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International Project co-financed by the European Commission, EuropeAid

Fostering mutual understanding and co-operation of the EU with Belarus, Moldova, Russia and Ukraine 2008 - 2012

EU MIGRATION POLICY AND ITS REFLECTION IN THIRD COUNTRIES: BELARUS, MOLDOVA, RUSSIA, UKRAINE

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Maribor, 2012

EU Migration Policy and its Reflection in Third Countries: Belarus, Moldova, Russia, Ukraine

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Publisher:
ISCOMET Institute for Ethnic and Regional Studies
Pupinova ulica 6
SI-2000 Maribor, Slovenia
www.iscomet.org

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ISCOMET Institute

Prepared and printed by:
ISCOMET Institute

Publication is published in electronic version (DVD) and available also on internet address www.iscomet.org

CIP - Kataložni zapis o publikaciji
Narodna in univerzitetna knjižnica, Ljubljana

314.151.3-054.72(082)

EU migration policy and its reflection in third countries [Elektronski vir]: Belarus, Moldova, Russia, Ukraine / editors Silvo Devetak, Olesea Sirbu. - Maribor : Iscomet, Institute for Ethnic and Regional Studies, 2012

Dostopno tudi na: http://www.iscomet.org

ISBN 978-961-6602-07-5 (DVD-ROM)
ISBN 978-961-6602-08-2 (pdf)

263676160

This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of ISCOMET Institute for Ethnic and Regional Studies and can in no way be taken to reflect the views of the European Union

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EDITORIAL NOTE

On 28 - 29 April 2010, the **BRIDGE Expert Conference on Migration, Asylum, EU External Border Management and Visa Regime** was held in Chisinau, Republic of Moldova, which was devoted to the contemporary evolution of a common migration policy of the EU and on its impact on the European Neighbourhood and Partnership Policy, with special focus on the relations between the EU and BRIDGE partner countries – Belarus, Moldova, Russia and Ukraine.

The Conference was attended by 40 experts from Belarus, Moldova, Ukraine, Russia, Slovenia and Italy, including representatives of the International Organisation of Migration, of the International cooperation Department of the Moldovan Parliament, representatives of the non-governmental organisations dealing with migration issues.
The focus of the Conference was on: 1) analyses of the current situation concerning migration issues in the BRIDGE partner countries, 2) spreading critical assessment of the EU policies in the field, 3) training teachers from universities, selected students and youth's organisations leaders, who will be trainers at further activities, aimed at raising the knowledge of youth (up to 25 years) about the benefits and possibilities of legal migration and at enhancing their awareness of the dangers of illegal migration, 4) training experts for Schengen border regime, 5) elaborating proposals and suggestions and recommendations to the EU bodies and governmental institutions of partner countries for improving the regulation and execution of migration flows and for improving the management of the border regimes to the benefit of cooperation and in the interest of people and especially local population and for developing cooperation along these borders.
At the end of the Conference the participants adopted the Recommendations in which has been state that international migrations are development opportunity for both, sending and destination countries; reciprocity between EU and third countries should be the underlying rule in managing common migration issues; economic and family related immigration will help to address the structural imbalance of European labour markets in specific sectors (tourism, catering, private care, construction, agriculture); security of borders should not be linked to the management and policies of regular migration flows. The Recommendations was distributed for consideration to EU Agencies, Authorised Governmental Bodies of the EU Member States and BRIDGE Partner Countries on Management of Migration, Asylum, External Borders and Visa Regime.
This publication incorporates: 1) the analytical work of the Professor Ezio Benedetti which presents the weakness and perspectives of the development the EU's Migration policy and its relations between EU and Russia, Ukraine, Moldova and Belarus; 2) contributions of experts from the Conference, where the first session focused on the legal and political framework of the EU migration policy; the second session was devoted to presentation and critical assessments of migration, asylum, management of borders and visa issues from the point of view of experts from Belarus, Moldova, Russian and Ukraine; the objective of the third session was to present cases concerning EU migration policy and its impact on EU-Partner countries cooperation from the point of view of the EU.
The contributions are prepared in English or in Russian languages, which were the working languages of the Conference.

Maribor/Chisinau, March 2012

EXPERT INTRODUCTORY STUDY:

EU MIGRATION POLICY AND ITS RELATIONS WITH THIRD COUNTRIES: RUSSIA, UKRAINE, BELORUSSIA AND MOLDOVA

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INTRODUCTION

It could be useful to start our analysis reporting some facts and figures concerning global migration processes:

1. There are 214 million estimated international migrants in the world today (UN, 2008).
2. Migrants comprise 3.1 per cent of the global population (Ibid.).
3. The number of the migrants worldwide would constitute the fifth most populous country in the world (US Census Bureau, 2009).
4. Women account for 49 per cent of global migrants (UN, 2008).
5. In 2008, remittance flows are estimated at USD 444 billion worldwide, USD 338 billion of which went to developing countries (ILO, 2009).
6. There are roughly 20 to 30 million unauthorized migrants worldwide, comprising around 10 to 15 per cent of the world's immigrant stock (Norwegian Refugee Council, 2009).
7. In 2008, there were 26 million internally displaced persons (IDPs) in at least 52 countries as a result of conflict (UNHCR, 2008).
8. In 2008, the global number of refugees reached an estimated 15.2 million persons (UN, 2008).
9. Today there are 16 million refugees worldwide (Norwegian Refugee Council).

The global context (migrant stocks, millions)

	1960	*1970*	*1980*	*1990*	*2000*	*2005*	*2009*
World	**75.9**	**81.5**	**99.8**	**154.0**	**174.9**	**190.6**	**200.5**
Africa	9.0	9.9	14.0	16.2	16.3	17.1	18.9
Asia	29.3	28.1	32.3	50.0	49.9	53.3	60.3
Europe	17.0	21.8	25.4	48.4	56.1	64.1	65.2
Lat.Am+ Carib.	6.0	5.7	6.1	7.0	5.9	6.6	7.2
North.Am.	12.5	13.0	18.1	27.6	40.8	44.5	48.9

Source: UNDESA, population division

On the second hand, we can individuate some global trends which characterize the contemporary evolution of migration flows. It is a matter of fact that migration flows have shifted in recent years with changing poles of attraction for labour migration and in some parts of the world, migrant stock has actually decreased:

- Although the number of Asian migrants has increased from 28.1 million in 1970 to 43.8 million in 2000, Asia's share of global migrant stock decreased from 34.5 per cent to 25 per cent over the same period.
- Africa has also seen a decline in its share of international migrants: from 12 per cent in 1970 to 9 per cent in 2000
- This is also true for Latin America and the Caribbean (down from 7.1 per cent to 3.4 per cent); Europe (down from 22.9 per cent to 18.7 per cent) and for Oceania (3.7 per cent to 3.3 per cent).
- Only Northern America and the former USSR have seen a sharp increase in their migrant stock between 1970 and 2000 (from 15.9 per cent to 23.3 per cent for Northern America and 3.8 per cent to 16.8 per cent for the Former USSR). In the latter case however, this increase has more to do with the redefinition of borders than with the actual movement of people.

The stock of international migrants remains concentrated in relatively few countries (75 per cent of all international migrants are in 12 per cent of all countries)[1].
By a general point of view, in the last twenty years migration issues become more and more important and sensitive fields of activity both for the States and International Organizations dealing with these processes: between 1965 and 2000 the estimated number of migrants worldwide doubled from 75 million to 150 million (Castles and Miller, 2003, p.3).
Immigration policies vary greatly across countries, both historically and currently, and are often at the centre of public debate.
The migratory phenomenon affects both developing and developed countries. For developing countries, for example, the remittances sent by migrants to their families or communities back home may have a positive impact on the levels of development (see, for example, de Haas, 2005). In 2006, remittances worth $208 billion were sent to developing countries, up from $30 billion in the late 1980s (Martin and Zürcher, 2008, p.18). On the other hand, developing countries may lose their most innovative and active human resources, this process is also known as *brain drain* (Skeldon, 1997, p.3).
For what concerns the developed countries, they are more and more expressing the necessity to accept immigrants in order to avoid the problems affecting their labour markets as a consequence of the population's aging: "The European population is aging and shrinking… In order to finance the retirement of such a large cohort of retirees, EU countries will have to reduce pension benefits or encourage more people to work longer. Other alternatives are to increase the number of workers, either by increasing fertility or immigration" (Martin and Zürcher, 2008, p.12).. Traditionally these flows of immigrants where characterized by the search for not qualified workers, but though this aspect is still present in developed countries, many States are using also highly skilled and qualified workers coming from developing countries (for example, since the 90's in Great Britain and in the United States of America a high number of workers coming form India or China with university degrees are employed in IT sector). On the other hand, the governments of developed countries are facing a growing concern by their population in order to manage these flows and to avoid the insurgence of nationalist and racist movements, which are using migrants and their often difficult process of integration as an argument to justify restrictive policies. The main argument used by these political movements (the Lega Nord in Italy) is the defence the sovereignty and cultural integrity of a country (Skeldon, 1997, p.22).
The final result of these complex processes is that developed countries are increasing the barriers to immigration for semiskilled and low-skilled migrants, while high-skilled workers are in demand (Hugo, 2003).
It is clear that in this context new approaches to migration policy had to be enforced. Governments and EU institutions are more and more accepting that it is impossible to stop migration (the zero immigration is at the same time unrealistic and impossible), in fact they are focusing their attention on 'migration management' (Lucas, 2005, p.3). In this context, which emerged already at the end of the 90's, debates on migration policy have arisen, for instance on how migration policies and development policies can be combined so that the effects of migration are positive for both developed and developing countries (see for example IOM, 2004).
One of the most common new approaches is the increasing use of *migration partnerships.* Such partnerships "include agreements between governments to better regulate migration, improved cooperation on migration issues between departments of national governments, and the integration of the private sector and civil society groups into migration policy" (Migration DRC, 2008). Groff (2005, p.6) adds that "the idea of migration partnership is to strive for a fair and balanced weighing of interests in dealing with the problems which emigration, immigration and the return of migrants

