer renew their work permits, and, hence, are unable to obtain the basics for survival.

Turning immigrants into criminal offenders

The changes in policy will automatically transform all undocumented migrants into criminal offenders in order to survive. The new policy is inhumane and will create an environment for racism to soar in Malta. Although rejected asylum seekers do not have any legal right to remain in Malta, there are some who cannot be returned home, in spite of the fact that they are not granted legal protection; these people should be provided with their basic needs and the means to live with human dignity.

BOX 7: Detention – Violating human rights

To deprive people of their liberty through detention, when they have committed no serious crime, is a very serious measure in a democratic society. Although human rights law allows for detention in very specific cases, detaining people for 18 months is a very long time and can destroy detainees both physically and mentally. An Eritrean migrant, Mr Berhe, filed a constitutional case against the Principal Immigration Officer and the Justice and Home Affairs Minister in May 2007, claiming violation of Article 34 of the Constitution of Malta and Article 5 of the European Convention on Human Rights (part of Maltese Law) due to the lengthy procedures for asylum and inhumane conditions of detention, including crowded conditions, lack of appropriate hygiene and medical care, and lack of access to legal services. Mr Berhe is still awaiting a verdict. Judicial proceedings started two years ago and have been postponed from time to time.¹

¹ Information on the Court hearing is available from: <www2.justice.gov.mt/kawzi/ccm_sitt.asp?FrmCM=213021&lng=>

The growing number of migrants settling in distinct areas and the new measures to cut all forms of help will create 'ghetto-isation'. These ghettos are poverty traps and breeding grounds for social tension. The Government should use EU aid to help immigrants to live a decent respectable life during this difficult stage in their life.

Maltese nationals and immigrants: The perception of immigrants

The issue of undocumented migrants has recently been at the core of media and political debate. Most of the Maltese public and political parties look upon 'boat people' as a burden and, as such, they are unwanted by the local population. This has made irregular immigration in Malta a hot political issue, leading to the formation of a number of Right-wing parties that are opposed to providing asylum to these individuals.

A survey carried out by a local paper revealed that immigration levels have reached crisis point, with thousands of migrants arriving, but only a few leaving. Since March 2002, there have been around 12,500 arrivals of irregular migrants. Malta repatriated 2,958 immigrants between January 2004 and September 2008. Experts like Martin Scicluna, a government advisor on this issue, contend that, in total, over 7,000 immigrants have departed, either through repatriation or of their own accord (Malta Today, 2009a).

The survey also revealed that 75 per cent of Maltese have no contact with illegal immigrants. Only 25 per cent reported ever having spoken to an illegal immigrant. Asked how the authorities should respond to a distress call from a drowning boat full of illegal immigrants, 4.3 per cent brutally replied that the authorities should take no action and let the immigrants drown. A further 55.3 per cent replied that the authorities should offer their help on the high seas and allow the migrants to proceed on their journey – which is illegal under international law. Another 38 per cent replied that Malta should bring the migrants to Maltese shores to offer them assistance.

Malta is a Roman Catholic country that talks about solidarity and the Maltese people pride themselves on how they welcome people. It has been

eight years since the immigration crisis began, but it is only lately that leaders of the Church have started to visit detention centres and voice their concern. In a homily by Gozo Bishop Mario Grech on 4 April 2009, he sharply criticised the detention policy for migrants, whose only crime is escaping persecution in their own countries. He stated that it is unfortunate that a:

civilized country such as ours, having the values we think we are defined by, sees nothing wrong in keeping locked in detention women and men who committed no crime and who are only here because they are seeking another country's protection? (Grech, 2009).

One has to give credit to the Maltese Church, which has been working through different organisations such as the Secretariat of Emigration and Tourism, the Jesuit Refugee Service, Suret il-Bniedem and the Good Shepherd Nuns, among others, to assist refugees and immigrants.

The Maltese people must be educated to be more tolerant towards asylum seekers and to better understand their situation, while the Maltese Government must respect immigrants' human rights. The Government should accept that immigration is a long-term situation. Malta must make better use of the aid given by the EU and organise a humane reception for incoming people until such time as they are accepted by other countries, or the situation changes for the better. The EU must recognise the fact that Malta is by far the Member State that is bearing the heaviest burden relative to its size and resources. Member States should show solidarity with Malta and share the responsibility of asylum seekers by accepting them in their own countries and working towards eradicating poverty and establishing governance in the impoverished nations that these people are coming from. The EU must also work towards a more just world where natural resources, international trade and wealth are shared in a more humanitarian and equal way. ■

(continued on page 78)

Migration and the Republic of Moldova

Migration has economic, social, demographic, cultural, security and environmental effects on both sending and receiving societies. Moldovans started to emigrate soon after the country proclaimed its independence in 1991, but emigration (especially labour emigration) peaked in the late 1990s following a severe economic crisis.

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Falling economy

Moldova's economy is strongly driven by remittances. The number of Moldovans working abroad increased from some 56,000 in 1999 to 340,000 in 2007 (from a population of 3.8 million in 2007). Total remittances were USD 1.5 billion in 2007 (36% of Moldova's GDP) and were growing in the first half of 2008 prior to the global economic crisis (Maddock & Ramguttee, 2008).

According to the World Bank's new Migration and Remittances Factbook 2008, Moldova is the world's top receiver of migrant remittances as a percentage share of GDP. Hence, Moldova is the world's most remittance-dependent country.

Most of this migration is temporary, according to an International Organization for Migration (IOM) survey, with only 14 per cent of migrants planning to settle abroad permanently. Roughly 52 per cent of labour emigrants engage in seasonal work, most in countries of the Commonwealth of Independent States (CIS). By comparison, those who choose to emigrate to the EU, e.g., Italy, Portugal and the United Kingdom, due to the risk and high cost involved in illegal travel, leave Moldova for extended periods and a significant number intend to settle abroad (23%). As a result of the increasing outflow, remittances have become one of the most important sources of income for many Moldovan households, while also financing the country's trade account deficit (IOM, 2008).

Remittances have a huge social impact on families, communities and civil society. At the political level, migrants are not yet represented, but remittances are a source of financing for numerous political parties. It is not clear whether or not the short-term economic benefits of migration will outweigh the long-term social and political disadvantages. Until recently, remittances generated higher household incomes, but were rarely invested (IOM, 2008). However, International Monetary Fund analysts suggest that there has been a change in the consumption pattern over the last decade and more remittances are being directed into private investment. This could lead to more durable development in a transition country relying mainly on remittances to solve its economic problems (DSI Viitorul, 2008).

The suspension of remittances due to the global economic crisis will dramatically affect internal consumption in Moldova and the number of people living below the poverty level is likely to increase. Falls in remittances and the large-scale return of migrants could increase economic pressure in Moldova. The effects of falling remittances are likely to be felt nationwide, but, as migration in Moldova is principally from rural areas, it seems probable that these effects will be felt disproportionately in rural and urban areas. If so, there is the prospect of an increase in rural poverty. This was already a concern in Moldova, despite good growth performance between 1999 and 2004, which moved 40 per cent of the population out of poverty. Nonetheless, about 26 per cent of the Moldovan population in 2007 remained poor, with about two-thirds of the poor living in rural areas. A similarly rural concentration of impacts among returning migrants is likely if there is a disproportionate return to rural areas.

A disproportionate deterioration in youth unemployment is also possible. While youth unemployment is comparatively low in Moldova, this is partly due to the export of labour in the form of migrants. With opportunities for migration diminishing, young people will be forced to rely on domestic labour markets at a time of falling labour demand. Youth will have to compete with returned migrants, who may return with better skills and more experience. In other words, a generation of 'frustrated migrants' is likely to be created among the young, at the same time as competition is increasing in domestic labour markets. As a result, the possibility for social unrest is evident.

However, there may be some benefits. According to the Academy of Sciences of Moldova (ASM), decreased remittances as a result of the global economic crisis, "can also have positive effects [and] will inevitably lead to imports reduction, and that in its turn will stimulate the increase of real economy in order to fill in the vacuum of products on the internal market".

The ASM also concludes that a reduction in remittances will have the following impacts:

- The real sector of the economy will be affected, increasing the vulnerability of small enterprises and the agriculture sector, and, as a result, unemployment will increase.
- The national currency may devalue; in this context, a substantial increase in demand for strong

currency has already manifested on the currency market.

- The depreciation of the Leu may also have positive effects, such as a reduction in imports and the favouring of exports.
- An increase in exports may also precipitate an increase in local goods quality to conform to European standards.
- Budget revenue will decrease as well as the purchasing power of the population.

However, the ASM goes on to point out that the global economic crisis may not invoke a massive return of migrants, as the majority of Moldovan migrants are employed in activities that are unattractive to the population of receiving countries.

Migration: A problem or solution

Migration affects both men and women, although the social, economic and demographic impact of women working abroad is becoming more and more obvious in Moldovan society. The proportion of women in migration flows is increasing. In 2004, women accounted for 34 per cent of all emigrants; this increased to 41 per cent in 2006. Emigrant women account for about 35 per cent of Moldova's female workforce, which represents a significant portion of the total labour force. The fact that this portion has left the domestic labour market generates a shortage of human resources in sectors traditionally dominated by women (education, health, agriculture).

Most emigrant women are aged between 30 and 40 years, and are mainly from rural areas. Most are, or have been, married and have children; therefore, their departure disrupts family life, especially the rearing of children. About 60 per cent of women stay in the countries of destination longer than 1.5 years.

Thus, the emigration of women not only diminishes the size of the labour force employed in the national economy, it also diminishes the number of women of reproductive age in Moldova. Emigration, even temporary or seasonal, minimises the possibility of such women having children. Moreover, being abroad for several years, many women are tempted to settle permanently in their receiving country and even get married there. When women are integrated into the society of the receiving country through marriage, they gain access to certain information

and services, and are thus able to provide important support for new migrants.

Illegally migrated women face an increased risk of morbidity, but are unable to access health-care services or the services of specialised NGOs. Their illegal status enhances their dependence on their employer, increasing the risk of forced sexual relations. The emigration of women also plays an important part in Moldova's divorce rate, which has been increasing since 1999.

Women's emigration represents a wide range of social and economic problems that, in the long term, will have significant consequences on the demographical structure and social relationships in Moldova. A great proportion of children are now being brought up in a new Moldovan family model – the family with emigrated parents – their socialisation framework being essentially modified.

Migration inevitably rearranges gender roles. In families where both parents are at home, the care provider role is played either by both the father and the mother (in 53% of families surveyed), or just the mother (in 32% of families surveyed). When the mother leaves, her role is often taken by the father or another female household member (Peleah, 2007). Most of the children whose mothers migrate (68%), no longer see them as care providers.

As labour migration from Moldova is generally a product of economic factors, migrants are often perceived by family members as the main providers. Interestingly, in both migrant and non-migrant cases, the proportion of dual-earning families is quite high (close to 45%). In families in which the father has migrated, the father is more likely to be perceived as the main breadwinner (in 47% of cases, compared to 31% in families without migrants). Likewise, the mother is less likely to be perceived as the main breadwinner (down to 6%, compared to 13% in families without migrants). Mothers are mentioned as the main providers in 45 per cent of families where the mother is absent – a sharp increase on the 13 per cent reported in non-migrant families. Both the father and mother are perceived as important breadwinners in 46 per cent of families in which mothers have migrated.

Women working abroad are more self-confident and have more self-esteem. While violence against women is widespread in Moldova, women who have worked abroad seem less willing to tolerate abuse by their partners. Instead, they seem more likely to insist that abusive partners change their behaviour; if not, they are more likely to divorce and try to rebuild their lives.

The migration of mothers seems to have a much larger negative impact on childcare than the migration of fathers. The survey data suggest that in 14 per cent of families with mother-migrants, children believe that no one is taking care of them (compared to only 3% for families with only the father abroad). Similar problems are evident in other areas of family life in which women traditionally play signif-

icant roles (education, homework, taking children to the doctor, and supervising children during leisure time).

Changes in gender roles can influence communities as well as families. Many respondents suggested that women's migration gives them financial independence and increases decision-making power. They also noted that migrant women increasingly model themselves on the behaviour of women in the receiving country. A wife's departure to work abroad may be perceived as threatening by her husband, particularly in view of paternalistic expectations in Moldovan society. She will earn more and may try to manage this income herself. This can threaten the husband's status as head of the family; he may look for a new partner or may seek comfort in alcohol. In cases where women's work abroad is associated with prostitution, women's migration may bring stigma on themselves and their families. Migration – particularly of mothers – may lead to the 'disappearance' of certain family roles. This is especially dangerous if it has a long-term impact on children's development and wellbeing.

Another major risk faced by women, especially young women, who attempt to migrate illegally is their exposure to trafficking for sexual exploitation, which has destructive effects on their physical and psychological health and future social relationships. So far, the organisations that specialise in assisting trafficked victims have assisted over 2000 female victims from Moldova, most of them in need of psychological and medical assistance (La Strada Informational Centre, 2005).

Another problem associated with migration is the 'brain drain'. Despite numerous, and often humiliating, restrictions on Moldovans entering many destination countries, the qualified Moldovan workforce continues to look for opportunities abroad. This creates significant shortages of qualified labour (e.g., doctors and engineers) in the domestic labour market.

Migration has both positive and negative effects on communities and families. Intervention is needed at the governmental level to decrease the negative social impacts of migration. Measures may include the promotion of circular migration, which allows migrants to learn from their experiences abroad while stimulating their return, for example, through fiscal facilities and institutional guarantees of work or scholarships. ■

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Migration and Development in the Netherlands

Despite the significant contribution of immigrants to Dutch society, economically, politically and culturally, the anti-immigrant mood and the influence of diasporas reveal that migration and integration are still contentious issues.

Ton van Naerssen¹

The population of the Netherlands numbers around 16.5 million. Of these, some 3.3 million or 20 per cent are considered *allochtonen*. This specific Dutch notion is sometimes wrongly translated as aliens, immigrants or foreigners, but in fact means that the person, or one of the person's parents, was born outside the Netherlands, regardless of whether this person has Dutch nationality or not. Dutch people born in the Netherlands are called *autochtonen*, which means indigenous or native. A distinction is also made between Western and non-Western immigrants.

During the period 1995 to 2007, the number of people migrating to the Netherlands annually varied between 90,000 (2004) and 133,000 (2001). In 2008, there was a record 140,000 immigrants. In particular, the number of labour migrants from Poland, Bulgaria and Rumania increased, while less people came from the traditional migrant countries such as Turkey, Morocco, Surinam and the Dutch Antilles. Also, the major reason for migrating to the Netherlands changed from 'family reunion' to 'labour'. Another trend is the decrease in the share of asylum seekers, which dropped from 30 per cent of immigrants in 2000 to less than 5 per cent in 2007. In the period 2000 to 2007 their absolute number reached 41,500; most came from Iraq (12,400), Somalia (6,600) and Afghanistan (4,600).