[1] All data concerning the global trends are from UNDP. 2005.

cause in the states concerned". But this approach based on partnerships is still mainly bilateral, while the role of EU institutions is very often not very clear and accepted by all member countries.
Starting from this analytical and scientific approach, in the first part of this work, we will try to furnish a quick but comprehensive overlook concerning the historical evolution of EU migration policy since its origins. The conclusion of the chapter will underline the main problems concerning the functioning of a real European common migration policy. It will be demonstrated that the continuous recall, by a number of States, especially the ones who are facing in front line the illegal immigration flows (Spain, Portugal, Italy and Greece), for a more comprehensive and solid EU policy on migration, for a reinforcement and a more active role of the EU agencies managing illegal migrations flows, as Frontex, is facing and in conflict with the extremely different positions the member States still have on migrations issues. Moreover, the same States who are asking for a more strict cooperation at the EU level are, during the different formal and informal meetings held on these problems, expressing doubts or a clear opposition to the increase of funds for Frontex or to joint control on the borders, while their policy in this field is still mainly bilateral, characterized by the conclusion of readmission agreements with major transit or sending countries.
The second part of the paper will deal with the main agreements concluded between European Union Russia, Ukraine, Moldova and Belarus on migration policies. We will analyse the functioning and the problems concerning migration issues between EU and these countries, and at the end it will be given a short explanation on how these agreements could be improved in order to avoid further problems and incomprehension.
The introduction of new common tools as the "Mobility partnerships", negotiated by EU Commission with third countries, but ratified by each EU member countries, reflects this tendency expressed by EU institutions to go over the traditional bilateral approach to immigration, though, as said, many countries are still focused on bilateral readmission agreements with transit or origin countries
In the final part of the work we will furnish some ideas to improve the emergence and the enforcement of a truly European migration policy.
It is obvious that a common immigration policy should include not only the fight to illegal immigration flows, which are considered by the governments to be the more sensitive for what concerns the public opinion and "internal security issues"; but also legal immigration management should be improved as a common policy within the EU. The main problem is that a great number of member countries are still considering the management of legal immigration mainly as a tool of internal policy, due to the obvious implications that these policy has also in very different sectors of public life (labour markets, trade unions, housing, welfare state etc.).

1. THE EVOLUTION OF THE EU'S MIGRATION POLICY: WEAKNESS AND PERSPECTIVES OF DEVELOPMENT

Since the end of the sixties European Union's immigration policies followed an irregular trend as a consequence of the different characteristics that migrations had and still have at international level and of the different perception that the immigration States have of this process.
But since the end of the sixties international migrations undergo a radical transformation, not much regards to *quantitative* data, if we consider the relative immobility of the number of emigrants if compared to world population (IMO, *World Migration Report 2006*)[2], as in *structural* and *qualitative* terms. Concerning *structural* aspects is recorded a growing complexity in the global geography of migrations, with an exponential growth, since the last thirty years of the past century, of *major senders* countries, of *major receivers* countries, and of States that are at the same time senders and receivers countries (OECD, *Globalisation, Migration and Development*)[3]. Moreover, differently than in the past, the *qualitative* aspects of international migrations are characterized no more as an unidirectional, permanent and definitive *event*, but rather as an open, circular and reversible *process*, a sort of "*pendular movement*" there and back, which is possible due to continuous advance of means of communication and transport – progress which allows the maintenance of regular contacts between the migrant, his family and his country of origin (Stalker 2000; Sopemi 2003, p. 55; Pastore 2004).
The global dimension of migration processes caused a progressive change of perspective in the adoption of governmental policies in this sector, policy which has been characterized since the early eighties by the slow but progressive renouncing of an unilateral and sectorial approach to the management of migratory flows and the development of an international cooperation policy (Nascimbene 1999; Chaltiel 1998; Kaczorowska 2006)[4].
Notwithstanding this, international and European cooperation suffered for a long time and is still suffering on some hand from a minimal and inadequate approach to the a such complex phenomenon as migration is. The lack of a strategic vision – a starting point that cannot be disregarded in order to elaborate a serious and functional governance of migration processes – leaded to the adoption of strictly defensive policies just oriented to gain the "immigration zero"

[2] UN sources affirm that, in the last fifty years, less than 3% of world population lived outside its State of origin for more than one year. There are almost 180 million emigrants in the world (2005 data), more than half of them live in less developed countries and the great part of migration flows concerns the same Continent. Even so, data are testifying a growth in migration flows in the last twenty years and a record level absorption of immigrants in North America and in the EU's States.

[3] Between 1970 and 1990 the International Labour Organization (ILO) noticed a considerable growth of the countries of origin of the migratory flows (from 29 to 55), of the countries of destination of massive migratory flows (from 39 to 67) and of the countries which are at the same time major senders and receivers (from 4 to 15).

[4] The strengthening of international cooperation in this sector is partially a reflection of the importance that the supranational level of governance of migratory phenomenon assumed in the last few years. This is a tendency which has been and is particularly evident in the context of European Union and has no analogy in the experience of other continents. The EU experimented the passage from inter-governmental forms of cooperation between the member States, to a common policy which is determined by the EC Institutions, while the residual competence of the member States can be exercised only through national rules which have to be compatible with the Treaty and international agreements. In particular, following the coming into force of Amsterdam Treaty (may 1st 1999), "*Visas, asylum, immigration and other policies connected with the free circulation of people"*, already subject matter of inter-governmental cooperation provided in the 1992 Treaty on European Union (Title VI: "*Cooperation in the fields of justice and home affairs*"), are disciplined by EC law (Title IV TCE, art. 61-69). The member States have just residual competencies in the fields of entry and residence, anyway they can adopt and maintain some national rules, as long as they are compatible with EC law and international treaties (art. 63 TCE), and in general the exertion of competences for the maintenance of public order and the protection of national security (art. 64 TCE).

objective, which – although rhetorical and unreal – has become a political priority for a lot of western Governments (Sciortino 2000; Pastore 2001; Guild and Harlow 2005)[5].

Since the nineties the merely restrictive management of external migration in EU showed all its limits: barely efficient in the long period, hardly sustainable on the political plan and not suitable to real interests of European societies. On the one hand, contrary to all expectations, restrictive immigration policies carried out the stabilisation of immigrants in the emigration countries (by means of family reunification praxis) and the growth of illegal immigration, handled by transnational criminal organisations. Whereas on the other hand, emerged the positive effect of migrations on demographic policies in a medium-long period perspective (IMO 2006)[6] and on economic development of *major receivers* countries (EC Commission 2000)[7].

At the end of the nineties the defensive-restrictive approach has been progressively abandoned and the principles regulating EU cooperation in this strategic sector have been enriched with an innovative vision which combines *surveillance and control aims* with *precautionary immigration flows measures*. This new comprehensive vision shapes migratory policy not as an autonomous and specific discipline, but more as a part of a wider and articulated strategy, a model of cooperation in socio-economic-migratory field, whose aim is to "recollect" and "correlate" different sectional policies: international trade and economy, economic cooperation for development, environment and human rights protection (Attinà and Longo 1996, Ben El Hassan 1994, Eeckout 2004, Filali and Christian 2003, Khader 1994, Lucchini 1999, Maresceau 1007, Smith 2005, Tagore 2009, Cordini 2004)[8].

[5] Consequently, international and EU cooperation ceased to be focused exclusively on *static* controls on national frontiers, privileging controls outside national frontiers – through the prevision of some forms of pecuniary responsibility for the carriers – and *dynamic* controls on illegal immigrants and trans-national criminal organisations devoted to the migratory smuggling – through the diffusion of advanced technologies (radars, radio systems, bio-sounding etc.), the exchange of police information and the development of data bases for the scheduling of illegal immigrants and the comparison of fingerprints (we are referring perhaps to the Info System Schengen rather than the EUROPOL's or EURODAC's data bases).

[6] Western countries are characterised since the end of the eighties by a worrying birth rate decrease combined with population ageing; this process put the problem for these societies to guarantee a population in working age sufficient to sustain the welfare costs. So that policies aimed to support regular immigration are playing a decisive role if related to adequate policies directed to reduce demographic lack of balance in industrialized countries, allowing to counterbalance the loss of active population and consequently to maintain an acceptable level of economic growth.

[7] For a long time liberalist doctrine asserts the necessity for the States to announce more generous quotas of immigrants, especially of qualified workers to be used in high technology sectors, in order to maintain global competitiveness of their economies. United States of America, Canada and Australia have been the first industrialized countries to announce an increase in entry quotas for qualified workers in high technology industry (e.g. almost 65% of qualified workers in informatics sector in United States of America is Chinese or Indian. See IMO, 2004). Although a similar trend has been recorded also in some European countries – especially in Great Britain and Germany – is clear, by admission of EC institutions themselves, that the level of European competitiveness in this sector is very modest.

[8] In the last few years a typical phenomenon consisted in forms of cooperation not only between the *receivers countries*, but also between *senders* and/or *transit countries* and *receivers countries* (bilateral and multilateral cooperation). Today the most ambitious attempt to face with a multilateral approach the problems related with international migration flows is represented by the EU's Euro- Mediterranean Partnership, Stability Pact for South-Eastern Europe and the EU Association Agreements with ACP Countries.

The largest EU immigration countries (net migration, 000s)

2000	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*
Spain: 378.5	Spain: 427.8	Spain: 649.9	Spain: 738.5	Spain: 610.1	Spain: 652.3	Spain: 636.0
UK: 168.5	Germany: 274.8	Italy: 349.3	Italy: 600.6	Italy: 558.2	Italy: 338.1	France: 160.5
Germany: 167.8	UK: 184.3	Germany: 218.8	UK: 260.5	UK: 203.6	UK: 196.3	UK: 159.5
Netherlands: 57.0	Portugal: 64.9	UK: 126.4	Germany: 142.2	France: 105.0	France: 102.9	Italy: 157.0
Italy: 55.2	France: 60.4	Portugal: 70.1	Portugal: 63.5	Germany: 81.8	Germany: 98.5	Ireland: 80.0

Source: CeSPI based on Eurostat.

If we look at the above reported figures we have to state that first of all there are deep differences in national economic migration policies among EU member States. This is reflected also in the heterogeneity of national approaches (out of historical, economic, cultural and demographic reasons), so that we can group national approaches in a few "families" or blocs:
a) "Conservative" continental bloc (France, Germany, Benelux, Scandinavians): closure to low-skilled immigration; narrow and selective opening to high-skilled flows;
b) "Liberal" bloc (UK, Ireland): innovative and technocratic admission policy; competitiveness as priority; opening to free mobility of EU8 in 2004 as key component;
c) Mediterranean bloc (Greece, Italy, Portugal, Spain): common challenges (acute ageing, wide underground economy, weak administrations) and similar strategies: frequent regularisations; attempts to manage low-skilled inflows (quota systems/agreements with sending countries);
d) Eastern European bloc: heterogeneous; still struggling with institution building and migration transition.

Total regularised foreigners; collective schemes, not including individual reg.; 000s, 1973-2008

Italy	1,431
Greece	1,166
Spain	1,130
France	302
Portugal	249
Belgium	65

Summarizing it is possible to affirm that a common migration and asylum policy has developed during the last one and a half decades among EU member states, as a result of dramatically changing migration movements and patterns in Europe. This policy area can be divided into three phases, which characterize the development since the founding of the European Community:

Phase 1: 1957-1990: EC has no competences in the field of migration and asylum, policy coordination only occurs in some fields of migration and asylum such as transnational crime and terrorism.
Phase 2: 1990-1999: intergovernmental cooperation: Given the high numbers of asylum seekers some European states agreed on three important regulations (see below).
Phase 3: since 1999: Asylum and migration policy as a common task in the EU. In order to control the high numbers of asylum seekers with the Treaty of Maastricht, asylum policy was regarded as a policy task of common interest, to be regulated by the European Community.
The Schengen System (1995) with its border control mechanisms and the Dublin Convention (1997) with the save-third-country-regulation makes it easy to control and send back undesired migrants entering one of the Schengen-Member States. But the main critics it can be made to this system is that the established mechanisms resulted in decreasing numbers of asylum seekers and increasing numbers of undocumented (so called illegal) migrants.
Anyway, two cornerstones are important for the development towards the common European asylum and migration policy:

1. Cornerstone: Summit of Tampere (1999)

In this summit EU declares the establishment of a Common European Asylum System based on human rights, in particular the application of the Geneva Refugee Convention and other relevant HR instruments. In order to achieve these aims, the following policies according to Tampere should be developed:

- Partnership with the countries of origin,
- Creation of a Common European Asylum System,
- Measures to guarantee a fair treatment of third country nationals,
- Management of Migration flows.

These policies were transformed into a catalogue of measures relevant to these goals, to be taken within five years . After five years, the European Council launched and adopted the Hague programme.

2. Cornerstone: The Hague Programme (2005-2010)

The Hague programme is a five-year programme promoting closer co-operation in justice and home affairs from 2005 to 2010. The programme focuses on setting up a common migration and asylum policy for the 27 EU member States. Given the terrorist assaults on New York (2001) and Madrid (2004) the Hague Programm gives prioritizes the security aspects of migration and measures that reinforce restriction and control. The combating of terrorism is mentioned in the Hague Programme as the first and central task of the common policies in Justice and Home Affairs. Within the immigration and asylum policies, the security aspect is central and takes the form of border checks and the "fight against illegal migration". Important elements of these policy measures are:

- Harmonisation of asylum applications between the member states (including harmonized visa regulations, repatriation policies and measures relating to border management);
- Information systems: Linkage of SIS II (Schengen Information System), VIS (Visa Information System) and EURODAC (identification of asylum seekers fingerprints) and FADO (Image archiving system) in order to combat illegal immigration;
- Discussions on the ex-territorialisation of asylum procedures in the countries themselves;
- Establishment of FRONTEX in May 2005: management of restrictive border control in the EU member states.
- Temporary Detention Camps (hardly criticized by a number of Ngo's and citizens committed with HR protection) along the European borders, in particular in Mediterranean and Eastern Europe countries.

For what concerns the protection of refugees in Europe in the last 10 years, it is possible to conclude that this process has been characterized by regresses and progresses at the same time. At

Tampere the intended harmonisation of asylum policies in European member States was to establish a Common European Asylum System based on the full and inclusive application of the Geneva Convention (UNHCR, 1951). Nevertheless the discussions and measures after Tampere were very often not driven by the spirit of Tampere, but driven by the desire of most European governments to keep the number of incoming asylum-seekers as low as possible and to tackle perceived abuse of their asylum systems. Negotiations on the common asylum system took place in a deteriorating public climate of growing hostility towards asylum seekers and refugees.

The process of harmonisation of asylum policies in Europe results in both regresses and progresses. On the one hand, the absolute respect of the right to seek asylum, as reaffirmed in Tampere, has been undermined. Most of the provisions concerning the "safe third country regulation" do not protect someone seeking asylum. Finally some provisions allow unacceptable deviations from international minimum standards, as. family reunification which does not respect the regulations laid down in the UN children's convention (UNICEF, 1989). On the other hand, the agreement of certain minimum standards in all member States was achieved with regard to asylum, in particular regarding the capacities and procedures in the new member States, e.g. the granting of a subsidiary form of protection, the recognition of non-state actors, gender- and child-specific form of protection.

For what concerns the attempt to combat illegal migration and prevent refugee movements, the cooperation with countries of origin is nominated as one of the cornerstones of common policies, but is largely restricted to control aspects. Meanwhile Frontex operated in front of the shores of Senegal, Mauretania and Capo Verde, in July 2006 a joint conference of 57 African and European countries worked out an Action Plan in order to improve migration management between European and African countries (Euro-African Partnership, 2006)[9]. The EU in this context clearly appeals to the respect of human dignity and fundamental rights of migrants, but this is often in harsh contrast to the living conditions of the refugees in countries of origin, of transit and of destination.