The *Immigratie – en Naturalisatie Dienst* (IND) is the implementation agency that decides on residence permits and Dutch citizenship. Currently, some 20 per cent of asylum seekers obtain a temporary permit to stay. The Aliens Act of 2001 (*de Vreemdelingen Wet*) provides for residence permits to be valid for one year only. The permit can be extended twice, after which the immigrant can apply for a permanent residence permit. If a permanent residence permit is not granted, the asylum seeker will lose his/her accommodation, as offered by the Dutch local authorities, and must leave the country. If the asylum seeker stays illegally and is held by the police twice, they are considered an 'unwanted' person and could be jailed for six months. The Act also contains strict income requirements for family reunification. This particularly affects second and third generation

descendants of Turkish and Moroccan migrants. Many are accustomed to marrying a partner from their country of origin, but face difficulty in meeting the financial requirements due to their difficult position in the labour market.

In 2005, the Government introduced the Act of Integration Abroad (*Wet Inburgering in het Buitenland*), which requires immigrants to pass a 'civic integration exam' on Dutch language and society before being allowed to enter the country. This Act is a tool to curb family formation and reunion, and is discriminatory in its application as foreign nationals from 'Western' countries are exempt. With the introduction of the Integration Act of 2006 (*Wet Inburgering*), all foreign nationals resident in the Netherlands, with the exception of EU, European Economic Space (EES) and Swiss citizens, are required to pass an integration exam. The exam also applies to foreign nationals (permanently) resident in the Netherlands prior to the introduction of the law. Those who do not pass the exam are not eligible for a permanent residence permit.

Impact on Dutch society and integration

The impact of immigrants on Dutch society is considerable. Their contribution to the economy is not limited to low-qualified labour, as the number of highly-qualified and educated *allochtonen* has increased. Ethnic entrepreneurship is also on the rise (see Box 8). Culturally, the Dutch entertainment industry and literature are unthinkable without migrants. *Allochtonen* are also increasingly politically involved and represented in local, regional and national governments. However, their overrepresentation in low paid occupations and high unemployment levels continue to be problematic. In 2008, the unemployment rate among non-Western *allochtonen* was 9.0 per cent, three times higher than *autochtonen*.

In 2006, the Social and Cultural Plan Bureau (SCPB) warned of the one-sided attention given to the social-cultural integration of *allochtonen* at the cost of their labour market position. It did so because of a change in the immigration and integration discourse during the past decade. Previously, the dominant idea was that of a society with ethnic minorities maintaining their cultures and languages. The discussion focused on their rights and access to the labour market. In the nineties, a gradual shift took place towards an emphasis on the duties of the individual migrant. Minorities' policies were replaced by integration policies. The arrears of *allochtonen* were seen as a consequence of the deviation of their

culture from the mainstream values and norms of Dutch society.

Since the turn of the century, public opinion has considered the integration of *allochtonen* into Dutch society as a failure, and discontent has grown rapidly. This is reflected in the rise of politician Pim Fortuyn, leader of an extreme anti-immigrant party. Fortuyn wanted to stop immigration and described Islam as a 'backward culture'. He was murdered in 2003, but the tone was set. When Rita Verdonk of the Liberal Party (VVD) became Minister for Aliens Policy and Integration, she acted as a strong politician with clear-cut messages: less immigration and the stronger cultural integration of *allochtonen*. After Verdonk, a new coalition between the Christian Democrats (CDA) and the Labour Party (PvdA) in 2007 brought more tranquillity. Nebahat Albayrak, State Secretary at the Ministry of Justice and responsible for aliens policy, took measures to assure more meticulous asylum procedures and supported the Dutch municipalities to develop local asylum policies.

However, migration and integration are still contentious issues. Geert Wilders, the Dutch parliamentarian and leader of the Party for Freedom (PVV) attracted attention with his anti-Islam movie *Fitna*. Wilders wants to forbid the Koran, which he compares to *Mein Kampf*. According to polls in March 2009, if national elections were to be held now, the Party for Freedom would obtain 20 per cent of the Dutch vote and become the largest party in the Parliament. With this in mind, policymakers from the traditional parties (Christian Democrats and Liberal Party) declared that they would consider the possibility of forming a coalition with the Party for Freedom. Even the Labour Party made a shift to favour a strict integration policy.

Dutch identity, populism and new nationalism

According to a survey by the Social and Cultural Plan Bureau, in April 2009 some 35 per cent of the population hold the view that the Netherlands would be a more pleasant country if there were less immigrants. Around 40 per cent consider the presence of different cultures as of benefit to the country. Taking into account the capriciousness of public opinion, it would be reasonable to conclude that pro- and anti-immigrant groups more or less balance each other in Dutch society.

The public discourse and political debates, however, suggest that there is a rising anti-im-

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migrant mood, which is accompanied by populist policies and a strong tendency to define a Dutch national identity. Pim Fortuyn gained political support with populist slogans such as 'I say what I think' and 'At your service', meaning that, contrary to the politicians in power, he was listening to the silent majority. In 2008, Rita Verdonk called her movement 'Proud of the Netherlands' and initially obtained much support. She was outdone by Geert Wilders, whose Party for Freedom movement purports to stand up for the 'real Dutch'.

In its worst form, the new nationalism expresses itself through populist slogans depicting 'multiculturalists' as fascists and by denouncing Islam. In its more civilised form, the new nationalism is defining the integration issue as a cultural issue. It underscores a desire to strengthen the 'Dutch identity'.

Part of the new nationalism can be explained by the fact that the Netherlands used to be a strongly pillarized society, wherein the position of each individual was defined by its membership of a religion or a secular political ideology. Since the sixties, as in other West-European countries, this closed system evolved into a more open one. Dutch society developed into a permissive one. It now allows for diversity in values, attitudes and behaviours. There is broad acceptance of, among others, outside marriage couples, divorce, homosexuality, abortion and soft drugs. It is precisely this liberation that conflicts with the closer social systems in which many migrants are brought up. Paradoxically, this has reinforced a rather static idea of Dutch culture and society. What

the proponents of the Dutch identity refuse to see is that people have multiple identities and that national identities are not fixed in time and space.

Diasporas and development in countries of origin

Migrants contribute to social and economic development in their countries of settlement and, increasingly, to development in their countries of origin as well. Due to improved means of communication and transport, bonds with people 'at home' are increasingly maintained. Family remittances are by far the major economic contribution made by migrants, but other forms of transfer have a development impact too. For example, migrant entrepreneurship is often transnational and linked to the country of origin (see Box 8). Migrants can also be involved in knowledge transfer, development cooperation projects and even peace building initiatives.

Migrant communities usually have their own home country or diaspora organisations whose main aims are to support countrymen in the process of adaptation to the specific circumstances in the country of (temporary) settlement and with integration into the new society. Such organisations often support small-scale development projects in their home countries as well. Migrant communities have networks that extend beyond national boundaries. They have access to specific knowledge, cultural knowledge and language skills that can be used for development cooperation in home countries. Their resources can even span several generations.

For the past few years, the official Dutch development institutions have been aware of the potential of the various diasporas. The Dutch Ministry of Foreign Affairs in its 2008 Memorandum on Migration and Development mentions six policy priorities of its migration and development programme. These are:

1. More attention to migration in development dialogues, and vice versa
2. Institutional development in the area of migration management
3. Encouragement of circular migration/'brain gain' with an emphasis on labour migration
4. Strengthening of involvement of migrant organisations
5. Strengthening of the linkage between migrant remittances and development
6. Promotion of sustainable return (and re-integration)

In the dialogue between the Ministry of Foreign Affairs and the diaspora are partners as various as the African Diaspora Policy Centre (bridging African diaspora and policymakers at the EU level), the Global Society Foundation (capacity building of diaspora organisations) and the SEVA Network Foundation (development activities based on Hindu philosophy). Experience gained so far proves that the success of all programmes implemented by the Dutch Government, international organisations and

diaspora organisations, depends on the legitimacy of the diasporas to speak on behalf of the people 'at home' and the capacity and reliability of partner organisations in the countries of origin. ■

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BOX 8: Transnational migrant business

A few years ago, Ms Karima Q had a dress shop in Arnhem, a town in the eastern part of the Netherlands with 145,000 inhabitants. As she had no experience in the clothing industry, she connected with her network in Turkey. Two great-nephews were willing to teach her how to import and purchase clothes. They also introduced her to firms in Izmir and Istanbul. There she became acquainted with the owners of a 'good shop' similar to what she had in mind. They put her in contact with the wholesaler with whom she now cooperates and who informed her about colleagues in the Netherlands. Karima now has a transnational business that contributes to economic development in the Netherlands as well as Turkey. She is one of the many non-Western entrepreneurs in the Netherlands, whose number has substantially increased from 21,000 in 1994 to 58,000 in 2006, a growth rate that is higher than among native Dutch. Non-western entrepreneurs are strongly represented in sectors such as groceries, textiles and clothing, and telecommunications. Around 40 per cent have their businesses in Randstad Holland, where the largest number of migrants live.

Poland: A Migration Crossroad

After EU accession, Poland became the Union's Eastern border, attracting a new wave of immigrants while at the same time providing better access to Western markets for Polish workers.

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Immigration to Poland

Contemporary Poland has one of the lowest percentages of foreigners as a proportion of the total population (Kaczmarczyk, 2006). The still very small, but rapidly growing, number of immigrants is creating a new situation in Polish society and for the economy. The main immigrant groups include migrants from the post-Soviet Bloc countries, migrants from East Asia and Westerners working for multinational companies, who are mainly concentrated in large metropolitan areas.

Illegal migration

There are no studies, statistics or data concerning illegal migrants residing in Poland. Polish authorities have not yet developed a common policy to tackle this phenomenon. However, illegal migration seems to be coming more and more visible and important for the society and economy. The total number of illegal migrants in Poland is unknown. According to various sources it varies from 50 to 500 thousand¹.

According to the law, a person who resides illegally in Poland does not commit a crime, but only a minor offence and is liable to a fine. Consequently, the person may be placed under arrest for the purpose of expulsion or in a guarded centre. The same applies to an alien who attempts or crosses the border illegally.

Poland has not yet transposed the so-called 'Return Directive'², which is main EU instrument dealing with illegal migrants, into law. The 18 month detention period introduced by this Directive will probably not be transposed by the Polish authorities³. Present law states that an alien could be detained

for up to a year and then must be released from the guarded centre or arrested for the purpose of expulsion.

Citizenship

A foreign citizen – regardless of whether or not he/she comes from the EU or a non-EU country – may be granted Polish citizenship provided that he/she has been residing in Poland for at least five years on the basis of leave to settle in Poland or a permit as a long-term resident of the European Community or as someone who has been granted a permanent residence permit to live in Poland.

A person who has no citizenship or whose citizenship is undetermined can be recognised as a Polish citizen if that person has been residing in Poland on the basis of leave to settle in Poland or a permit as a long-term resident of the European Community for at least five years.

Polish citizenship may also be granted to a foreigner who has been married to a Polish citizen for at least three years, who was granted leave to settle in Poland or a permit as a long-term resident of the European Community or who was granted a permanent residence permit to live in Poland.

Refugees and foreigners who were granted subsidiary protection or tolerated stay, in order to acquire Polish citizenship, must first obtain one of the above mentioned titles of legal stay in Poland, which are also granted under the condition of residing in Poland for several years. This means that a foreigner whose intention is to settle in Poland, work and have a family there, is obliged to wait for many years (10 years for foreigners who obtained refugee status or subsidiary protection, and 15 years for foreigners who are granted tolerated stay) in order to become a Polish citizen. There is a real need to shorten these periods.

In special cases citizenship may also be granted by the President of Poland, however, this is not very common.

Economic migration

Economic migration to Poland is a relatively new phenomenon. Democratic changes, EU accession, economic growth, and better social and living conditions are increasing the number of migrants who want to stay and work in Poland.

Around 10,000 work permits are issued every year, half to people from former Soviet Bloc Republics (Kaczmarczyk & Okólski, 2008, p.53). Citizens from the Ukraine, Belarus and the Russian Federation

are the main groups legally employed by Polish companies. They are mostly working as low-skilled workers in the industrial and rural sectors (i.e., in mining, energy production and agriculture). Poland is also an immigration destination for workers from the East Asian region. Since the 1980s, Poland has had a large Vietnamese community, controlling a sizeable part of the import and retail of inexpensive goods from East Asia, especially clothes.

Until recently, large numbers of immigrants were employed illegally during the summer season. However, the law has changed to allow foreigners to be employed for short periods in all sectors of the economy. The number of foreigners legally employed is rather low and depends on, among other things, Poland's economic situation. The global economic crisis has resulted in higher unemployment and lower demand for manpower. As a consequence, fewer employers are willing to offer jobs to non-Poles, even more so as the procedures for employing foreigners are complicated, time consuming and costly. Due to their relatively small number, legally employed migrants do not play an important role in the national economy.

The Polish legal system contains antidiscrimination regulations with detailed provisions in relation to employment, the EU antidiscrimination laws have not been fully implemented in Poland. Even though the majority of Poles have a positive attitude towards employing foreigners, stereotypes exist that cause discriminatory behaviour by employers, co-workers and officials. Legal regulations, long and complicated procedures for obtaining work permits, including for short periods, and the high cost of employing migrants are factors that may lead to discrimination in the labour market.

Refugee reception policy

The asylum procedure is managed by two administrative bodies, the Office for Foreigners and the Council for Refugees, and, according to regulations, should take no more than six months. However, in practice, it usually takes much longer: up to two years. Work is prohibited until refugee status or subsidiary protection is granted with only one exception: if the first instance body does not issue a decision within six months, the asylum seeker can apply for permission to work until the procedure has been completed.

During the asylum procedure, people are placed in centres for asylum seekers where they receive food, basic medical and psychological help, a clothing allowance and a monthly allowance of about 15

1 For more information see: Undocumented Migration In Poland, December 2008, <irregular-migration.hwwi.net/Poland.5800.0.html>.

2 Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, Official Journal of the European Union L 348/98, 24.12.2008.

3 Information provided to Amnesty International by the Ministry of Interior and Administration.

Euros. Many centres are ill-equipped to accommodate large families with small children. Heating, hot water and food storage conditions cause constant problems. Social assistance is poor due to the small number of staff employed in detention centres and their lack of language and cultural training. There are no special procedures or protection for particularly vulnerable people. Although the meals are supposed to suit religious and cultural habits, only the eating habits of Muslims are respected. Specialised health care is provided in a few selected hospitals, which are often distant from the asylum centres, and no interpreters are provided by the state to accompany patients⁴. Conditions in centres are not conducive to long and intensive psychotherapy. Finally, most of the centres are located in remote areas, hampering the integration of asylum seekers

In theory, it is possible for asylum seekers to apply for a monetary equivalent allowing them to live outside the centre – a solution that would greatly enhance the integration process. However, in practice, there is no cheap housing provided by the state to match the amount of money received. Moreover, renting an apartment is very expensive and difficult for immigrants, who are not considered desirable tenants by private owners.