The third fundamental aspect, after refugees and border control, concerning the path toward a common EU migration policy concerns the integration of third-country nationals into European societies. This process relies on comprehensive integration policies; including integration into the labour market, education and language skills, housing issues, health and social services, nationality/citizenship and respect for diversity.

It must be pointed out that all these areas are still part of national legislation. Nevertheless in the light of the integration of more than 40 million migrants in all 27 member States it is necessary to consider integration policies on a European level. This is why the EU Parliament and Commission foster strategies to fund integration policies, to monitor their effects and to facilitate the sharing of best practices throughout the EU. The Hague Programme stressed the necessity to exchange information and experience, but does not touch on the issue of domestic competences. The EU integration policy faces multiple challenges regarding the inclusion of third country nationals:

- Some important directives of non-discrimination and equal treatment of third country nationals have been taken, but have not yet been fully implemented: for example the directives on family reunification (Commission, 2003a) and the Commission's directives on racial discrimination and discrimination in employment (Commission 2000a and Commission 2000b) have not yet been adopted in all member States.
- Generally, integration strategies target legally resident third country nationals, and consequently directly exclude undocumented workers. Undocumented workers are amongst

[9] The main areas of the Rabat Action Plan were:

- Measures against illegal migration: setting up efficient readmission systems between countries concerned , the reinforcement of national border control capacities of countries of transit and departure;
- Measures of development: encouraging capacity building in developing countries, access to education in developed countries, and avoiding brain drain by encouraging return migration.

the most vulnerable groups in European societies and would benefit most from policies to raise awareness concerning their rights and entitlements.

- Legal (economic) migration is a national "issue": National competence is retained in the area of legal migration. The Hague Programme states that the "determination of volumes of admission of labour migrants is a competence of the Member States".

At this point of our research it seems useful to repeat once again that migration and immigration policies in Europe are dominated by two main developments. On the one hand, EU policy refers to migration management/security and border control practices in which immigration control is strictly linked to anti-terrorism measures such as the "establishment of an area of freedom, security and justice". On the other hand, the policy aims at the harmonisation of asylum policies in Europe, which results in a lowering of standards and a decreasing number of asylum seekers. The consequence is the increase in the number of illegal migrants who are excluded from a wide range of human rights.

In 2003, the UN General Assembly adopted and ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (UNHCR, 2003), which aims to protect the migrant workers' rights, including irregular migrants. It is no coincidence that non of the EU member States has yet signed the ICMW, although the European Parliament started an initiative in order to support the signing of the Convention. With this convention, human rights can be used as a powerful tool for the empowerment of migrants and their mobilisation in the migration policy process in future, in a Europe in which all EU-countries are at present very reluctant.

Harsh critics state whilst Europe claims to be building a "common space" for freedom, justice and security with the Hague Programme, it is creating an excluded underclass of second-class citizens from non-EU member states and is building up a "fortress Europe" (Weinzierl and Lisson, 2007).

Another fundamental aspect with regard to the difficulties of a common EU migration policy is the harsh critic made by many member States who are contesting the lack of funds available for these joint policies:

The main financial chapters in EU migration policy, millions €, 2007-2013

External Borders Fund	1,820
European Return Fund	676
European Refugee Fund	699.3
European Integration Fund	825

1.1. The process of externalization of EU migration policy: the externalization of control tools and the pre-emptive approach (1991-2000)

As already stated in the introductory part of this chapter, since the end of the second half of the 1960s, the governments of the EC member States have introduced a wide range of measures in order to limit or to better manage immigration and refugee flows into their territories.

Most scholars now agree that these restrictive policies have had only a limited success, and in many cases the situation even got worst. It is a matter of fact, that all the attempts to restrict access to asylum systems, or curtail the rights of asylum seekers, have generated an increase in the levels of illegal migration. These "zero tolerance" approaches have also undermined States' commitment to protect genuine refugees.

Measures to restrict illegal entry and stay have driven migrants and refugees to use more dangerous routes to enter Europe, forcing many to employ the services of smuggling or trafficking networks. Restrictive migration policies have also created a number of unwelcome effects in other policy

areas. They have reduced the supply of workers to many sectors in need of labour; have placed a strain on race relations; and have in some cases created tensions with migrant-sending countries.
Given the shortcomings of traditional migration control policies, it is little wonder that west European states have looked for alternatives. A number of EU States have increasingly sought to address migration management dilemmas through cooperation with migrant-sending countries and the so called "transit" countries through which migrants and refugees travel to reach their final destination in Western Europe.
At the EU level, this goal has been most clearly stated in a series of European Council conclusions, calling for the integration of migration and asylum goals into the EU's external policy (Council, *Conclusions* 1999, 2001, 2002). This area of cooperation with third countries has become known as the 'external dimension' of EU cooperation in justice and home affairs (JHA).

Under this rubric of cooperation with sending and transit countries, however, it is possible to individuate two rather distinct approaches. The first involves forms of cooperation that essentially externalize traditional tools of domestic or EU migration control. The logic here is to engage sending and transit countries in strengthening border controls, combating illegal entry, migrant smuggling and trafficking, or readmitting migrants who have crossed into the EU illegally. The second type of policy can be loosely defined as "preventive": measures designed to change the factors which influence people's decisions to move, or their chosen destinations. Measures under this category include attempts to address the causes of migration and refugee flows, or to provide refugees with access to protection nearer their countries of origin. Preventive approaches involve deploying a rather different range of tools to increase the choices of potential refugees or migrants: development assistance, trade and foreign direct investment, or foreign policy tools.
But the real problem is that EU policies on the external dimension of JHA are still at a very low level, and no settled pattern of cooperation has yet emerged. The EU is still struggling to define which forms of cooperation and which policy instruments can best realize the multiple goals of migration policy. Many EU member States are still managing their migration policy mainly as a matter of internal affairs, negotiating and concluding mainly bilateral agreements with third sending or transit countries, without having a truly European approach to migration issues and a comprehensive strategy dealing with migration issues on an European level.
Due to this situation, cooperation has included a combination of both types of approach: the externalization of control tools, and prevention. But it matters a great deal which is likely to emerge as the predominant pattern of cooperation; for the two approaches differ profoundly in their assumptions about how to influence levels and patterns of migration and refugee flows, and they will have different impacts not just on questions of migration management, but also on refugee protection, development and stability in sending and transit countries, and on EU relations with third countries. For these reasons, it is important to examine which pattern of cooperation is likely to predominate in the future.
This paragraph of our analysis focuses on the political, juridical and institutional factors which have influenced the emergence of the external dimension of EU immigration and asylum policies. It explains how and why externalization and preventive approaches emerged, focusing on three main considerations:

1. the consideration that such an approach is able to meet migration policy goals and to enforce the approach to migration flows as an opportunity rather than a problem;
2. the consideration that the institutional context of the decision- making process concerning the role of the EU institutions and the enactment of EU's rules is fundamental for them building of a truly common European immigration policy, avoiding or restraining as possible merely bilateral approaches to cooperation with third countries;

3. the last consideration focuses on the fundamental role of domestic political and electoral pressures on the political approaches to migration flows on a national level.

It is possible to argue that the second and third factors – institutional structures and electoral pressures – have militated in favour of the prevalence of 'externalization' approaches over preventive ones. This has been to the detriment of longer-term strategies of migration management, refugee protection concerns, and more constructive and mutually beneficial patterns of cooperation with third countries. Finally, the chapter will consider prospects for the further development of the two approaches, and look at some of the implications for migration policy goals and relations with third countries.

The so-called 'external dimension' of EU immigration and asylum policy was not formally embraced by the European Council until October 1999. The ground-breaking conclusions of this Special European Council on Justice and Home Affairs stated that justice and home affairs concerns (which include immigration and asylum issues) should be "integrated in the definition and implementation of other Union policies and activities", including external relations (European Council 1999, p. 2). However, components of such a strategy in EU immigration and asylum policy had been emerging since the early 1990. As early as 1991, the European Commission was calling for the integration of migration issues into the EU's external policy (Commission, 1991). In December 1992, the Edinburgh European Council had agreed that 'coordination in the fields of foreign policy, economic cooperation and immigration and asylum policy' should 'contribute substantially to addressing the question of migratory movements' (Council, 1992).

The perceived need for such external approaches was above all a con-sequence of the inadequacy of domestic border controls in managing migration. One reason for this was the rise in levels of migration and refugee flows over this period. The lifting of restrictions on movement from the former communist bloc generated (often exaggerated) fears about a mass influx of immigrants from central and eastern Europe. The increase in levels of migration and refugee flows generated a sense in many countries that traditional domestic control instruments were insufficient to manage unwanted migration.

The sense of frustration at the limits of migration control was rendered especially acute by a 'capability-expectations gap' in respect of migration policy in EU states (Geddes, 2000). Migration issues had become highly politicized in most west European States from the 1980s onwards, and political parties were competing for electoral support with promises to restrict unwanted migration. Yet these expectations were difficult to fulfil. Liberal democratic states found themselves constrained by a range of domestic constitutional and international legal norms. Constitutions and the courts were curtailing attempts to restrict family reunion, limit access to welfare benefits, expel long-term residents or restrict asylum systems (Boswell, 2003).

National justice and home affairs ministries also found themselves con-strained by developments at the European Community (EC) level in the area of free movement of EC nationals. The Single European Act of 1988, which came into force in 1992, abolished restrictions on free movement of EC workers within the single market. Meanwhile, a core group of EC member States – initially France, Germany and the Benelux countries – had signed the Schengen Agreement in 1985, abolishing border controls between their countries. The agreement came into force in 1995, and was expanded to include a number of other EC countries with borders to non-EU countries[10]. The resulting loss of national control over borders created the perceived need for 'flanking' measures between EU countries to compensate for their increased vulnerability to irregular entry. It was quickly recognized that EU (and especially Schengen) countries would have to coordinate efforts to limit or prevent movement into the EU as a whole. This would require more intensive cooperation with countries of origin and/or transit countries.

[10] Schengen now includes all EU countries except the UK, Ireland and Denmark, as well as the non-EU country Norway

In this search for new forms of cooperation to limit flows, two quite distinct strategies emerged. The first was what has been dubbed the 'externalization' of migration control, which in turn involved two main components. First was the exportation of classical migration control instruments to sending or transit countries outside the EU. The main instruments here were border control, measures to combat illegal migration, smuggling and trafficking, and capacity-building of asylum systems and migration management in transit countries. The exportation of migration control was especially pronounced in the EU accession process. Future member states were obliged to incorporate the Schengen *acquis* into their national legislation, implying the introduction of stricter border controls, immigration and asylum policies (Grabbe, 2000).

The second element of externalization comprised a series of provisions for facilitating the return of asylum seekers and illegal migrants to third countries. The main instrument here was readmission agreements with third countries committing them to readmit irregular immigrants who had passed through their territory into EU countries, or were their nationals. Other provisions on safe third countries allowed EU states to return asylum seekers to countries from which they came or through which they had passed which were considered 'safe'[11]. There was an important populist element facilitating this process of externalization. Since the early 1990s, migration had been progressively re-conceptualized as posing a security threat to receiving countries-as being linked to organized crime, terrorism or Islamic fundamentalism. As many commentators have observed, this redefinition of migration as a threat was not simply a product of real changes in the scale or costs of migration; rather, it reflected a growing tendency to channel diffuse socioeconomic and cultural concerns into the migration 'problem' (Beck, 1992, p. 49; Balibar, 1991, p. 219).

By this point of view migration issues provided an easy target on which to focus a range of concerns about crime and internal security, welfare state reform and job security, and the declining relevance of traditional collective identities in post-industrial societies. Whether or not these problems were actually caused by migrants and many of them clearly were not-political parties found migration a useful way of channelling these often nebulous fears, and defining concrete measures through which they could be addressed. This tendency generated an increasingly virulent anti-immigrant discourse in most west European states, and this in turn lent increased political saliency to the question of migration control, legitimizing more robust police measures to control the problem.

The logic, then, was one of the extension of police and control methods to an enlarged area encompassing countries of origin and transit outside the EU. These third countries were encouraged or, in the case of candidate countries, obliged, to apply EU standards of migration management, or to enter into agreements for readmitting irregular migrants. The protagonists in this externalization of migration management were justice and home affairs officials, keen to transfer national control mechanisms not just to the EU level, but further afield. And these approaches had potential popular appeal with electorates. They could be portrayed as having an immediate and tangible impact on migration management-whatever their effects for refugees, migrants and transit or sending countries. Given the securitization of these migration management issues in public discourse in most EU countries, the focus on police and control instruments seemed entirely appropriate.

Around the same time, however, a second approach to the external dimension emerged based on quite a different logic of how best to respond to migration and refugee flows. This was a logic of prevention, which sought to influence the factors forcing or encouraging migrants and refugees to travel to the EU. It generated proposals for addressing the 'root causes' of migration and refugee flows in countries of origin, through more targeted use of development assistance, trade, foreign direct investment or foreign policy instruments; and proposals to promote so-called 'reception in the region', namely, support for refugee protection in countries or regions of origin, so that they would

[11] 'Safe' third countries were defined as those in which applicants' 'life or freedom' would not be threatened, in line with Article 33 of the Geneva Convention on the Status of Refugees.

not be obliged to seek asylum in Europe. These notions of prevention-and especially the 'root causes' approach-had been debated sporadically since the early 1980s (Aga Khan, 1981; Zolberg, Suhrke and Aguayo, 1989; de Jong, 1996).

Many experts, officials and lobbyists with a liberal or human rights perspective saw preventive approaches as a more benign alternative to migration control measures. As with externalization, prevention was seen as a form of international cooperation that could at least partly compensate for the deficiencies of domestic migration control. But since it aimed to remove the pressures generating flight or migration, it was also an approach which could marshal support from more progressive actors. It aspired to address the problem of migration control in a way that would not jeopardize the rights or freedoms of immigrants and refugees. Instead, the idea was to offer potential migrants or refugees a real possibility of staying in their place of origin.

However, it was not until the I99os that proposals on migration prevention really began to take concrete form. One reason why this happened was frustration at the limits of migration control instruments. As we have seen, there was a growing awareness that these were not having the desired impact of limiting irregular movement or deterring trafficking networks. Moreover, they were having a negative impact on refugee protection. As refugee lobby groups were constantly pointing out, migration control was preventing many refugees from seeking or gaining protection in EU States, and forcing others to use dangerous and exploitative smuggling or trafficking networks to reach western Europe (Morrison and Crosland, 2000). A number of officials in both foreign and interior ministries started to view prevention as a serious alternative to existing control-based approaches.

But the apparent feasibility of such approaches was influenced more than anything by the changing international context after 1989. Since the early 1990s there had been a huge expansion of multilateral activities in the areas of prevention and peace-building, ranging from early warning, human rights monitoring, institutional capacity-building and post-conflict reconstruction, through various forms of political mediation, to more robust peacekeeping and military interventions (Gordenker, 1991). The changed international political context and increased interest in preventing conflict and humanitarian crises placed humanitarian intervention and preventive activities on the spectrum of feasible strategies for migration management.

The linkage between new possibilities for prevention and migration management was clearly reflected in the Edinburgh Council conclusions of December 1992. As noted above, at this European Council summit member states agreed to address the causes of migration and refugee flows through the EC's external policy. The conclusions rather optimistically hoped that the Maastricht Treaty's new pillar structure would provide a good institutional framework for coordinating migration and refugee policy with external policy. However, no specific objectives or time-frames were set for developing preventive policies, and the theme was not taken up by subsequent European Councils until the special Tampere Council seven years later.

The European Commission Task Force on JHA was also keen to promote such approaches from the early 1990s onwards, again as noted above. The 1991 communication was followed in 1994 by a more elaborate statement of a 'root cause' approach, which defined measures to alleviate migratory pressures as one of three elements of a future EU migration strategy. The Commission argued that such a root cause approach should be integrated into all external policies of the EU, including the areas of human rights policies, humanitarian assistance, security policy, demographic policies, and trade, development and cooperation.

For its part, the European Council lacked the political incentive to press for the adoption of preventive approaches. While foreign ministries and heads of state could commit themselves to general statements on the need for 'integrated approaches' to prevent refugee and migration flows, such long-term perspectives offered limited electoral dividends. The combination of a control oriented Council of Ministers, an institutionally weak Commission JHA Task Force and a lack of

political will from the European Council meant that preventive approaches were effectively marginalized until the late 1990s. Cooperation with third countries on JHA issues largely took the form of providing support to future EU members to reinforce border control, develop asylum systems and combat illegal migration.