Asylum seekers can also be placed in detention centres. According to a report prepared by Caritas Poland, these centres are prison-like places, with little respect and understanding for people from different cultures (Caritas Polska, 2007). Sanitary facilities do not comply with hygiene norms, dormitories are small, shabby and dimly lit. The meal portions are not sufficient, which often leads to hunger strikes. Only the eating habits of Muslims are respected. Moreover, detainees have no access to legal information or to information about their rights in their mother tongue (Caritas Polska, 2007).

Migrants' social and economic rights

Migrants, other than refugees, have limited access to social rights depending on the legal basis of their residence permit, whereas persons granted refugee status or subsidiary protection obtain the same access to social provisions (such as education, health care, housing, unemployment benefits) as Polish citizens. They are also entitled to a 12-month individual integration programme after the completion of their asylum procedure. Unfortunately, in practice, the integration programmes are too short and seldom take into account the individual needs of the beneficiaries. Professional courses are scarce and efforts to integrate immigrants into the labour market ineffective.

Social housing is hardly accessible, even to Polish citizens, let alone migrants. Migrants' applications are often rejected by officials, who are either unaware of relevant regulations or deliberately

unhelpful. There is an urgent need to provide refugees with access to cheap housing. Without solving this problem, integration cannot be achieved.

On the positive side, everyone in Poland has the right to education, regardless of their citizenship or legal status, and education is compulsory for minors aged 6 to 18 years. All migrants have free access to education up to lower secondary school. Schools are responsible for organising additional Polish lessons for migrant children. However, no additional support (such as teacher assistants⁵ or the services of an integration facilitator) is provided and there are no educational/vocational programmes to bridge educational gaps for teenagers and young adults.

Migrant single parents (mainly women) are in an extremely difficult situation. Most of them cannot access single parent's benefits as they are unable to produce documents to prove their single status. It is very difficult for them to work, as public day care centres and kindergartens are hardly accessible, while private ones are very expensive. Another barrier is that many migrant women, especially women from a Muslim background, have no professional training or experience. Nevertheless, a considerable number of single mothers and other women are determined to work, perhaps more than any other social group. Unfortunately, no special social assistance or programmes are available to help migrant women to enter the labour market.

Racism and discrimination against migrants

Poland has no tradition of a multiracial society and, since World War II, has basically been a mono-national country. Hence, the increased number of migrants has raised the issue of the cultural gap and resulted in low tolerance for people with a different skin shade. Although the problem of open racism and discrimination against migrants is not alarming, foreigners in Poland face racist and discriminatory behaviour, such as racist jokes, xenophobic publications, offensive slogans, and oral insults, and sometimes even physical attacks. There have been cases of discriminatory practices, misinterpretation of legal regulations, and impolite and discriminatory treatment by public officials. There have also been cases where football players and doctors from Africa and Asia have been abused and attacked by xenophobic groups. However, there is insufficient data in this respect and it is very difficult to estimate the scale of the problem. This is partly due to the fact that migrants do not always report instances of racism or discrimination and not many complaints are brought before the courts. Discriminatory incidents are very often not acted on by the police and in many cases possible racist motives for crime are overlooked.

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Polish emigration: Hopes and challenges

For more than 200 years, Poland has been a region of emigration, for both political, especially during the 19th Century, the World War II and Communist era, and economic reasons. Post-war emigration from communist Poland was relatively low (Stola, 2001). The Stalinist period witnessed virtually no migration at all. After 1956, for a short period of time, there was an increase in emigration, which quickly declined with the death of the political thaw. From the 1970s until the early 1990s, emigration rose continuously. The political and economic transformations of the early 1990s – the fall of communism and the rise of the free market – resulted in a decrease in emigration from Poland, despite the grim economic situation (Kaczmarczyk, 2006). A new wave of emigration followed Poland's accession to the European Union in 2004, when the British and Irish labour market opened to Poles. The large-scale emigration of mainly young and often educated people has had many effects on Polish society and the economy.

The remittances sent by migrants to their families in Poland are an important part of the migration process. Remittances are not only sent to support spouses and children; where the whole family lives abroad, many migrants invest back home, mainly in real estate, as 'insurance for their future' or in preparation for their return. Remittances are especially important for local economies, and their impact is most visible in small municipalities.

Emigration also leads to brain and workforce drain in the Polish labour market, especially in construction (engineers, welders) and health (doctors, nurses and technical staff) sectors. Both local and national governments have undertaken numerous, but seldom effective, activities, to attract educated migrants back to Poland. The metropolitan municipalities of Wrocław and Gdansk have been especially active, organising meetings and promotion campaigns in the United Kingdom and Ireland. The programme 'Work in Poland' was designed to reinforce the skills and effectiveness of non-governmental organisations providing services to the labour market and to prevent emigration by supporting four components: know-how, skill, practice and information (FISE, 2008).

Emigration has also resulted in the depopulation of small villages and towns, especially of young people. This is often followed by the closure of infrastructure for youth, like clubs, schools and other facilities, which becomes another push factor. Large-scale emigration also has significant social impacts on Polish society. It can lead to changes in traditional family structures, with grandchildren and grandparents living together while their parent(s) work and live abroad. Some scholars argue that changes

(continued on page 78)

4 NGOs like the Association for Legal Intervention or 'Ocalenie' Foundation provide volunteer interpreters, but they cannot cover all the needs.

5 The latest amendment to the System of Education Act provides teacher assistants for migrant children from January 2010, but for no more than 12 months.

Migration: A Priority Issue in Serbia

Migration is an issue of great importance in Serbia. Recent armed conflict and the current economic insecurity have contributed to massive migration flows, both to and from Serbia. These flows mostly involve refugees, internally displaced persons, returnees and trafficked persons. The current economic turbulence fuelled by the global economic crisis may also spur a new wave of 'brain drain'.

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Refugees, IDPs and returnees in Serbia

Refugees in Serbia include a large population of refugees from Bosnia and Herzegovina (BiH) and Croatia and internally displaced persons (IDPs) from Kosovo, as well as Serb nationals who fled the conflict in the 1990s, only to return to Serbia now on the expiry of 'temporary protection'. The United Nations High Commission for Refugees (UNHCR) has included Serbia among the five countries in the world with a protracted refugee situation (UNHCR, 2008a).

Refugees from Croatia and Bosnia and Herzegovina

In 1996, the number of refugees from Croatia and BiH reached nearly half a million; this number has been steadily decreasing as many have returned to their countries of origin, have been naturalised in Serbia or have resettled in third countries. In June 2008, there were 97,354 refugees, 75 per cent of them from Croatia (Commissariat for Refugees of Serbia, 2008).

The return of refugees to their country of origin still remains a delicate issue and is proceeding slowly. Refugees from Croatia have difficulties in returning to their country because of unresolved tenancy rights, 'convalidation' of years of service, employment discrimination and citizenship status, among other things.

Regarding the integration of refugees into society, the Serbian Government has to make more of an effort to solve issues of unemployment, lack of housing, education and obstacles to obtaining Serbian citizenship. The unemployment rate among refugees is 30.6 per cent compared to 20.8 per cent in the overall population (Group 484, 2007). The main obstacle to solving the problem of refugees is the difficult and unstable economic and political situation, as well as the lack of a developed legal and institutional system.

IDPs from Kosovo

According to UNHCR data, 206,071 IDPs from Kosovo are residing in Serbia (2008b). Due to security reasons, unresolved property issues and the poor economic situation, the prospects of return for these IDPs remain bleak; in the 10 years since the end of the conflict in Kosovo, only 18,724 displaced persons have returned, of which 8,027 were Serbs.

Many IDPs are facing undue hardship and experiencing problems in exercising basic human rights. The poverty rate among IDPs (14.5%) is more than twice as high as among the overall population (6.8%) (Statistical Office of the Republic of Serbia, 2008). Roma IDPs are in the most difficult situation. Many of them do not have personal documents, which hinders their access to employment, health care and social welfare services (UNDP & UNHCR, 2008).

The Serbian Government insists that these IDPs be returned to Kosovo, so the activities of major international organisations and donors are limited to projects related to return. The situation did change slightly in 2009; IDPs are now eligible for accommodation projects as part of the integration process.

Readmission agreements for returnees

In the 1990s, during the armed conflict that followed the disintegration of former Yugoslavia, four million people left their homes. Several hundreds of thousands of them received temporary protection in the countries of Western Europe on the grounds of discrimination and war in their country of origin. After the democratic changes in October 2000, thousands of Serbian citizens sought asylum in Western Europe.

Since almost all of their applications for asylum have been rejected and temporary protection withdrawn, these people are now returning to Serbia on the basis of readmission agreements signed by the Government of Serbia. Apart from some modest attempts, there has been no systematic and organised approach to identify and record the problems of returnees, either in the former host countries or in Serbia.

Between 50,000 and 100,000 people have returned to Serbia from European Union countries, among which the majority are Roma people, mostly from Germany (50,000) (Council of Europe, 2003). Since 2003, the Ministry of Interior of Serbia has

received more than 27,000 requests from Western countries for the deportation of Serbian citizens. The requests, as well as the readmission agreements, primarily involve people who are forcefully deported, and usually do not encompass individuals who have returned 'voluntarily', i.e., those who have obeyed the decision of Western country authorities to leave the country. Some EU countries, through the International Organization for Migration (IOM), provide once-off assistance to returnees if they agree to return. Tickets and money (most often around 1,000 Euros per family) are given to returnees if they agree to return 'voluntarily'. Since 2000, the IOM Office in Belgrade has registered 13,000 returnees who were beneficiaries of this assistance programme.

The readmission agreements obviously do not prevent Serbian citizens from seeking asylum in EU countries and other Western countries. By the number of filed asylum requests (6,200), Serbia was seventh in the world in the first half of 2008 (UNHCR, 2008c). In 2007, Serbia was fourth in the world with 15,400 asylum requests (UNHCR, 2008d)¹.

The overwhelming majority of Serbian people who apply for asylum are returned from Germany. In 2006, 3,282 citizens of Serbia applied for asylum in Germany. Most of them were Roma (43%), followed by Albanians (37%, mostly from Kosovo). Only 2.5 per cent were ethnic Serbs (Voice of America, 2007).

Assistance to returnees whose asylum claims have been rejected or whose temporary protection has been terminated is often provided on an individual basis, as it is not a part of an overall development process and cooperation between the host country and the country of origin. EU pre-accession funds do not encompass returnees. The lack of coordination and information exchange between Western countries and Serbia is a major obstacle to the provision of adequate assistance to returnees. Western countries do not always submit information about these persons to Serbian authorities (e.g., about their health situation and family status), which hampers adequate planning for their admission to Serbia.

Although a National Strategy for the Reintegration of Returnees has been adopted and the Inter-ministerial Council for Reintegration has been estab-

¹ Data for Serbia may include Montenegro in a few countries where no separate statistics are available for both countries.

lished, there are still questions regarding the allocation of the necessary resources for implementing a comprehensive reintegration policy.

Male victims of human trafficking

Economic hardship increases vulnerability to trafficking. Recent research² by the Victimology Society of Serbia has focused on male victims of trafficking. The survey of 407 male victims of human trafficking over the period 2003 to 2007 found that 342 (84%) were adults and 65 (16%) minors.

Foreign male victims primarily originated from China and Turkey, followed by Afghanistan, Albania, India, Kazakhstan, Pakistan, Moldova, Macedonia and Romania. The main way of recruiting adult men is by offering or promising a job. The main push factors are poverty and unemployment, as well as myths about the West, which attract those looking for better jobs, incomes and a better future. Labour exploitation is the most frequent form of trafficking of men: male victims are exposed to longer working hours and lower pay than promised, and, in some cases, are not paid at all.

As for male victims who are minors, the survey suggests an increase in the number of boys identified as victims of human trafficking, particularly those between 14 and 17. Some of these minors are from Albania, Turkey, Bulgaria and Georgia. Among Serbian child victims, Roma boys are more exposed to human trafficking. Internal trafficking is most prevalent; in terms of transnational trafficking, Serbia appears to be a country of origin and transit (but primarily to neighbouring countries such as Croatia, Montenegro and Macedonia). The main forms of exploitation of boys include begging, labour exploitation, pressure to commit crime and, to a lesser extent, sexual exploitation. Child victims, similarly to adults, are placed under the control of the trafficker through coercion and all forms of violence (physical, sexual and psychological). Survey results also suggest that particular risk groups are children from poor families, Roma children, deficient families, as well as abandoned children, i.e., street children and disabled children.

Trafficked victims are transported or transferred by different means (car, plain, train, boat), but also on foot (particularly in the case of illegal border crossings). In the case of transnational trafficking, victims are transported both legally and illegally – outside official border crossing points, or through official border crossing points, but either with forged

documents or hidden in cars, trains, buses or other means of transportation.

In relation to the trafficking of men, Serbia is primarily a country of transit, particularly for men coming from Albania, Turkey, the Far East and Middle East, primarily going to Italy, but also to Germany, France, Greece and Scandinavian countries, as well as other EU countries. Some of the destination countries for Serbian men are Russia, the United Arab Emirates, Saudi Arabia, Malta, Bosnia and Herzegovina (Republika Srpska) and Macedonia.

The main trafficking route in Serbia is from the South to the North or West, i.e., from Turkey, to Western Europe, passing through Kosovo, Central Serbia, Hungary or Croatia. This route is primarily used for trafficking and smuggling of people from Albania, Asia, and those coming from or via Turkey. It is also used for other forms of illegal trafficking, such as in narcotics, arms, cattle and so forth. This part of the Balkans and the South Eastern Europe (SEE) region will probably remain problematic, at least in the near future, due to the weakness of both the legal and political system in Kosovo, non-existence of a visa regime, provisions for free entry and stay in Kosovo territory, weak border controls and weak controls over migration flows in general, among other things.

The enlargement of the EU, and the entering of Romania and Bulgaria in particular, contributed to changes in trafficking routes crossing Serbia, especially in terms of entry points, which moved to the South, mainly to Kosovo. Moreover, police interventions that resulted in routes being cut off that previously went from or via Albania to Italy by sea also contributed to trafficking routes being changed. At the same time Serbia became more appealing for those transiting to Hungary, particularly after Hungary entered the EU, because if a person reaches Hungary, their way to other EU countries is much easier.

Brain drain

Armed conflict, hardship due to economic transition and decreased opportunities for employment contributed, not only to the mass exodus of people from their homes, but also to the brain drain, particularly of young and educated people. About 500,000 young people left Serbia between 1991 and 2001 in search of better livelihoods. A survey done in Serbia in 2007 found that 75 per cent of students want to live and work abroad, compared to 50 per cent in 2002 (Youth Coalition of Serbia, 2007, p.13).