The predominance of the 'externalization of control' approach appeared to be challenged in the late 1990s, when a number of developments suggested a revived interest in preventive approaches. First, while the 1997 Treaty of Amsterdam did not explicitly cover the question of cooperation with third countries on JHA, the Commission and Council's subsequent action plan for implementing Amsterdam nonetheless derived a number of implications from the treaty on the 'external aspect' of JHA. The first implication was the potential for a stronger international role for the EU, by virtue of its expanded competence in the field of JHA. The Amsterdam Treaty moved cooperation on immigration and asylum from the so-called third pillar, which was essentially intergovernmental, to the more supranational first pillar. This implied a more robust role for the European Commission, not just in proposing policy, but also in negotiating agreements with third countries on immigration and asylum issues. Second, under a list of measures to be taken within two years, the action plan included "assessment of countries of origin in order to formulate a country specific integrated approach". It also suggested "information campaigns in transit countries and in the countries of origin as a means of discouraging illegal migration" (Council, 1998). Neither provision had been included in the Amsterdam Treaty itself, but once the action plan was adopted at the Vienna European Council in December 1998, both were accepted as part of the programme for implementing the treaty.

Building on these suggestions, a Dutch government paper later that year proposed setting up a high-level working group (HLWG) in the Council of Ministers, to "prepare cross-pillar Action Plans for selected countries of origin and transit of asylum seekers and migrants" (Council, 1999d). The proposal was adopted by the General Affairs Council in December 1998, which agreed to prepare action plans on six countries: Afghanistan, Albania, Morocco, Somalia, Sri Lanka and Iraq. As in the case of the Austrian paper, the Dutch proposal and the sub- sequent mandate of the HLWG included both concepts of cooperation with third countries: externalization and prevention. The interest in externalization was not surprising given the consistent focus of the JHA Council on readmission agreements, border control and measures to combat illegal migration. What was more unexpected was that this JHA Council-based group had been asked to propose measures to address the causes of flows.

The Tampere conclusions of 1999 in many ways overtook the HLWG initiative. They included the most far-reaching acknowledgement to date of the need for an external policy geared towards meeting JHA concerns. Under the heading on "A common EU asylum and migration policy", the question of relations with countries of origin is one of four priorities to be discussed (Council, 1999a)[12].

In an even stronger statement later in the document, the European Council stated that "all competences and instruments at the disposal of the Union, and in particular, in external relations must be used in an integrated and consistent way to build the area of freedom, security and justice. Justice and Home Affairs concerns must be integrated in the definition and implementation of other Union policies and activities" (Id.). The Council and Commission were requested to draw up

[12] It is worth citing the full text: "The European Union needs a comprehensive approach to migration addressing political, human rights and development issues in countries and regions of origin and transit. This requires combating poverty, improving living conditions and job opportunities, preventing conflicts and consolidating democratic states and ensuring respect for human rights, in particular rights of minorities, women and children. To that end, the Union as well as Member States are invited to contribute, within their respective competence under the Treaties, to a greater coherence of internal and external policies of the Union. Partnership with third countries concerned will also be a key element for the success of such a policy, with a view to promoting co-development".

"specific recommendations" on policy objectives and measures for the Union's external action in Justice and Home Affairs, including questions of working structure, prior to the European Council in Feira in June 2000. This report was welcomed at the Feira Council, which specified that the midterm review of Tampere planned for December 2001 should contain a chapter on progress in implementing the external dimension (Council, 2000a).
By late 1999, then, there appeared to be a real impetus to make progress in developing the external dimension, including through preventive approaches. How far have the expectations created by the HLWG and the Tampere conclusions been met in practice?

1.2. The policy making and the actual trends within EU migration policy (2001-2010)

Traditionally, as already stated, policy-making within the EU has followed the so-called 'Community method', whereby the Commission has the sole right to initiate legislation. Legislation is adopted by the Council (either unanimously or by a qualified majority, depending on the policy at hand) and the European Parliament (although the role of the Parliament varies widely – ranging from the right merely to express an opinion on proposed legislation to the right to co-legislate with the Council), and is binding on all member states. Legislation adopted in this way is subject to the jurisdiction of the European Court of Justice (Westlake and Galloway, 2004, p.14). However, this has applied only to the policy areas in which the European Union has exclusive competence – in other words, those areas where only the EU may legislate and adopt legally binding acts, and member states are restricted, being permitted to legislate only if empowered to do so by the EU (Art. 2 TFEU)[13].
It seems useful, in this phase of our study, give also a wide overlook concerning the theoretical development and the functioning of EU policies, with special referral to migration policy. In the academic study of European integration, there has long been a divide in theoretical approaches between neo-functionalism and inter-governmentalism (Bache and George, 2006, p.5). Neo-functionalists hold that initial integration between the member states in low-key economic areas will 'spill over' to more high-key, political areas (because integration in one sector causes member states' economies to become connected, and this drives demand for integration of related policy areas). This process gains momentum, aided by the Commission which acts as a "sponsor of further integration" (Rosamond, 2000, pp.51-52). Neo-functionalism would therefore predict that, from its beginnings as the European Coal and Steel Community in the 1950s, the EU will gradually gain exclusive competence over an increasing number of policy areas, including migration. Caviedes (2004, p.291; cf. Stetter, 2000, p.81) makes such an argument, highlighting that member states' migration policies are connected, arguing that "national rules threaten to spill over into other countries".
This view of EU integration is countered by inter-governmentalists, who hold that the member States remain the most important actors in the EU. Rather than surrendering control of important policy areas to the Commission, "in areas of key importance to the national interest, nations prefer the certainty, or the self-controlled uncertainty, of national self-reliance" (Hoffmann, 1966, p.882). Member States do choose to cooperate on the European level, but only in instances where they perceive this to be in their interests (Moravcsik, 1993, p.495).
Messina (2007, p.138) argues that "immigration-related issues have transcended their historical status as 'low' questions of domestic public policy to become 'high' issues of national and, increasingly, supranational policy and politics". According to the inter-governmentalist argument, migration policy would therefore be unlikely to be subjected to the Community method of

[13] The Treaty on the Functioning of the European Union, as amended by the Treaty of Lisbon (which entered into force on 1st December 2009).

legislation. Instead, member States will seek to maintain control over migration policy and limit the role of the Commission, and this seems to be the actual situation.
Anyway, as demonstrated din the previous paragraph, it is a matter of fact that the EU has been gradually developing a migration policy since the 1980s.
Already in 1991 the Commission linked migration policy to the economic project of creating an internal market with no borders (Commission, 1991), and the Heads of State and Government of EU member States meeting in Edinburgh in 1992 adopted a declaration on migration policy, stating *inter alia* that they would reinforce their common endeavours to combat illegal migration (Council, 1992, p.48).
As already stated in the previous paragraph, a very important step towards the creation of an EU migration policy came with the Amsterdam treaty in 1997, which listed the measures to be adopted by the EU in the area of migration policy within five years, including conditions of entry and residence, standards to be followed at external borders of the EU, and rules on visas.
Significantly, article 67 of the Amsterdam treaty states that after a transitional period of five years, the Commission will have the sole right to propose legislation in the area of migration and asylum.
In 1999, the Heads of State and Government of the member States agreed the five-year Tampere programme to establish an area of freedom, security and justice in the European Union, based on a genuine European area of justice, a union-wide fight against crime, stronger external action, and a common EU asylum and migration policy (Council, 1999). Bendel (2007, p.33) therefore argues that "asylum and immigration policies have long since become unthinkable without the EU", but it seems hard to agree completely with this author due to the great difficulties this area of freedom, security and justice encountered especially for what concerns a truly common management of migration issues at the EU level.
Despite the increasing cooperation on migration matters outlined above, there is ample evidence that member states seek to maintain control over migration policy. Indeed, as Guiraudon (2000, p.256) points out, many developments in EU migration and asylum policy take place outside the legal framework of the EU. The Schengen agreement (on the abolition of border checks), although now incorporated into the EU treaties, began as a treaty between only the Benelux countries, France and Germany.
Even the EU treaties have demonstrated a hesitant approach towards migration policy – the Amsterdam treaty, despite making migration and asylum an EU policy area and granting the Commission the right to initiate legislation, provided for a transitional period of five years during which the Commission would still share the right of initiative with member states.
Member states particularly guard their control over legal migration policy (Bendel, 2007, p.34) – moreover the article 79 (5) of the TFEU (on the development of an EU immigration policy) specifically states that "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 territories in order to seek work".
This reluctance by member states to surrender control over migration policy (and particularly legal migration) can make progress on the development of an EU migration policy very difficult. When decision-making among member States must be unanimous, any member state can block a proposal with which it disagrees, and policy-making risks grinding to a halt. In 2007, for example, the Commission proposed that legislation should be adopted on the admission of highly-skilled migrants, seasonal migrants and remunerated trainees to the EU. However to date only the Blue Card for highly-skilled migrants has been adopted after a difficult negotiation process (Wiesbrock, 2009, p.218).
Héritier (2001) argues that European integration has reached the stage where policies which are central to national sovereignty are directly affected, and the Community method of legislation is