IOM, UNDP, ILO, UNICEF and other partners of the Serbian Government have made an effort to improve access to decent work for young people through better policies and programmes addressing youth employment and migration. With USD 6.1 million from the Spanish Government's Millennium Development Goals Achievement Fund and USD 1.9 million from the Serbian Government, IOM is heading a programme over a two-and-a-half-year period targeting disadvantaged young men and women,

especially Roma, and those most at risk of social exclusion and prime candidates for emigration (IOM, 2009).

However, limited employment opportunities, a low level of investment, low wages and the current global economic crisis will not help to stem the emigration flow. ■

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2 This survey, conducted by the Victimology Society and financed by the US Department of State, constitutes a central part of the currently running research project on male victims of human trafficking in Serbia. The aim of the survey, conducted in 2008 and the beginning of 2009, was to gain knowledge about the scope, structure and characteristics of trafficking in human beings in Serbia, with particular emphasis on male trafficking, as well as about the response of state agencies and NGO sector to this phenomenon.

The Externalisation of Migration and Asylum Policies:

The Nouadhibou Detention Centre

The outsourcing of immigration and asylum policies by European countries, such as Spain in the case of the Nouadhibou centre in Mauritania, dangerously threatens migrants' basic human rights.

Spanish Commission for Refugee Aid (CEAR) as a member of 'Platform 2015 and More'

The European Union has been working towards a common policy regarding immigration and asylum; a process that has intensified over the last few years. In 2008, the EU approved two legal instruments (the Return Directive and the European Pact on Immigration and Asylum) with concerning implications for migrants: the criminalisation of irregular immigrants, the violation of migrants' rights, and the imposition of further obstacles for asylum-seekers and refugees. Moreover, various European countries have launched serious reforms in a similar direction through national legislation. Spain is currently in the process of enacting a new asylum law and preparing a restrictive reform of its immigration laws, at the request of the Spanish Government in both cases. In addition, significant efforts are being made to adopt policies that externalise migration control by making bordering countries east and south of the EU responsible for the containment of migrants trying to reach Europe.

In 2006, 31,678 migrants from Africa and Asia arrived in canoes on the shores of the Canary Islands, a phenomenon that triggered exaggerated media coverage and a disproportionate reaction by some political actors. Since then, the EU and the Spanish Government have intensified the presence of Frontex and signed repatriation agreements for migrants from some African countries (e.g., Senegal, Mauritania, among others). These agreements provide for joint patrols of the western African coastline by the police bodies of African countries and the Spanish Civil Guard (Spanish Gendarmerie). These measures have had an important impact: in 2008, only 9,181 individuals arrived at the Canary Islands, and between January and April of 2009, arrivals dropped by 50 per cent from the previous year, falling from 2,784 to 1,472, according to the Spanish Interior Ministry.

Mauritania: The case of Nouadhibou

However, externalisation policies, as successful as they may seem to some European governments determined to close international borders, violate the rights of refugees and migrants. As an example, we will look at the Nouadhibou detention centre

in Mauritania. The centre was built in March 2006 by members of the Spanish Army and funded by the Spanish Agency for International Development Cooperation (AECID). At the request of the Spanish Ministry of Foreign Affairs and Cooperation, the Spanish Commission for Refugee Aid (CEAR) carried out an evaluation of the site in October 2008.

Mauritania is not only one of the main transit countries for migrants on their way to Europe, but also a country of immigration and refuge, which is home to around 300,000 foreign workers, among whom between 10,000 and 40,000 live in the town of Nouadhibou. These foreign workers mainly occupy positions in the informal economy (local trade, agriculture, hospitality, construction, domestic work, and so forth). Although Mauritania has ratified numerous international human rights instruments of the UN, Organisation of African Union (OAU) and ILO, it does not have a normative framework for meeting the commitments made under these instruments. Attempts to migrate to a third country are not considered a criminal or administrative offence in Mauritania. There are no formal procedures or administrative regulations applying to detainees and no possibility for appeal before administrative or judicial authorities. Moreover, the right to legal aid and an interpreter is not upheld.

The Mauritanian authorities acknowledge the inadequacies of the laws and procedures governing migrants/asylum seekers, as pointed out by the CEAR delegation. They argue, however, that the situation will improve with the passing of the new regulatory migration law. However, instability resulting from the coup d'état of 6 August 2008 has delayed the implementation of these measures and the passing of the new law.

An old school becomes a jail

The CEAR delegation was able to confirm these inadequacies upon observing the Nouadhibou detention centre's facilities and interviewing government employees, migrants and social organisations. The centre is located near the heart of Nouadhibou, a city of around 120,000 inhabitants, in an old school in which the classrooms have been turned into cells. A quick look at the centre reveals deteriorating facilities due to lack of maintenance and, according to some of the individuals interviewed, theft of some of the equipment provided by the Spanish Army to renovate

the building. The Mauritanian officials in attendance displayed a striking lack of responsibility for the situation, although they admitted that the minimum requirements were not met and that it is necessary to move towards a more humanitarian approach to the treatment of migrants. They also pointed out clearly and emphatically that they perform their jobs at the express request of the Spanish Government. This situation leaves the Mauritanian officials at the mercy of the future decisions of the Spanish Government.

Due to the small and enclosed cells in the detention centre, the migrants lie in cots all day, enduring substandard and unhealthy conditions. The Mauritanian Red Crescent provides medical care. The centre has a small and very basic clinic for first aid, and, if a migrant needs to be hospitalised, the Red Crescent accompanies them and pays their expenses, as there is no provision for medical coverage in this country. The centre also provides a mobile phone to allow migrants to make at least one phone call to their families. None of the detainees interviewed had received legal assistance or the services of an interpreter during their detention. Some individuals complained about maltreatment at the Mauritanian police station.

Detainees do not perform any type of activity and are kept from walking or doing exercise in the courtyard; they are only allowed to walk the fifty or sixty metres to the latrine, with a police escort. This strict control is due to the fear that they might escape as a consequence of the poor conditions. Information received from various sources puts the average stay at between 3 to 15 days, except in extraordinary cases. The authorities point out that repatriation takes place as expeditiously as possible.

It is important to note that only five of the detainees interviewed acknowledged that they had been intercepted when attempting to cross into the Canary Islands. Eight others claimed they had been arrested in Nouadhibou while they were working, in most cases in the fishing industry, or while doing daily activities; they denied secretly seeking to immigrate to the Canary Islands.

According to the information collected, migrants are not informed of when, how or under what circumstances their transfer will take place. Many migrants interviewed expressed concern about how they would reach their place of origin after being left at the

border. Some stated that they might have to travel more than a thousand kilometres without resources (money, transport, food, drink). The general opinion among migrants, authorities and social organisations is that most of the migrants, once expelled, try to re-enter Mauritania.

International protection process paralysed

Mauritania has only had a formalised asylum procedure since 2005. The law stipulates that applications must be submitted to the Interior Ministry by the applicant himself or by the United Nations High Commission for Refugees (UNHCR). Applicants must be given a temporary residence permit, which can be renewed after three months; this status gives them the right to work and to use social services. Applications are reported to the National Advisory Commission on Refugees, which examines the cases and sends its opinion to the Interior Ministry for the final decision on recognition of the status of refugee.

An individual recognised as a refugee has the right to receive the same treatment as citizens in matters such as access to health services, employment, social security and education. If the request for asylum is rejected, there is no provision for appeal. However, these laws have not yet been put into practice and, given that the National Advisory Commission on Refugees still does not function with regularity, the task of reviewing applications for asylum devolves to the UNHCR. According to data from Amnesty International, there are currently 950 refugees in Mauritania under the protection of the High Commissioner. In March 2008, refugee status had only been confirmed in 38 out of 80 cases transferred from the UNHCR to the Interior Ministry. The institutional instability during 2008 paralysed the process.

In addition, there is neither a protocol nor an organised process for gaining access to detained migrants or to facilitate their access to information regarding the status of their application. This situation is in violation of the principle of devolution, which prevents the repatriation of migrants who are in danger of suffering reprisals in their state of origin. Organisations that defend refugees as well as the National Association for the Fight against Poverty (ALPD), one of UNHCR's local counterparts, should have special authorisation to enter detention centres to meet with migrants, detect asylum cases and offer assistance.

After analysing the situation of the detention centre, the inadequacy of its facilities, the conditions under which those who are subject to deportation to Senegal and Mali are kept, and the absence of a legal structure in Mauritania to monitor the centre's operation, CEAR's report called for the Mauritanian authorities to proceed with the immediate closure of the centre. Moreover, in accordance with this measure, both the Spanish Government and the EU, in conjunction with Frontex, should immediately suspend cooperation in migration matters that in any

way lead to the detention of immigrants under conditions such as described in Mauritania.

Conclusions

As reflected in CEAR's report, the current situation for migrants in Mauritania is very similar to the situation before the establishment of the centre in respect to the absence of basic rights and legal guarantees. There is great scope for improvement in the laws pertaining to migrants in Mauritania and their implementation, and in relation to the training of officials.

CEAR maintains a critical stance towards the outsourcing of immigration and asylum policies by the EU, and by Spain in particular, because it erodes basic rights and the rule of law and shifts the responsibility for migration control to third countries, most of which have not developed sufficient control mechanisms with respect to fundamental human rights in areas such as legal assistance, access to asylum procedures, the right to judicial review of administrative decisions or the period of detention.

Finally, there can be no long-term migration management without addressing the real causes of impoverishment and the absence of prospects of the affected populations; focusing the response to migration on border controls and containment diverts migration flows, strengthens the mafias that profit from migrants' suffering and generates resentment, which may have incalculable consequences. ■

BELGIUM

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lawyers; and a lack of motivation and skill on the part of the lawyers appointed to defend detainees. These obstacles are magnified by the expeditious nature of procedures in detention centres: e.g., in detention centres an appeal regarding asylum must be lodged within 15 days, instead of the normal 30 days. These accelerated procedures make it more stressful for the lawyer and client, compounding other obstacles.

These and other findings were made public in November 2008 in a report by NGOs visiting detention centres (CIRE, 2008).

To challenge their detention, foreigners may appeal to the *Chambre du Conseil*, the tribunal responsible for deciding about remanding people in custody. However, this judicial review is not automatic, as in criminal affairs, and control by the tribunal is limited. The judge may only assess the lawfulness of the detention, not whether or not the detention is proportionate and adequate according to the specific circumstances of the case. These limitations explain why only a small proportion of detention orders, 16 per cent, are challenged. ■

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POLAND

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in family structure and the stresses imposed by living 'between' two countries and cultures can also lead to children experiencing learning difficulties in school, and, in some cases, drug and alcohol abuse (Brzuskiwicz, 2004), although other factors may also play a part.

BOX 9: Siemiatycze chain migration to Brussels

Since the late 1980s, the small town of Siemiatycze of 16,000 inhabitants, located 140 km north-east of Warsaw has had a particular economic, social and cultural relationship with Brussels. It is difficult to remember who initiated the chain migration, but the town mayor estimates that between 2,000 and 3,000 thousand people from the town are working in Brussels. Interestingly, the local newspaper publishes daily weather reports for Brussels. Until 1 May 2009 and the opening of the Belgian labour market to new EU members, the vast majority of migrants worked illegally in construction and housekeeping or as nannies. The majority of migrants have been investing money in Siemiatycze. The successful ones, locally called 'Brusselites', own expensive villas on the lake shore, wear fashionable hairdos and clothes, and go to trendy pubs and restaurants, atypical of other towns in the region. Since this migration flow began, the number of divorces in Siemiatycze has risen significantly, and there has been an increase in drug and alcohol abuse among youth from non-traditional family structures. Nevertheless, a vast majority of school students surveyed consider Brussels as an obvious, although often temporary, option for their future (Brzuskiwicz, 2004).

The decision to migrate is often based on accounts given by family or friends. These personal links create rather curious patterns, resulting in chain migrations, like between the small town of Gostynin and Antwerp, Skarysko Kamienna and Rome, Gorzów Wielkopolski and Alsace, and the small village of Stare Juchy and Iceland (Gazeta Wyborcza, 4 August 2004).

The global financial crisis has affected Polish migration. With unemployment rising in West European countries, East-West migration flows are shrinking. An ILO report (2009) indicates that, in the United Kingdom, the number of work applications from nationals of new EU member states, and particularly Poland, are shrinking. The number of applications decreased from 53,000 for a three-month period in 2007 to 29,000 for the same period in 2008.

Some Polish trade unions recently called for restrictions towards foreign workers from the Ukraine and Belarus to make room for potential Polish returnees from Western European countries.

However, a massive return of Polish migrants has not been registered (ILO, 2009). According to a report by the Migration Department of the Ministry of Labour and Social Policy (2009, p.63), there has been no massive return, perhaps because migrants are trying to make use of every option available to them in their country of residency, such as accepting lower pay, taking on jobs below their qualification level, and unemployment and family subsidies. An additional alternative is migration to a country where the effects of the crisis are less severe. ■

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© MEASURING MIGRATION

Measuring Migration

Migration has always existed in human history, yet in the last decades, mainly after the fall of the Iron Curtain, and with the globalisation of economic activity, international movement has increased significantly. Demographic imbalances, large differences in real wages, wars, hunger, environmental disasters, political conflict and the simple search for new opportunities, push people to move. Migrants represent three per cent of the world's population and are a relevant part of each society, both economically and culturally. Nevertheless, the amount of internationally comparable information is very small.

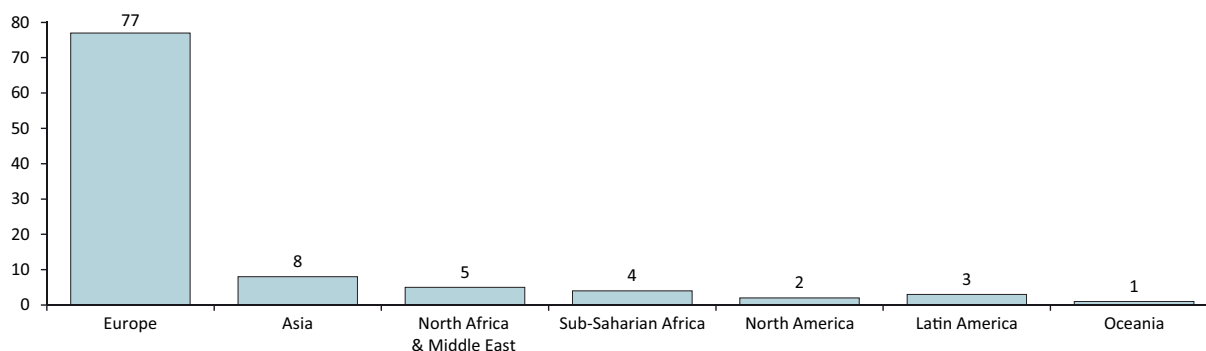
Presented here is a selection of information available from various international sources. The information is grouped into six sections¹:

- I. Immigration and emigration stocks (Tables 1, 2, 3 and 4)
- II. Student migration and brain drain (Tables 5, 6 and 7)
- III. Employment and qualification (Table 8, 9 and 10)
- IV. Remittances (Table 11)
- V. Students from immigrant backgrounds (Tables 12 and 13)
- VI. Immigration and emigration policies (Table 14)

What these tables tell us

The great majority of migrants in European countries come from Europe. This is particularly true in Eastern Europe where an important percentage of the population is composed by foreigners and more than 80 per cent of them – and in many countries more than 90 per cent – were born in Europe (tables 1 and 2). These figures are much lower in Western Europe where European migrants often fall below 50 per cent (e.g., in France, Italy, the Netherlands, Norway, Portugal, Spain and the United Kingdom) and where there is more immigration from other regions (e.g., Africa and the Middle East for southern countries and Asia for northern countries).

Figure 6: Where do the migrants come from? Estimated average per cent of migrants in European countries by region of birth



Source: Elaboration on World Bank data

Tables 4 and 7 show that countries that are usually considered recipient countries also have a considerable outflow of nationals every year. Countries like Austria, Italy and the United Kingdom have outflow quotas that exceed five per cent of their population.

Students are an important component of international mobility, even if they are not always counted as migrants. Most of them are bound for a limited number of countries, with a strong concentration in the United Kingdom, Germany and France. Linked to the migration of students is the so-called 'brain drain', the emigration of qualified people. In Albania, Czech Republic, Ireland, Macedonia and San Marino more than 20 per cent of people with a tertiary education emigrate. In Bosnia Herzegovina, despite a very low number of physicians per capita, 12 per cent of doctors emigrate. In Ireland, although the number of physicians is below the average, 22 per cent work abroad.

In relation to employment issues, there is a serious lack of data, preventing a complete comparison among countries. The migrant labour force is high in Baltic countries (nearly 20% in Estonia and Latvia – but very low in Lithuania) and significant in various EU countries, where they make up more than 5 per cent of the labour force (e.g., in Austria, Germany, France, Italy, Greece and Slovenia). However, it is important to note that ILO data only measure registered workers. Hence, the number of migrants working in, for example, agriculture in Southern Europe is relatively underestimated.

The migrant labour force, as opposed to the overall number of migrants, is prevalently masculine and more qualified than native populations. In fact, in most countries, the percentage of highly qualified migrants aged 25 to 34 staying in the country since they were 10 years old or less is higher than the percentage of 25 to 34 year-old native workers.

It is quite normal for migrant workers to send money home. Yet remittances are not very relevant for most European countries, counting for less than one per cent of GDP. But in a dozen of cases they overtake this threshold and there are a few cases in which remittance inflows represent more than 10 per cent of GDP: Albania, Armenia and Bosnia Herzegovina. In Moldova they constitute up to 34 per cent of gross national product.

¹ Prepared by Lunaria.

One of the few international surveys that enable us to evaluate the standard of living of migrants in various countries is the Program for International Students Assessment (PISA) conducted every three years by the OECD. As well as assessing the quality of schools and of the education system, the OECD analyses the background of students and, on that basis, builds a synthetic index called the economic, social and cultural status (ESCS) index, which takes into account a number of issues related to family wealth, occupational status, the educational attainment of parents, and educational resources at home. Students with an immigrant background (that is first and second generation immigrants) score lower on the ESCS index than native students, except in Montenegro. Yet in some countries, the differences are less pronounced than in others. In Spain and the United Kingdom the difference is less than 0.30 points, on the while in Denmark and Luxembourg it is more than 0.90. These differences, together with the ones relative to the different performance of native and migrant students, may represent one of the few internationally comparable indicators of migrant integration.

Table 14 synthesises the major characteristics of migration policies in European countries, as well as the adoption by the states of migration related UN treaties.

BOX 10: Methodological problems

Measuring migration entails a number of difficulties that make the availability of information quite scarce, even when simply measuring the number of migrants. The major limitations are due to the fact that only registered migrations across borders are counted.

Internal migration is not considered. According to UNDP internal migrants are almost four times the number of international migrants, thus representing an important phenomenon for a number of countries, especially for larger countries with internal economic and social differences. Not considering them may greatly bias the real overall figures of the migration phenomena.

In addition, figures reflect only legal migration, as measured by the receiving country. Illegal migrants are obviously not counted and no country generally counts the number of people leaving, which means that there is no double checking mechanism. Also, short-term migrants are often not registered under national regulatory frameworks and, therefore, are not included in available statistics. To be registered, a person entering from outside the country must intend to stay in the country for a specified minimum period, which may vary from one week (Germany) to three months (Belgium), or even one year (Sweden). This means that short-term migrants are counted in Germany, but not in Sweden. With the exception of asylum seekers, the reasons why people migrate are not always explicit or recorded. Hence, international students and seasonal workers are both considered migrants for statistical purposes.

Furthermore, second generation migrants are not counted as migrants. They are not technically migrants, but, from a sociological point of view, they may face similar difficulties.

These are the main problems faced when trying to measure the stock of people moving into other countries (i.e., the quantity of migration). In relation to the qualitative aspects of migration (i.e., reasons for migrating, level of education, sector of employment), many countries lack data, and a qualitative analysis of the standards of living of migrants across countries (i.e., income, production, consumption, hours worked, access to credit, access to health care, family reunion, life satisfaction, etc.) simply does not exist. These are issues studied locally through surveys. The only international survey on qualitative aspects of migration is the one conducted by the OECD on the quality of education (PISA), which fortunately takes into consideration first and second generation migrant students.

Immigration and Emigration Numbers

TABLE 1: ESTIMATED NUMBER OF INTERNATIONAL MIGRANTS (MALE AND FEMALE) AT MID-YEAR

	Migrants	Migrants as a percentage of the population	Female migrants, %	Refugees	Refugees as a percentage of international migrants
Year	2005	2005	2005	2005	2005
Albania	82,668	2.6	50.8	71	0.1
Andorra	52,342	77.9	50.8	0	0.0
Armenia	235,235	7.8	58.9	233,233	99.1
Austria	1,233,546	15.1	51.9	18,703	1.5
Azerbaijan	181,818	2.2	57.8	44,217	24.3
Belarus	1,190,944	12.2	57.8	772	0.1
Belgium	719,276	6.9	49.1	14,021	1.9
Bosnia and Herzegovina	40,814	1.0	50.8	22,065	54.1
Bulgaria	104,076	1.3	57.9	5,026	4.8
Croatia	661,417	14.5	52.9	3,347	0.5
Cyprus	116,137	13.9	58.7	654	0.6
Czech Republic	453,265	4.4	53.8	993	0.2
Denmark	388,535	7.2	50.8	63,148	16.3
Estonia	201,743	15.2	59.6	10	0.0
Finland	156,179	3.0	51.0	11,573	7.4
France	6,471,029	10.7	51.6	144,589	2.2
Georgia	191,220	4.3	37.4	2,082	1.1
Germany	10,143,626	12.3	48.3	837,516	8.3
Greece	973,677	8.8	55.6	2,358	0.2
Hungary	316,209	3.1	52.4	8,075	2.6
Iceland	23,097	7.8	53.8	239	1.0
Ireland	585,429	14.1	50.0	7,907	1.4
Italy	2,519,040	4.3	55.8	17,316	0.7
Latvia	449,215	19.5	57.8	8	0.0
Liechtenstein	11,716	33.9	51.4	0	0.0
Lithuania	165,197	4.8	56.6	403	0.2
Luxembourg	173,645	37.4	50.1	5,194	3.0
Macedonia, FYR	121,291	6.0	58.3	2,289	1.9
Malta	10,676	2.7	56.2	2,055	19.2
Moldova	440,121	10.5	57.8	42	0.0
Monaco	24,650	69.9	50.2	0	0.0
Netherlands	1,638,104	10.1	54.4	120,301	7.3
Norway	343,929	7.4	50.9	43,049	12.5
Poland	702,808	1.8	59.9	2,929	0.4
Portugal	763,668	7.3	52.0	358	0.0
Romania	133,441	0.6	50.7	1,463	1.1
Russian Federation	12,079,626	8.4	57.8	801	0.0
San Marino	9,424	33.5	53.5	0	0.0
Serbia and Montenegro	512,336	4.9	57.0	269,604	52.6
Slovakia	124,464	2.3	56.0	406	0.3
Slovenia	167,330	8.5	45.6	116	0.1
Spain	4,790,074	11.1	47.4	5,507	0.1
Sweden	1,117,286	12.4	52.1	59,385	5.3
Switzerland	1,659,686	22.9	49.7	46,490	2.8
Turkey	1,328,405	1.8	52.6	3,347	0.3
Ukraine	6,833,198	14.7	57.8	2,273	0.0
United Kingdom	5,408,118	9.1	54.3	295,530	5.5

Source: UN ESA

DEFINITIONS:

Migrants: Estimated number of international migrants at mid-year (both sexes)

Migrants as a percentage of the population: International migrants as a percentage of the population

Female migrants: % Female migrants as percentage of all international migrants

Refugees: Estimated number of refugees at mid-year

Refugees as a percentage of international migrants: Refugees at mid-year as a percentage of international migrants

TABLE 2: ESTIMATED NUMBER OF MIGRANTS RELATED TO COUNTRY OF BIRTH

	Estimated number of migrants from Oceania %	Estimated number of migrants from Asia %	Estimated number of migrants from North America %	Estimated number of migrants from South and Central America and Caribbean %	Estimated number of migrants from Europe %	Estimated number of migrants from Middle East and North Africa %	Estimated number of migrants from Sub-Saharan Africa %
Year	2000	2000	2000	2000	2000	2000	2000
Albania	0.16	4.39	0.79	0.51	93.03	0.82	0.31
Andorra	0.13	1.82	0.24	1.26	94.90	1.34	0.32
Armenia	0.02	2.21	0.05	0.40	88.78	8.29	0.23
Austria	0.21	4.10	0.94	0.75	89.81	3.54	0.66
Azerbaijan	0.00	8.11	0.00	0.00	91.89	0.00	0.00
Belarus	0.01	0.41	0.02	0.17	99.21	0.08	0.10
Belgium	0.14	5.17	1.64	2.21	67.22	14.23	9.39
Bosnia and Herzegovina	0.01	0.30	0.02	0.17	99.33	0.08	0.10
Bulgaria	0.08	2.43	0.18	1.39	94.47	0.67	0.79
Croatia	0.14	0.16	0.22	0.12	99.24	0.05	0.07
Cyprus	1.77	13.61	2.68	0.40	68.59	8.64	4.32
Czech Republic	0.08	4.45	0.60	0.33	93.75	0.57	0.24
Denmark	0.63	18.05	3.08	2.77	54.14	15.11	6.23
Estonia	0.06	1.78	0.13	1.02	95.93	0.50	0.58
Finland	0.57	9.16	3.11	1.58	73.21	6.85	5.52
France	0.11	6.38	0.99	1.78	40.76	40.94	9.03
Georgia	0.04	3.42	0.99	0.68	93.34	1.14	0.39
Germany	0.47	12.17	1.92	5.05	65.92	9.35	5.13
Greece	1.88	5.58	3.17	0.61	82.39	4.80	1.57
Hungary	0.10	3.02	1.09	0.39	93.85	1.21	0.34
Iceland	0.62	13.98	9.37	2.61	69.84	1.85	1.73
Ireland	2.10	6.24	6.41	0.88	77.00	1.45	5.93
Italy	0.45	18.22	3.61	12.21	40.86	16.48	8.17
Latvia	0.00	13.21	0.59	0.01	85.81	0.37	0.00
Liechtenstein	0.02	1.12	0.09	0.64	97.51	0.29	0.33
Lithuania	0.01	4.96	0.54	0.10	94.28	0.10	0.01
Luxembourg	0.10	2.68	1.00	1.35	90.22	1.50	3.15
Macedonia FYR	0.01	0.32	0.02	0.18	98.77	0.60	0.10
Malta	22.69	3.87	14.60	2.16	51.48	3.92	1.28
Moldova	0.07	2.01	0.15	1.15	95.41	0.56	0.66
Monaco	0.23	7.58	1.72	4.31	81.59	2.10	2.47
Netherlands	0.83	18.66	1.84	19.53	37.65	15.20	6.28
Norway	0.46	21.59	5.10	6.02	48.95	10.63	7.25
Poland	0.09	1.07	1.38	0.16	96.67	0.48	0.16
Portugal	0.19	2.51	2.25	11.64	29.63	0.35	53.44
Romania	0.02	2.29	1.12	0.08	89.30	7.14	0.05
Russian Federation	0.05	38.93	0.10	0.79	59.30	0.38	0.45
San Marino	0.85	12.36	2.28	7.53	53.65	15.15	8.18
Serbia and Montenegro	0.90	12.77	2.36	7.78	52.13	15.60	8.46
Slovakia	0.05	0.96	0.79	0.19	97.46	0.37	0.17
Slovenia	0.10	0.86	0.07	0.53	98.21	0.15	0.07
Spain	0.21	3.52	1.16	38.68	36.50	16.56	3.38
Sweden	0.32	8.84	1.63	5.83	62.32	16.46	4.60
Switzerland	0.38	6.34	2.01	4.19	80.18	3.75	3.14
Turkey	0.26	2.75	1.19	0.10	92.14	3.42	0.15
Ukraine	0.04	12.28	0.10	0.77	86.00	0.41	0.38
United Kingdom	3.54	29.62	4.77	6.95	34.76	4.53	15.84