therefore no longer appropriate. Member States are unwilling to grant the EU exclusive competence in these policy areas.
Member States are also suspicious of the Commission and concerned about losing influence over migration policy to the Commission (Caviedes, 2004, p.292). However, Héritier (2001, p.3) points out that the Commission sees even voluntary cooperation by member States on migration policy as "a possibility to expand European policies in the face of national governments' resistance".
Certain trends in EU migration policy and the above mentioned problems in the relations between EU Commission and member States on migration policy can be observed in the policy documents issued by the Council and the Commission over the past few years.
The first is the emphasis on the importance of migration as a topic for the European Union. The ageing European population, and the negative effects this will have on the EU's aim (articulated in the Lisbon strategy) to be the most competitive and dynamic knowledge-based economy in the world, is frequently mentioned as the rationale for action on migration at the EU level (see, for example, Commission, 2007b, p.13; Commission, 2008b, p.6). Secondly, the importance of reducing illegal immigration is highlighted – in a communication issued in 2000, for example, the Commission emphasised the "fight against illegal immigration" as part of a coherent immigration policy (Commission, 2000), and it has issued communications specifically dealing with illegal migration in 2001, 2002, 2003 and 2006. In this context the Council has several times stressed the need for measures against illegal employment, which is seen as a factor that encourages migrants to enter the EU illegally (see for example Council, 2007a, p.4).
Migration policy is also increasingly linked to both foreign policy and development policy. Cooperation with third countries is seen as an important element of migration policy and already in 1991 the Commission called for migration policy to be incorporated into EU external policy (Commission, 1991, p.20). This is frequently linked to the desire to limit illegal migration: bearing in mind that any action to counter irregular migratory flows should take place as close as possible to the irregular migrants concerned, the EU should promote actions in, and support actions of, countries of origin and transit. To that end, "migration issues should be integrated in the existing partnerships, which are the general framework of our relations with third countries*"* (Commission, 2001, pp.3-8).

Indeed, partnership with third countries was an important element of both the Tampere and Hague[14] programmes – the Hague programme notes that "asylum and migration are by their very nature international issues" (Council, 2004, p.20).
The link between migration policy and development policy was developed in a 2002 communication in which the Commission argued that "to maximise the potential positive effects of migration on development, and to reduce the negative ones, migration issues ought to be part and parcel of Community development policy" (Commission, 2002a, p.13). The Council confirmed this in 2003: "an effective and coherent development policy is an essential part of an effective migration policy" (Council, 2003, p.4). The assumption in some policy documents is that increasing the development levels of countries of origin will remove the economic motivation for migration and therefore reduce immigration to the EU: "efforts on migration management cannot have their full impact, if measures are not implemented at the beginning of the migration chain i.e. the promotion of peace, political stability, human rights, democratic principles and sustainable economic, social and environmental development of the countries of origin" (Commission, 2001, p.8). However, it is also acknowledged that migration can contribute to the development of the county of origin of migrants, for instance in the Commission communication on migration and development, which

[14] The Hague programme was the successor to the Tampere programme. The Tampere programme covered the years 1999-2004, the Hague programme the years 2004-2009.

highlights remittances, links with diasporas, and circular migration as policy areas which can improve the impact of migration on development (Commission, 2005).
One tool which has been an important element of EU cooperation with third countries is readmission agreements (see next paragraph). The Commission has acknowledged that "as readmission agreements work mainly in the interest of the Community, third countries are naturally very reluctant to accept such agreements. Their successful conclusion, therefore, depends very much on the positive incentives ('leverage') at the Commission's disposal" (Commission, 2002b, p.24). The problem is that "in the field of JHA , there is little that can be offered in return", and some countries are not interested in signing readmission agreements in return for financial and technical assistance (ibid.).

1.3. The repatriation and removal of immigrants: the readmission agreements as a fundamental tool of EU migration policy

In this phase of our analysis it seems also very important to speak about the role of the readmission agreements as part of the EU migratory policy, bearing always in mind that these kind of agreements can be both concluded by single or groups of member States or EU institutions.
A fundamental cornerstone in the development of this policy is the already repealed 1997 Dublin Convention. The Convention determines the state responsible for examining applications for asylum lodged in one of the Member States of the EU. It includes a system of re-admission agreements referring to the Third State Rule. An alien who enters from a safe third state can no longer appeal to the basic right to asylum Through the Amsterdam Treaty since 1999 asylum and migration policy is mainly regulated by EU as this policy field moved from the third pillar to the first pillar towards a common policy in order to establish an "area of freedom, security and justice".
Readmission agreements are integral part of this comprehensive approach for the governance of migratory processes; an approach which aims to intensify the cooperation between senders, transit and receivers countries in order to define more equal and sustainable migratory policies. Readmission agreements are a fundamental element in the wide and varied *genus* of removal and repatriation policies for illegal or irregular strangers. Removal provisions, provided that they have a rigorous and effective application, are essential instruments which strengthen regular or humanitarian admission policies and express beneficial *demonstrative effects* towards individuals who are not, or not more, satisfying the entrance conditions in the State and towards potential illegal emigrants.
On a conceptual level the comparative analysis of strangers removal measures is conflicting with the evident difficulty to elaborate a complete outline of the question, considering that repatriation assumes forms and uses administrative and judicial typologies which are very different on the substantial or formal plan from a judiciary system to another (Bonetti and Casadonte 2004, Hailbronner 2000 and 1999, Lang 2003, Kujiper 2000).
Also the relationships between EU member States on this subject matter are sometimes characterized by confusion and misunderstandings. These problems induced European Commission in April 2002 to release a Green Paper EU policy on 'return' (expulsion, deportation or repatriation) from the EU. The Green Paper suggests that the EU develop a detailed policy on expulsion of migrants who never had documents authorising them to enter and reside or who documents authorising them to reside have expired ('irregular migrants'). This was the first time that the Commission had issued a Green Paper on any aspect of EU immigration or asylum law. The purpose of EU 'Green Papers' was also to launch a wide-ranging public discussion on whether the EU should have a policy on a particular subject at all and what the content of that policy should be (Commission 2002).

In general terms *repatriation* means a whole of measures and actions which are necessary to guarantee the stranger's return in his birthplace country or in the transit one. Repatriation presents different aspects and covers a wide range of situations, which are substantially referable to two different categories: the *voluntary repatriation*, following up a free will of the interested party and without any use of coercive methods, and the *forced repatriation*, related to the situation when the return to the country of origin or transit is carried out under menace and/or use of coercive measures.

As regards to *forced repatriation* the legal systems of EU member States, even though their undoubted differences, provide for a complex variety of administrative and judicial measures, which are referable to *rejection at the frontier* and *expulsion*. The *rejection at the frontier* is regulated in the context of development and coordination of frontier controls and can be decided towards strangers who are at the border without the necessary requirements to enter in the country or who are stopped after their illegal entry in the country.

For what concerns the legal qualification of *expulsion* measures is possible to distinguish between:

a) *administrative measures of expulsion*, imposable by national or local police authorities on the grounds of stranger's danger evaluation *ante* or *praeter delictum*, that can be expressed as compulsory sanction (Bonetti and Casadonte 2004, p. 430)[15] or preventive and discretional measure (Bonetti and Casadonte 2004, p. 431); b) *jurisdictional measures of expulsion*, imposable on discretion by judicial authority as security measure *post delictum*, or adoptable (on compulsory or discretional base) as substitutive sanction of an imprisonment or of a measure alternative to imprisonment, in the case that the code allows or establish the compulsory removal of a stranger sentenced guilty for a small-medium crime and who is in a situation which should provide for an administrative measure of expulsion[16].

The effectiveness of the whole expulsion system, judicial or administrative, is evaluated as regards to the modality of execution of these measures. Abstractly speaking, is possible to distinguish between *measures with immediate execution* and *measures with deferred execution*. As general rule, expulsion is executed with accompanying at the frontier by the police authority and is immediately executive, even if has been impugned by the interested individual. But, generally the expulsion with deferred execution is decided towards the stranger who lived in the territory of the State for a certain period with expired documents, without a request of renewal of the residence permit. This deferred expulsion contains the injunction to leave the territory of the State within a fixed term, except for the case that the competent authority points out the concrete danger for the stranger to get out of the execution of the measure, in this case the immediate accompanying at the frontier is provided (Bonetti and Casadonte 2004, p. 439)[17].