Source: World Bank

TABLE 3: ACQUISITIONS OF CITIZENSHIP

	Acquisitions of citizenship 2000	Acquisitions of citizenship 2006	Percentage variation 2000-2006***	Asylum applications 2000	Asylum applications 2006	Percentage variation 2000-2006***
Albania	-	-	-	-	-	-
Andorra	-	-	-	-	-	-
Armenia	-	-	-	-	-	-
Austria*	24,320	25,746	6	18,285	13,350	-27
Azerbaijan	-	-	-	-	-	-
Belarus	-	31,860	-	-	-	-
Belgium	-	-	-	42,690	12,575	-71
Bosnia and Herzegovina	-	-	-	-	-	-
Bulgaria	-	6,738	-	1,755	500	-72
Croatia	-	-	-	-	-	-
Cyprus	296	2,917	885	650	4,540	598
Czech Republic	-	2,346	-	8,790	2,730	-69
Denmark	18,811	7,961	-58	10,345	1,960	-81
Estonia	3,425	4,781	40	5	5	0
Finland	2,977	4,433	49	3,170	2,275	-28
France	-	147,868	-	38,745	30,750	-21
Georgia	-	-	-	-	-	-
Germany*	186,688	124,566	-33	78,565	21,030	-73
Greece	-	1,962	-	3,085	12,265	298
Hungary	5,393	6,101	13	7,800	2,115	-73
Iceland	-	-	-	-	40	-
Ireland	1,143	5,763	404	10,940	4,240	-61
Italy	-	35,266	-	15,195	10,350	-32
Latvia	13,482	18,964	41	5	10	100
Liechtenstein	-	-	-	-	-	-
Lithuania*	490	467	-5	305	145	-52
Luxembourg	684	1,128	65	625	525	-16
Macedonia FYR	-	-	-	-	-	-
Malta**	-	474	-	160	1,270	694
Moldova	-	-	-	-	-	-
Monaco	-	-	-	-	-	-
Netherlands*	49,968	29,089	-42	43,895	14,465	-67
Norway	-	-	-	10,845	5,320	-51
Poland	-	989	-	4,660	4,225	-9
Portugal	1,143	3,627	217	225	130	-42
Romania*	-	29	-	1,365	380	-72
Russian Federation	-	-	-	-	-	-
San Marino	-	-	-	-	-	-
Serbia and Montenegro	-	-	-	-	-	-
Slovakia*	-	1,125	-	1,555	2,850	83
Slovenia*	2,102	3,204	52	9,245	500	-95
Spain	16,743	62,375	273	7,925	5,295	-33
Sweden	43,474	51,239	18	16,285	24,320	49
Switzerland	-	-	-	15,780	8,580	-46
Turkey	-	-	-	-	-	-
Ukraine	-	-	-	-	-	-
United Kingdom	82,210	154,015	87	80,315	28,320	-65
EU 27				406,585	197,410	-51
EU 25				403,465	196,530	-51
EU 15				379,530	178,640	-53

Source: Eurostat

NOTES:

* Countries for which only acquisitions by naturalisation are available

** Estimate

*** Social Watch calculation

TABLE 4: OUTFLOWS OF NATIONALS BY SEX

	Outflows of nationals			Year*
	Men	Women	Total	
Albania	-	-	-	
Andorra	-	-	-	
Armenia	3,709	5,594	9,303	2005
Austria	41,377	31,277	72,654	2001
Azerbaijan	1,248	1,396	2,644	2006
Belarus	6,173	7,205	13,378	2002
Belgium	26,730	26,235	52,965	2001
Bosnia and Herzegovina	-	-	-	
Bulgaria	-	-	62,000	1996
Croatia	3,506	3,461	6,967	2006
Cyprus	137	92	229	2006
Czech Republic	909	1,360	2,269	2005
Denmark	22,777	20,689	43,466	2003
Estonia	-	-	2,545	1998
Finland	6,036	6,071	12,107	2006
France	-	-	-	
Georgia	-	-	-	
Germany	81,320	63,495	144,815	2005
Greece	-	-	-	
Hungary	1,405	1,173	2,578	2002
Iceland	2,297	2,193	4,490	2002
Ireland	9,600	10,300	19,900	2000
Italy	23,486	18,270	41,756	2003
Latvia	1,100	1,110	2,210	2003
Liechtenstein	-	-	-	
Lithuania	6,259	7,047	13,306	2005
Luxembourg	5,510	5,030	10,540	2003
Macedonia FYR	594	479	1,073	2006
Malta	36	37	73	2001
Moldova	3,011	3,674	6,685	2006
Monaco	-	-	-	
Netherlands	36,412	32,473	68,885	2003
Norway	13,026	11,646	24,672	2003
Poland	12,411	12,121	24,532	2002
Portugal	22,353	5,005	27,358	2002
Romania	5,341	8,856	14,197	2006
Russian Federation	-	-	18,480,952	2000
San Marino	19	27	46	2003
Serbia and Montenegro	-	-	-	
Slovakia	1,317	1,467	2,784	2005
Slovenia	1,286	1,338	2,624	2002
Spain	34,798	29,500	64,298	2003
Sweden	17,224	15,785	33,009	2002
Switzerland	28,951	25,484	54,435	2005
Turkey	-	-	-	
Ukraine	-	-	27,245	2006
United Kingdom	153,545	124,017	277,562	2000

Source: ILO

NOTES:

 * Year refers to last available data on ILO LABORSTA Internet Database, <laborsta.ilo.org>

Student Migration and Brain Drain

TABLE 5: NUMBER OF FOREIGN STUDENTS ENROLLED IN TERTIARY EDUCATION BY COUNTRY OF DESTINATION, HEAD COUNT

Year	Major countries of destination							Total of all reporting destinations
	Austria ¹	Belgium	France	Germany ³	Italy	Switzerland ¹	United Kingdom	
	2004	2004	2004	2004	2004	2004	2004	2004
Albania	174	87	369	625	8,494	193	188	14,029
Andorra	n	1	231	4	6	2	4	1,281
Armenia	28	58	290	371	38	35	36	3,322
Austria	a	46	495	6,924	208	877	1,308	12,355
Azerbaijan	12	11	171	311	7	4	87	4,916
Belarus	n	61	465	1,737	105	39	92	12,768
Belgium	72	a	2,841	1,021	174	302	2,418	10,928
Bosnia and Herzegovina	1,732	30	168	2,801	232	182	106	11,220
Bulgaria	1,696	206	2,905	12,116	556	316	557	25,645
Croatia	1,073	28	141	5,437	1,357	322	226	10,637
Cyprus	22	14	187	214	100	13	4,208	18,967
Czech Republic	500	71	662	2,483	152	185	359	7,076
Denmark	69	41	312	697	66	96	1,662	6,586
Estonia	24	18	107	728	28	23	103	4,368
Finland	139	73	332	1,056	95	105	1,883	9,992
France	420	13,370	a	6,678	819	3,856	11,295	57,231
Georgia	42	25	275	3,000	26	24	80	7,547
Germany	6,116	519	6,698	a	1,350	7,492	12,096	61,845
Greece	235	581	2,288	7,577	7,159	284	22,826	51,138
Hungary	1,344	95	536	3,097	184	211	371	8,052
Iceland	27	10	53	167	19	12	317	3,195
Ireland	34	59	522	486	18	37	14,713	17,823
Italy	6,240	2,740	4,686	8,111	a	4,507	5,215	44,892
Latvia	31	24	145	916	40	40	186	4,284
Liechtenstein	125	1	8	19	n	482	13	665
Lithuania	47	34	229	1,701	67	51	210	7,800
Luxembourg	334	1,465	1,709	2,071	25	259	833	6,886
Macedonia FYR	167	17	99	819	120	113	90	10,304
Malta	1	1	21	50	39	6	476	781
Moldova	23	39	463	597	122	30	67	353
Monaco	n	2	295	1	9	1	31	12,274
Netherlands	120	3,078	616	1,876	102	320	2,473	15,517
Norway	67	25	322	787	112	110	3,653	30,454
Poland	1,357	381	3,270	15,417	1,002	475	964	12,761
Portugal	48	760	2,701	1,922	87	702	2,649	-
Romania	493	449	4,474	4,220	1,225	506	615	9,842
Russian Federation	338	476	2,597	11,462	512	571	1,878	22,875
San Marino	1	n	1	13	774	2	118	38,362
Serbia and Montenegro	1,095	105	489	3,747	712	675	351	940
Slovakia	1,515	59	438	1,640	148	192	158	11,195
Slovenia	619	15	77	628	326	52	265	15,719
Spain	334	1,272	3,928	6,014	416	1,655	6,105	2,675
Sweden	184	46	675	839	129	250	3,379	27,607
Switzerland	258	116	1,463	2,169	1,075	a	1,467	13,927
Turkey	2,018	348	2,273	27,582	182	706	1,960	54,381
Ukraine	291	124	924	7,618	227	185	511	29,353
United Kingdom	186	270	2,611	2,154	247	356	a	25,691

Source: OECD

NOTES:

1. Excludes tertiary-type B programmes.
 2. Year of reference 2002.
 3. Excludes advanced research programmes.
- n: magnitude nil — a: not applicable

TABLE 6: NUMBER OF FOREIGN STUDENTS IN TERTIARY EDUCATION, BY REGION OF ORIGIN AND DESTINATION (2004) AND MARKET SHARES IN INTERNATIONAL EDUCATION

Year	Regions of origin of foreign students						Market share 2004 %
	Africa	Asia	Europe	North America	South America	Oceania	
2004	2004	2004	2004	2004	2004	2004	
Albania							
Andorra							
Armenia							
Austria	582	4,715	27,529	402	386	26	1.27
Azerbaijan							
Belarus							
Belgium	11,390	4,138	26,801	320	1,126	46	1.67
Bosnia and Herzegovina							
Bulgaria							
Croatia							
Cyprus							
Czech Republic	284	1,130	9,929	90	141	6	0.56
Denmark	690	2,586	8,230	340	295	54	0.65
Estonia							
Finland	894	2,249	4,258	263	160	34	0.30
France	110,841	36,500	51,582	3,954	9,427	271	8.96
Georgia							
Germany	23,698	94,438	128,455	4,172	7,424	414	9.82
Greece	256	12,005	1,971	36	11	4	0.54
Hungary	242	1,854	10,463	318	31	5	0.49
Iceland	10	44	374	35	22	3	0.02
Ireland	589	3,599	4,868	2,336	78	63	0.48
Italy	3,620	4,373	28,539	476	3,285	48	1.53
Latvia							
Liechtenstein							
Lithuania							
Luxembourg							
Macedonia FYR							
Malta							
Moldova							
Monaco							
Netherlands	2,191	4,907	12,332	373	1,383	52	0.80
Norway	1,062	1,821	6,092	365	311	32	0.47
Poland	278	1,291	5,757	697	77	6	0.31
Portugal	9,622	293	2,874	765	2,506	28	0.61
Romania							
Russian Federation							
San Marino							
Serbia and Montenegro							
Slovakia	102	370	1,130	18	20		0.06
Slovenia							
Spain	6,219	1,664	13,095	830	19,871	55	1.57
Sweden	954	4,411	20,254	1,441	1,026	325	1.38
Switzerland	2,533	3,229	27,294	635	1,418	79	1.35
Turkey	371	9,714	5,119	35	9	31	0.58
Ukraine							
United Kingdom	26,696	140,797	102,920	17,628	8,639	2,175	11.32

Source: OECD

DEFINITION:

Market share: proportions of all foreign students worldwide enrolled in each destination

TABLE 7: MIGRATION RATE RELATED TO PRIMARY, SECONDARY AND TERTIARY EDUCATION AND MEDICAL BRAIN DRAIN

	Migration rate %				Variation in tertiary education (1990-2000)	Physicians per 1000 people	Physicians' emigration rates %	Physicians' emigration stocks
	Primary education	Secondary education	Tertiary education	All education groups				
Source	(a)	(a)	(a)	(a)	(a)	(b)	(b)	(b)
Year	2000	2000	2000	2000	2000/1990	2004	2004	2004
Albania	4.5	9.0	20.0	8.1	NR	1.4	2.17	98
Andorra	1.0	1.0	2.3	1.2	-	2.6	1.28	2
Armenia	-	-	-	-	-	3.5	0.12	13
Austria	6.0	4.1	11.10	5.80	-7.2	3.3	6.07	1,726
Azerbaijan	-	-	-	-	-	3.5	0.03	8
Belarus	-	-	-	-	-	4.5	0.08	35
Belgium	1.7	2.9	5.9	2.90	-1.1	3.9	5.75	2,468
Bosnia and Herzegovina	11.7	17.0	28.6	15.9	-	1.3	12.97	825
Bulgaria	-	-	-	-	-	3.4	3.11	850
Croatia	-	-	-	-	-	2.4	3.07	334
Cyprus	-	-	-	-	-	3.0	5.97	146
Czech Republic	9.7	10.3	29.4	12.4	-	3.5	3.58	1,327
Denmark	5.2	2.6	7.0	4.4	NR	3.7	4.22	870
Estonia	3.4	4.4	13.9	5.4	-	3.2	3.00	132
Finland	8.8	5.9	8.4	7.3	NR	3.1	5.81	996
France	1.2	1.6	3.9	1.9	-1.2	3.3	2.25	4,546
Georgia	-	-	-	-	-	3.9	0.07	15
Germany	2.4	2.4	8.8	3.6	-5.5	3.3	3.44	9,710
Greece	8.5	7.8	14.0	9.1	-4.9	4.4	6.50	3,374
Hungary	-	-	-	-	-	3.1	6.37	2,136
Iceland	9.3	7.7	16.3	9.8	NR	3.6	25.28	352
Ireland	18.2	20.2	34.4	22.8	0.0	2.4	22.37	2,763
Italy	4.5	4.9	7.0	5.0	-2.8	4.4	2.40	6,226
Latvia	1.7	2.0	10.2	3.0	-	2.9	1.90	131
Liechtenstein	6.1	15.9	16.9	13.3	-10.8	-	-	-
Lithuania	7.3	2.8	11.8	5.4	-	4.0	1.61	227
Luxembourg	4.1	6.1	7.6	5.4	-3.5	2.6	21.44	318
Macedonia FYR	12.7	11.5	20.9	13.1	-	2.2	1.59	73
Malta	25.6	10.1	55.2	23.9	-16.3	2.9	7.81	99
Moldova	-	-	-	-	-	2.7	0.19	21
Monaco	4.5	6.5	15.3	7.4	2.1	-	-	-
Netherlands	5.0	2.9	8.9	4.9	-2.4	3.1	6.42	3,448
Norway	9.0	2.2	5.4	3.9	-2.8	3.6	3.55	597
Poland	-	-	-	-	-	2.3	5.46	5,071
Portugal	13.1	20.5	13.8	14.3	-0.8	3.2	2.31	789
Romania	-	-	-	-	-	1.9	6.47	2,840
Russia	-	-	-	-	-	4.2	0.39	2,348
San Marino	9.1	1.4	29.9	10.8	NR	2.5	0.00	0
Serbia and Montenegro	6.1	7.4	17.4	7.9	-	2.1	9.85	1,888
Slovakia	-	-	-	-	-	3.6	3.87	781
Slovenia	4.9	4.1	11.0	5.5	-	2.2	2.12	95
Spain	1.6	1.8	2.6	1.8	-0.8	2.9	4.29	5,337
Sweden	4.9	1.3	4.4	2.8	-0.6	3.0	3.87	1,099
Switzerland	2.0	1.8	9.1	3.1	-1.3	3.6	4.37	1,209
Turkey	-	-	-	-	-	1.3	2.31	2,171
Ukraine	-	-	-	-	-	3.0	1.46	2,131
United Kingdom	4.5	4.3	16.7	7.0	-2.2	2.1	9.25	12,706

Source: (a) OECD, (b) World Bank

NOTES:
NR: Statistically non reliable

DEFINITIONS:
Variation in tertiary education (1990-2000): % of migration rate in 1990 minus % of migration rate in 2000

Physicians per 1000 people: Number of physicians per 1,000 people

Physicians' emigration rates %: Total physicians' emigration rate (stock of physicians abroad as per cent of physicians trained in their country)

Physicians' emigration stocks: Total stock of physicians abroad

Employment and Qualification

TABLE 8: EMPLOYED PERSONS BY SEX, TOTAL AND MIGRANT POPULATION

	Employed population	Employed international migrant population	Percentage of employed migrant population out of employed population*	Percentage of women out of employed international population*	Year**
Albania	-	-	-	-	-
Andorra	43,380	36,561	84.3	-	2006
Armenia	-	-	-	-	-
Austria	3,824,400	384,663	10.1	42.6	2005
Azerbaijan	3,973,000	6,231	0.2	-	2006
Belarus	4,401,900	-	-	-	2006
Belgium	-	390,700	-	-	1998
Bosnia and Herzegovina	-	-	-	-	-
Bulgaria	-	-	-	-	-
Croatia	-	-	-	-	-
Cyprus	357,281	48,375	13.5	57.9	2006
Czech Republic	4,868,762	161,711	3.3	18.9	2003
Denmark	2,642,075	140,231	5.3	44.0	2002
Estonia	537,300	106,500	19.8	41.9	2003
Finland	2,247,796	40,978	1.8	40.8	2005
France	23,261,500	1,249,768	5.4	35.2	2000
Georgia	-	-	-	-	-
Germany	35,805,000	2,521,900	7.0	34.2	1997
Greece	4,452,817	289,800	6.5	36.9	2006
Hungary	3,930,073	64,626	1.6	0.0	2006
Iceland	-	-	-	-	-
Ireland	1,610,600	60,100	3.7	39.8	2000
Italy	21,639,792	1,348,424	6.2	38.0	2006
Latvia	961,900	175,500	18.2	46.0	2001
Liechtenstein	-	-	-	-	-
Lithuania	1,488,372	10,610	0.7	44.1	2006
Luxembourg	107,172	87,717	81.8	41.5	2006
Macedonia FYR	-	-	-	-	-
Malta	148,288	4,190	2.8	-	-
Moldova	-	291	-	-	2001
Monaco	-	-	-	-	-
Netherlands	-	235,000	-	36.2	1998
Norway	2,275,000**	181,444	NA	45.6	2006
Poland	7,679,694	5,830	0.1	27.7	2002
Portugal	5,088,888	91,600	1.8	-	1999
Romania	9,234,177	1,470	0.0	-	2002
Russian Federation	-	2,114	-	10.5	1999
San Marino	-	7,398	-	27.9	1998
Serbia and Montenegro	-	-	-	-	-
Slovakia	-	-	-	-	-
Slovenia	772,818	41,819	5.4	12.7	2003
Spain	16,458,100	523,500	3.2	41.4	2002
Sweden	4,101,856	171,144	4.2	48.6	2001
Switzerland	2,944,000	964,000	32.7	37.0	2000
Turkey	25,407,910	47,791	0.2	38.1	2000
Ukraine	-	-	-	-	-
United Kingdom	28,414,542	1,314,782	4.6	43.9	2002

Source: ILO

NOTES:

NA: Not Available

* Social Watch calculation based on ILO data

** Year refers to last available data on ILO LABORSTA Internet Database, <laborsta.ilo.org>

TABLE 9: EMPLOYED MIGRANT POPULATION BY ECONOMIC SECTOR

	% of employed international migrant population out of employed population by sector						
	A	C	D	F	G	H	O
Albania	-	-	-	-	-	-	-
Andorra	90.34	-	87.82	90.91	-	96.33	-
Armenia	-	-	-	-	-	-	-
Austria	1.99	-	14.48	18.26	9.87	24.45	-
Azerbaijan	0.00	0.39	0.22	0.18	0.04	0.73	-
Belarus	-	-	-	-	-	-	-
Belgium	-	-	-	-	-	-	-
Bosnia and Herzegovina	-	-	-	-	-	-	-
Bulgaria	-	-	-	-	-	-	-
Croatia	-	-	-	-	-	-	-
Cyprus	21.97	-	7.75	20.89	9.12	24.06	17.32
Czech Republic	-	-	-	-	-	-	-
Denmark	3.31	2.16	3.82	1.55	2.91	11.85	-
Estonia	5.76	83.87	37.26	33.64	17.96	24.29	17.82
Finland	0.93	0.36	1.56	1.73	1.61	5.53	-
France	4.23	-	-	-	-	-	8.95
Georgia	-	-	-	-	-	-	-
Germany	-	-	-	-	-	-	-
Greece	3.92	4.23	7.47	25.35	3.00	10.16	3.27
Hungary	0.49	-	0.80	1.53	0.73	0.79	-
Iceland	-	-	-	-	-	-	-
Ireland	1.00	1.64	3.62	2.91	2.21	7.59	4.42
Italy	-	-	-	-	-	-	-
Latvia	0.14	-	0.13	0.08	0.01	1.35	0.05
Liechtenstein	-	-	-	-	-	-	-
Lithuania	0.50	4.12	1.10	1.11	0.56	0.48	0.72
Luxembourg	-	-	-	-	-	-	-
Macedonia FYR	-	-	-	-	-	-	-
Malta	-	-	0.21	11.87	2.52	5.17	2.10
Moldova	-	-	-	-	-	-	-
Monaco	-	-	-	-	-	-	-
Netherlands	-	-	-	-	-	-	-
Norway	1.40	5.82	4.67	3.21	3.66	15.10	-
Poland	0.04	0.00	-	0.03	0.08	0.24	-
Portugal	-	-	-	-	-	-	-
Romania	-	-	-	-	-	-	-
Russian Federation	-	-	-	-	-	-	-
San Marino	30.65	-	103.06	122.52	-	71.38	31.14
Serbia and Montenegro	-	-	-	-	-	-	-
Slovakia	-	-	-	-	-	-	-
Slovenia	1.12	4.08	2.95	38.83	2.60	6.37	2.09
Spain	4.57	4.23	-	-	-	-	-
Sweden	1.65	1.99	4.99	2.57	3.55	12.18	-
Switzerland	5.24	-	35.21	39.91	25.41	53.99	-
Turkey	0.06	0.07	-	-	-	-	-
Ukraine	-	-	-	-	-	-	-
United Kingdom	1.82	4.58	-	-	-	-	-

Source: ILO

NOTES:
A: Agriculture, hunting and forestry

C: Mining and quarrying

D: Manufacturing

F: Construction

G: Wholesale and retail trade; repair of motor vehicles, motorcycles and personal and household goods

H: Hotels and restaurants

O: Other community, social and personal service activities

TABLE 10: EDUCATIONAL ATTAINMENT OF RECENT IMMIGRANTS COMPARED TO THAT OF NATIVE-BORN AGED 25-34

	Foreign-born labour force present in the country for 10 years or less %			Native-born labour force (25-34 years old) %			Difference Foreign-born – Native-born		
	Low education	Intermediate education	High education	Low education	Intermediate education	High education	Low education	Intermediate education	High education
Year	2008	2008	2008	2008	2008	2008	2008	2008	2008
EU 15	33.8	41.9	24.3	19.0	48.0	33.1	14.8	-6.0	-8.8
Albania	-	-	-	-	-	-	-	-	-
Andorra	-	-	-	-	-	-	-	-	-
Armenia	-	-	-	-	-	-	-	-	-
Austria	25.5	51.4	23.1	7.3	71.2	21.5	18.2	-19.7	1.6
Azerbaijan	-	-	-	-	-	-	-	-	-
Belarus	-	-	-	-	-	-	-	-	-
Belgium	32.2	24.9	42.9	14.9	41.6	43.5	17.4	-16.7	-0.6
Bosnia and Herzegovina	-	-	-	-	-	-	-	-	-
Bulgaria	-	-	-	-	-	-	-	-	-
Croatia	-	-	-	-	-	-	-	-	-
Cyprus	-	-	-	-	-	-	-	-	-
Czech Republic	11.6	62.8	25.6	4.7	80.9	14.4	6.9	-18.1	11.2
Denmark	27.3	33.5	39.2	8.1	50.7	41.2	19.2	-17.2	-2.0
Estonia	-	-	-	-	-	-	-	-	-
Finland	30.5	51.0	18.5	9.4	49.9	40.7	21.1	1.1	-22.2
France	40.7	25.6	33.7	15.9	43.1	41.0	24.8	-17.6	-7.3
Georgia	-	-	-	-	-	-	-	-	-
Germany	32.7	41.0	26.3	9.8	64.9	25.3	22.9	-23.9	1.0
Greece	48.3	39.3	12.4	18.8	53.2	27.9	29.5	-13.9	-15.5
Hungary	8.2	69.7	22.0	12.0	66.6	21.5	-3.7	3.1	0.6
Iceland	-	-	-	-	-	-	-	-	-
Ireland	14.6	37.7	47.7	15.7	42.2	42.1	-1.1	-4.5	5.6
Italy	45.5	43.6	10.8	30.6	52.7	16.7	14.9	-9.0	-5.9
Latvia	-	-	-	-	-	-	-	-	-
Liechtenstein	-	-	-	-	-	-	-	-	-
Lithuania	-	-	-	-	-	-	-	-	-
Luxembourg	21.2	27.2	51.6	11.7	54.5	33.9	9.5	-27.2	17.7
Macedonia FYR	-	-	-	-	-	-	-	-	-
Malta	-	-	-	-	-	-	-	-	-
Moldova	-	-	-	-	-	-	-	-	-
Monaco	-	-	-	-	-	-	-	-	-
Netherlands	25.9	45.4	28.7	14.7	46.1	39.2	11.3	-0.7	-10.5
Norway	17.5	46.5	36.0	2.6	55.0	42.4	14.8	-8.4	-6.4
Poland	14.4	55.8	29.8	7.2	65.7	27.1	7.2	-9.9	2.7
Portugal	55.9	27.5	16.6	59.5	21.5	19.0	-3.6	6.1	-2.4
Romania	-	-	-	-	-	-	-	-	-
Russian Federation	-	-	-	-	-	-	-	-	-
San Marino	-	-	-	-	-	-	-	-	-
Serbia and Montenegro	-	-	-	-	-	-	-	-	-
Slovakia	-	-	-	5.8	77.3	16.9	-	-	-
Slovenia	-	-	-	-	-	-	-	-	-
Spain	42.3	35.9	21.8	33.5	22.2	44.4	8.8	13.7	-22.5
Sweden	21.4	40.3	38.3	7.1	54.6	38.4	14.3	-14.3	0.0
Switzerland	23.9	33.9	42.2	2.4	64.5	33.2	21.5	-30.6	9.1
Turkey	-	-	-	-	-	-	-	-	-
Ukraine	-	-	-	-	-	-	-	-	-
United Kingdom	-	-	-	-	-	-	-	-	-

Source: OECD

Remittances

TABLE 11: DATA ON INWARD AND OUTWARD REMITTANCE FLOWS

	Inward remittance flows 2000 (USD million)	Inward remittance flows 2006 (USD million)	Outward remittance flows 2000 (USD million)	Outward remittance flows 2006 (USD million)	Remittance inflows as % of GDP (2000)	Remittance inflows as % of GDP (2007)
Year	2000	2006	2000	2006	2000	2007
Albania	598	1,359	-	27	16.2	12.9
Andorra	-	-	-	-	-	-
Armenia	87	1,175	5	154	4.6	13.9
Austria	1,441	2,639	858	2,575	0.7	0.8
Azerbaijan	57	813	101	301	1.1	4.1
Belarus	139	340	58	93	1.1	0.8
Belgium	4,005	7,488	3,588	2,698	1.7	1.8
Bosnia and Herzegovina	1,595	2,157	2	55	29.9	16.6
Bulgaria	58	1,707	26	50	0.5	5.3
Croatia	641	1,234	44	274	3.5	3.5
Cyprus	64	169	63	284	0.7	0.8
Czech Republic	297	1,190	605	2,030	0.5	0.8
Denmark	667	986	662	1,766	0.4	0.3
Estonia	3	402	3	75	0.1	2.0
Finland	473	698	100	309	0.4	0.3
France	8,631	12,304	3,791	4,217	0.6	0.5
Georgia	274	485	39	25	9.0	6.9
Germany	3,644	7,207	7,761	12,416	0.2	0.2
Greece	2,194	1,543	545	982	1.5	0.4
Hungary	281	363	86	190	0.6	0.3
Iceland	88	87	31	80	1.0	0.2
Ireland	252	532	181	1,947	0.3	0.2
Italy	1,937	2,625	2,582	8,437	0.2	0.2
Latvia	72	482	7	30	0.9	2.0
Liechtenstein	-	-	-	-	-	-
Lithuania	50	994	38	426	0.4	2.6
Luxembourg	579	1,372	2,720	7,561	2.9	3.3
Macedonia FYR	81	267	14	18	2.3	3.5
Malta	14	35	14	46	0.4	0.5
Moldova	179	1,182	46	86	13.9	34.1
Monaco	-	-	-	-	-	-
Netherlands	1,157	2,412	47	61	0.3	0.4
Norway	246	524	718	2,620	0.1	0.2
Poland	1,726	8,496	311	800	1.0	2.5
Portugal	3,406	3,334	454	1,377	3.0	1.7
Romania	96	6,718	6	57	0.3	5.1
Russian Federation	1,275	3,091	1,101	11,438	0.5	0.3
San Marino	-	-	-	-	-	-
Serbia and Montenegro	1,132	4,703	-	-	12.6	2.0*
Slovakia	18	1,088	8	48	0.1	0.0
Slovenia	205	282	29	129	1.0	0.7
Spain	4,517	8,885	2,059	11,015	0.8	0.7
Sweden	510	595	545	837	0.2	0.1
Switzerland	1,119	1,903	7,591	14,377	0.5	0.5
Turkey	4,560	1,111	-	107	1.7	0.2
Ukraine	33	829	10	30	0.1	0.8
United Kingdom	3,614	6,975	2,044	4,560	0.3	0.3

Source: World Bank

NOTES:

In 2007 the data refers only to Serbia

DEFINITION:

Remittances: Workers' remittances, compensation of employees, and migrant transfers, credit in million US dollars

Students from Immigrant Backgrounds

Table 12: INTERNATIONAL STUDENTS ASSESSMENT: ESCS INDEX AND DIFFERENCE IN SCIENCE PERFORMANCE

	Percentage of students with an immigrant background*		PISA index of economic, social and cultural status (ESCS)**			Difference in science performance	
	Second-generation students (born in the country of assessment but whose parents were born in another country)	First-generation students (born in another country and whose parents were born in another country)	Students with an immigrant background (mean score)	Native students (mean score)	Difference in the ESCS between students with an immigrant background and native students	... between students with an immigrant background and native students	... between students who do not speak the language of assessment at home and students who do
Albania							
Andorra							
Armenia							
Austria	5.3	7.9	-0.63	0.09	-0.6	-90	-94
Azerbaijan	1.4	1.1	c	-0.01	c	c	c
Belarus							
Belgium	7	6.3	-0.6	0.09	-0.63	-86	-97
Bosnia and Herzegovina							
Bulgaria	0.1	0.1	c	0	c	c	-94
Croatia	4.8	7.2	-0.36	0.05	-0.36	-19	c
Cyprus							
Czech Republic	0.7	1.2	c	0.01	c	-60	c
Denmark	4.2	3.4	-0.93	0.07	-0.9	-87	-87
Estonia	10.5	1.1	-0.07	0.01	-0.06	-33	c
Finland	0.2	1.3	c	0.01	c	c	c
France	9.6	3.4	-0.59	0.09	-0.58	-53	-43
Georgia							
Germany	7.7	6.6	-0.67	0.11	-0.73	-85	-90
Greece	1.2	6.4	-0.46	0.04	-0.48	-44	-79
Hungary	0.4	1.3	c	0	c	c	c
Iceland	0.4	1.4	c	0.01	c	c	c
Ireland	1.1	4.5	0.12	-0.01	-0.11	-11	c
Italy	0.7	3.1	-0.44	0.02	-0.45	-58	c
Latvia	6.6	0.5	0.1	-0.01	-0.1	-3	c
Liechtenstein	13.1	23.6	c	c	-0.27	-47	-102
Lithuania	1.7	0.4	c	0	c	c	c
Luxembourg	19.5	16.6	-0.53	0.3	-0.92	-67	-84
Macedonia, FYR							
Malta							
Moldova							
Monaco							
Montenegro	1.8	5.4	0.18	-0.01	0.18	17	c
Netherlands	7.8	3.5	-0.81	0.1	-0.81	-75	-82
Norway	3	3.1	-0.69	0.04	-0.55	-59	-50
Poland	0.1	0.1	c	0	c	c	c
Portugal	2.4	3.5	0.04	0	0.05	-55	c
Romania	a	0.1	c	0	c	c	c
Russian Federation	4	4.8	-0.05	0.01	-0.05	-14	-58
San Marino							
Serbia	3.2	5.9	-0.06	0.01	-0.06	9	c
Slovak Republic	0.3	0.1	c	0	c	c	c
Slovenia	8.5	1.8	-0.63	0.07	-0.61	-56	-75
Spain	0.8	6.1	-0.25	0.02	-0.29	-60	c
Sweden	6.2	4.7	-0.44	0.05	-0.39	-61	-67
Switzerland	11.8	10.6	-0.45	0.13	-0.51	-81	-90
Turkey	0.8	0.6	c	-0.01	c	c	c
Ukraine							
United Kingdom	5	3.7	-0.25	0.02	-0.22	-33	-54

See next page for notes.

NOTES:

Values that are statistically significant are indicated in bold

a: The category does not apply in the country concerned. Data are therefore missing.

c: There are too few observations to provide reliable estimates (i.e., there are fewer than 30 students or less than 3% of students for this cell or too few schools for valid inferences).

*Results based on students' self-reports

**ESCS: The Programme for International Student Assessment (PISA) index of economic, social and cultural status was created on the basis of the following variables: the International Socio-Economic Index of Occupational Status (ISEI); the highest level of education of the student's parents, converted into years of schooling; the PISA index of family wealth; the PISA index of home educational resources; and the PISA index of possessions related to 'classical' culture in the family home. Positive values indicate more favourable characteristics.

TABLE 13: INTERNATIONAL STUDENTS ASSESSMENT: READING PERFORMANCE AND MATHEMATICS PERFORMANCE

	Difference in reading performance			Difference in mathematics performance		
	Second-generation minus native students	First-generation students minus native students	First-generation students minus second-generation students	Second-generation minus native students	First-generation students minus native students	First-generation students minus second-generation students
Albania						
Andorra						
Armenia						
Austria	-79	-48	31	-81	-65	16
Azerbaijan	c	c	c	c	c	c
Belarus						
Belgium	-81	-101	-21	-84	-112	-29
Bosnia and Herzegovina						
Bulgaria	c	c	c	c	c	c
Croatia	-16	-16	0	-6	-19	-13
Cyprus						
Czech Republic	c	c	c	c	c	c
Denmark	-64	-79	-14	-63	-80	-17
Estonia	-45	-87	-42	-23	c	c
Finland	c	c	c	c	c	c
France	-36	-45	-9	-47	-62	-15
Georgia						
Germany	-83	-70	12	-78	-65	13
Greece	c	-37	c	c	-45	c
Hungary	c	c	c	c	c	c
Iceland	c	c	c	c	c	c
Ireland	c	-14	c	c	-19	c
Italy	c	-69	c	c	-44	c
Latvia	-19	c	c	1	c	c
Liechtenstein	-21	-67	-46	-25	-52	-27
Lithuania	c	c	c	c	c	c
Luxembourg	-61	-69	-7	-46	-55	-10
Macedonia, FYR						
Malta						
Moldova						
Monaco						
Montenegro	c	21	c	c	20	c
Netherlands	-61	-65	-5	-66	-58	9
Norway	c	-63	c	c	-58	c
Poland	c	c	c	c	c	c
Portugal	c	-69	c	c	-59	c
Romania	a	c	a	a	c	a
Russian Federation	-10	-4	6	-31	-14	17
San Marino						
Serbia	11	12	1	22	11	-11
Slovak Republic	c	c	c	c	c	c
Slovenia	-31	c	c	-36	c	c
Spain	c	-55	c	c	-59	c
Sweden	-29	-68	-40	-42	-64	-21
Switzerland	-48	-85	-37	-62	-88	-26
Turkey	c	c	c	c	c	c
Ukraine						
United Kingdom	-7	-44	-37	-25	-25	0

Source: OECD – PISA 2006

NOTE: Values that are statistically significant are indicated in bold

Immigration and Emigration Policies

TABLE 14: IMMIGRATION AND EMIGRATION POLICY AND PARTIES TO UNITED NATIONS INSTRUMENTS

Year	Immigration policy			Emigration policy		Parties to United Nations instruments				
	Overall level	Highly skilled workers	Integration of non-citizens	Overall level	Encouraging the return of citizens	1951 C	1967 P	1990 C	2000 T	2000 S
Source	UN-ESA	UN-ESA	UN-ESA	UN-ESA	UN-ESA	UN treaty	UN treaty	UN treaty	UN treaty	UN treaty
Albania	Maintain	Maintain	No	Maintain	Yes	1992	1992	--	2002	2002
Andorra	Maintain	NI	Yes	Maintain	No	-	-	-	--	--
Armenia	Raise	Maintain	Yes	Lower	Yes	1993	1993	--	2003	2003
Austria	Maintain	Maintain	Yes	NI	Yes	1954	1973	--	2005	--
Azerbaijan	Maintain	-	Yes	Lower	Yes	1993	1993	1999	2003	2003
Belarus	Maintain	Maintain	Yes	Lower	Yes	2001	2001	--	2003	2003
Belgium	Maintain	Maintain	Yes	NI	No	1953	1969	--	2004	2004
Bosnia and Herzegovina	Maintain	-	-	Lower	Yes	1993	1993	1996	2002	2002
Bulgaria	Maintain	Maintain	Yes	Maintain	-	1993	1993	--	2001	2001
Croatia	Maintain	Raise	Yes	Lower	Yes	1992	1992	--	2003	2003
Cyprus	Lower	Maintain	Yes	Maintain	Yes	1963	1968	--	2003	2003
Czech Republic	Raise	Raise	Yes	NI	No	1993	1993	--	--	--
Denmark	Lower	Raise	Yes	NI	No	1952	1968	--	2003	--
Estonia	Lower	Maintain	Yes	Maintain	Yes	1997	1997	--	2004	2004
Finland	Maintain	Maintain	Yes	NI	No	1968	1968	--	--	--
France	Lower	Raise	Yes	NI	No	1954	1971	--	2002	2002
Georgia	Maintain	Maintain	..	Lower	-	1999	1999	--	--	--
Germany	Maintain	Raise	Yes	NI	No	1953	1969	--	--	--
Greece	Maintain	Maintain	Yes	NI	Yes	1960	1968	--	--	--
Hungary	Maintain	..	Yes	NI	No	1989	1989	--	--	--
Iceland	NI	NI	No	NI	No	1955	1968	--	--	--
Ireland	Maintain	Raise	Yes	NI	Yes	1956	1968	--	--	--
Italy	Lower	NI	Yes	NI	No	1954	1972	--	--	--
Latvia	Maintain	Maintain	Yes	NI	Yes	1997	1997	--	2004	2003
Liechtenstein	Maintain	Maintain	Yes	NI	No	1957	1968	--	--	--
Lithuania	Maintain	Raise	Yes	NI	No	1997	1997	--	2003	2003
Luxembourg	Maintain	..	Yes	NI	..	1953	1971	--	--	--
Macedonia FYR	Maintain	-	No	Lower	No	1994	1994	--	2005	2005
Malta	Maintain	Maintain	No	NI	No	1971	1971	--	2003	2003
Moldova	Maintain	-	-	NI	-	2002	2002	--	2005	2005
Monaco	Maintain	Maintain	..	1954	--	--	2001	2001
Netherlands	Lower	Raise	Yes	NI	No	1956	1968	--	2005	2005
Norway	Maintain	Raise	Yes	NI	No	1953	1967	--	2003	2003
Poland	Maintain	Maintain	Yes	NI	No	1991	1991	--	2003	2003
Portugal	Maintain	Maintain	Yes	Maintain	No	1960	1976	--	2004	2004
Romania	Lower	NI	Yes	Lower	No	1991	1991	--	2002	2002
Russian Federation	Raise	Raise	Yes	NI	..	1993	1993	--	2004	2004
San Marino	NI	NI	No	NI	No	--	--	--	--	--
Serbia and Montenegro	Maintain	Raise	Yes	Lower	Yes	2001	2001	--	2001	2001
Slovakia	Maintain	Maintain	Yes	NI	No	1993	1993	--	2004	2004
Slovenia	Maintain	Maintain	Yes	NI	Yes	1992	1992	--	2004	2004
Spain	Maintain	Maintain	Yes	Lower	Yes	1978	1978	--	2002	2002
Sweden	Maintain	Maintain	Yes	NI	No	1954	1967	--	2004	--
Switzerland	Maintain	Raise	Yes	NI	No	1955	1968	--	--	--
Turkey	Lower	Raise	No	Maintain	No	1962	1968	2004	2003	2003
Ukraine	Maintain	Maintain	No	Lower	No	2002	2002	--	2004	2004
United Kingdom	Maintain	Raise	Yes	NI	No	1954	1968	--	--	--

See right page for notes.

NOTES:**Governments' policies on immigration:**

Overall level: Governments' policies regarding the current overall level of immigration into the country. It is coded into four categories: to raise the level of immigration; to maintain the level of immigration; to lower the level of immigration; and no intervention.

Highly skilled workers: Government policies towards the current level of immigration of highly skilled workers. It is coded into four categories: to raise the level of immigration; to maintain the level of immigration; to lower the level of immigration; and no intervention.

Integration of non-citizens: Indicates whether the Government has specific policies regarding the integration of non-citizens. It has two categories: yes and no.

Source: United Nations, Department of Economic and Social Affairs, Population Division, World Population Policies 2005 (ST/ESA/SER.A/254).
Data available online from: <www.unpopulation.org>.

Governments' policies on emigration:

Overall level: Governments' policies regarding the current overall level of emigration from the country. It is coded into four categories: to raise the level of emigration; to maintain the level of emigration; to lower the level of emigration; and no intervention.

Encouraging the return of citizens: Indicates whether the Government has specific policies encouraging the return of citizens. It has two categories: yes and no.

Source: United Nations, Department of Economic and Social Affairs, Population Division, World Population Policies 2005 (ST/ESA/SER.A/254).
Data available online from: <www.unpopulation.org>.

Parties to United Nations instruments:

Indicates whether a country has ratified the relevant instrument and if so, the year ratified. The relevant instruments are: (a) the 1951 Convention relating to the Status of Refugees (1951C); (b) the 1967 Protocol relating to the Status of Refugees (1967P); and (c) the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990C). In addition, two Protocols supplement the United Nations Convention against Transnational Organized Crime; namely, the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000T) and the 2000 Protocol against the Smuggling of Migrants by Land, Sea and Air (2000S). Ratification is the act whereby a State indicates its consent to being bound to a treaty if the parties intend to show their consent by such an act.

Source: United Nations Treaty Collection. Data available online, as of 31 December 2005, from: <untreaty.un.org>.

Two dots (..) indicate that data are either not available, insignificant or zero.

A hyphen (-) indicates that the item is not applicable.

A dash (--) indicates that the treaty was not ratified.

NI: No intervention

BRAIN DRAIN: Over the last 20 years, Zambia experienced an outflow of two-thirds of its doctors, Benin lost more than half to France and, in 2006, one-third of all doctors working in the United Kingdom had been trained abroad.

REMITTANCES: The World Bank projects a decline in remittance flows of 7 to 10 per cent in 2009 as a consequence of the global economic crisis.

HUMAN TRAFFICKING: In the most developed countries, 75 per cent of the traffic is for sexual exploitation, which involves mainly women and children.

REPATRIATION: Migrants' countries of return often lack appropriate structures for receiving migrants who have been forced to return. They also lack mechanisms for protecting the rights of returned migrants. Organisations supporting migrants have documented a large number of human rights violations.

EDUCATION: Numerous educational difficulties emerge for those with an irregular migration status. These barriers may be practical, such as lack of identification; institutional, such as discriminatory legislation; or broadly societal, such as the fear of being detected. As a result, both compulsory education and higher education can be difficult for undocumented youth to obtain.

BLUE CARD: Under the new Blue Card system, highly qualified migrant workers will receive more generous treatment than other migrant workers, which will institutionalise discrimination on the basis of skill level in the acquisition of labour rights.

BULGARIA: From 2002 to 2004, about 10 per cent of real estate purchased in large Bulgarian cities was financed by migrant remittances.

ITALY: A new law adopted in July 2009 (N. 94/09) makes entering or staying in Italy without permission a crime punishable by a fine of €5,000 to €10,000, sets up citizen anti-crime 'patrols' and sentences landlords to up to three years imprisonment if they rent to undocumented migrants.

GREECE: In the legal labour market, the average wage for a foreign dependent worker is 28 per cent lower than that for Greeks. In the construction sector, this difference increases to a massive 35.8 per cent.

MACEDONIA: About half of the Roma population are either illiterate or half literate.

MALTA: If not supplemented by charity organisations, asylum seekers and rejected asylum seekers living on allowances are on par or worse off than people living on 'two dollars a day' in a developing country.

FRANCE: To achieve its goal (the signature of readmission agreements), France offers incentives such as visas, regularisation and additional development aid.

THE NETHERLANDS: The impact of immigrants on Dutch society is considerable. Culturally, the Dutch entertainment industry and literature are unthinkable without migrants. 'Allochtones' are also increasingly politically involved and represented in local, regional and national governments. However, their overrepresentation in low paid occupations and high unemployment levels continue to be problematic.