Is important to point out that the concrete modalities of execution of removal measures involve some difficulties. The effectiveness of these policies results from an active and profitable collaboration with the States of origin and transit of individuals to be repatriated. Cooperation is essential in all different phases of removal proceeding. The stranger's removal from the territory of the State is feasible only if the authorities of the presumed country of origin or transit cooperate to identify and admit on his territory the stranger. But is well-known that the greatest obstacle to an immediate execution of repatriation measures is directly linked to the circumstance that countries of origin or transit of the immigrants usually apply very long administrative procedures in order to

[15] In the case of strangers who committed gross violations regarding rules on entry or residence in the territory of the State.

[16] Expulsion measure obliges the stranger to leave the territory of the country in direction of his State of origin or previous transit, it involves also the no entry in the territory of the State which delivered the expulsion measure.

[17] When repatriation or expulsion is not immediately possible, by means of accompanying at the frontier – in order to verify the identity or the nationality of the stranger, cure him, acquire documents to allow his repatriation in the country of origin, find an adequate transport service – different legal system of EU member States generally provide that the stranger has to be detained at temporary detention centres.

determine the individual's nationality, deferring or refusing the issue of necessary travel documents advancing the lack of sure proofs concerning the migrant's identity[18].
The difficulties and the obstacles in the executive application of removal or expulsion measures confirm the extreme importance of readmission agreements between destination and origin/transit States.
These agreements define the category of individuals to be readmitted, the procedures in order to facilitate and accelerate the re-entry of these persons and the practical measures of transport of expelled or rejected individuals. They are an effective instrument for the concrete application of removal measures arranged by the States of destination of the migrants. Readmission agreements furnish a reliable instrument to develop the cooperation between States in this field. And after all thanks to their flexibility these agreements are actually the best bilateral or multilateral tools in order to fight the illegal immigration phenomenon (Bonetti and Casadonte 2004, p. 442).
The readmission agreements are international agreements binding each contracting party to readmit on his territory, under request of the other contracting party, certain categories of individuals who are not satisfying the conditions for the entry in the requesting State, or who are not satisfying anymore the conditions regulating residence in the territory of the requesting party (Piccato 1997)[19].
The perspective of long and complex negotiations, or the refusal of some States to open a formal table of negotiation, induced some States to conclude informal agreements concerning readmission or, more often, to include specific "*readmission clauses*" in international treaties concerning forms of cooperation or association, in order to encourage the more reluctant States to execute their readmission obligations avoiding the risk to loose the benefits coming from the whole treaty[20].
A slightly different situation characterize EU. After the entry in force of Amsterdam Treaty in 1997 readmission agreements are part of the wider repatriation policy of the Union, which is integrant part of the community immigration policy included in the community pillar (Commission, 1999,p. 1; Council, 1999, Conclusions n. 26 and 27; Council 2001, Conclusion n. 40; Bariatti 2001, p. 241)[21]. European policy provides three different types of readmission.
First of all, since 1995, the EU Council provided for the inclusion of readmission clauses in the bilateral, mixed and multilateral community association and cooperation agreements. These clauses are not readmission agreements *stricto sensu*, but can be defined as "qualifying clauses", whose aim is exclusively to commit contracting parties to readmit their citizens, the citizens of third countries or displaced persons. The proceedings and operative rules are deferred to specific conventions for

[18] In order to avoid such inconveniences European Union prearranged a standard travel document concerning removal (OJ C 274 19th September 1996, p. 18). But very often the country of destination does not accept this "EU pass", requesting the use of real travel documents to permit the re-entry of the migrant.
[19] There is a slight difference between "first generation" and "second generation" readmission agreements. The first one admitted the readmission only of the individuals who entered illegally in the territory of the requesting State; the second type of agreements (more recent) – due to the fact that very often is difficult to determine if the entry was illegal or not – consent the readmission also when individuals, even though legally entered, illegally reside in the requesting State. Piccato, *Nuovi strumenti integrati di cooperazione tra gli Stati nel settore delle immigrazioni. Gli accordi di riammissione*, in *Studi Diplomatici, Quaderni dell'Istituto Diplomatico del Ministero degli Affari Esteri*, Roma, 1997.
[20] These difficulties are also useful to explain the reason why these agreements are usually bilateral, instead of multilateral ones – which would have the rare merit to guarantee some uniformity in the execution of practical measures for readmission.
[21] On the occasion of the Seville Summit in June 2002 the Heads of States and Government affirmed that immigration is between the priorities of the European political agenda for the new century, affirming the necessity to develop a "*comprehensive plan to combat illegal immigration…speeding up of the conclusion of readmission agreements currently being negotiated and approval of new briefs for the negotiation agreements with countries already identified by the council*", in www.ecre.org/seville/sevconc.pdf

the accomplishment of these measures, which the EC or the member States have to negotiate on bilateral basis[22].
The other two types of readmission are the readmission agreements between a member State and a third Country[23], and the agreements between EU and a third Country (as said this competency has been stated in Amsterdam Treaty)[24].
The actual situation of EC law does not provide for an exclusive competence of the Community to negotiate readmission agreements, considering that the rules of the Treaty confirm specific competencies for the member States and that the praxis is widely favourable to mixed agreements (Nascimbene, 2001)[25].
Individuals subjected to readmission procedure are usually *citizens of the requested party*, who entered illegally or lived irregularly in the territory of the requesting State. Even if the more recent agreements provide for the readmission of *third States' citizens* and *displaced persons*, insofar as is possible to demonstrate that these individuals lived or travelled in the territory of the requested State, before entering the territory of the requesting State.
The different juridical qualification of these individuals causes problems both on juridical plan and on practical one. The result of this situation is that readmission agreements have to ensure different answers, beginning from the juridical *ratio* of readmission and the proceedings and formalities requested to determine the individual's citizenship.
With regard to the juridical *ratio* of readmission in the case of citizens of the requested party, the agreements are in direct connection with the principle of consuetudinary law which recognize the right for each State to autonomously determine his immigration policy and the related obligation to readmit his citizens.
As regards to readmission in the case of citizens of third States or displaced persons there is a lack of rules in general international law, so that readmission agreements play a fundamental role in order to persuade Countries of transit for illegal immigration to exercise a more strict control on the entry and exit flows form their territory.
More serious problems are related to the question of investigation of the citizenship of individuals who have to be readmitted. On one side, we have to consider that in a great number of cases individuals find in an irregular position do not have any personal document, and on the other that many States request the presentation of sure documentary evidences concerning the effective citizenship of those individuals.
Both in the case of citizens of the requested State and of citizens of third States, readmission agreements guarantee a mitigation of these formalities.

[22] On the 3rd December 1999, the Council meeting Justice and Internal Affairs adopted the Decision n. 13409/99 "on the inclusion of a model of readmission clause in the community agreements with third countries and in the agreements between EC, his member States and third countries" in revision of the model of readmission clause adopted in 1996 (Council n. 4272/96). From 1999 readmission clauses were included in the Cotonou Agreement, in agreements with Algeria, Armenia, Azerbaijan, Croatia, Egypt, Georgia, Lebanon, Macedonia, Uzbekistan.
[23] Following the approval on 30th November 1994 of the Council Recommendation on a *Standard Bilateral Agreement on Readmission between a Member State and a Third State*, and the approval on 24th July 1994 of the Council Recommendation on *General Principles concerning the drafting of Protocols for the Accomplishment of Readmission Agreements*, the member States have a standard model that can be used in the negotiations with third countries and is inspired to the last generation readmission agreements.
[24] At the European Council held in Salonika in July 2003 the Heads of State and Government stated the guidelines to identify the "objective States" to start the negotiations with. In particular these principles are based on the following aspects: a) the migratory pressure on the EU and/or; b) regional cohesion and/or; c) geographic proximity to EU. The Council's Communication defines the Countries that Commission is authorized to negotiate these kinds of agreements: Albania, Algeria, China, Macao, Morocco, Pakistan, Russia, Sri Lanka, Turkey, Ukraine.
[25] Although the lack of an exclusive competence concerning readmission agreements, the member States are obliged to respect the general obligation to cooperate with community institutions (ex art. 10 TEC).

Failing of a sure proof on citizenship the recent agreements provide for the "presumption of nationality", a key concept which ensure the good working of the whole mechanism. So that, failing valid identity documents, is provided for that the personal identification in order to proceed with readmission can be defined in front of documentary evidences or also in presence of matters-of-fact (substitutive documents for the passport, an abstract of civil status, a driving license, declarations of witnesses, language spoken by the individual).
Nevertheless, in the case the request of readmission concerns third States' citizens as to the requested party, the requesting State has to prove some aspects related to the transit and the period of permanence of these individuals in the territory of the requested party. In other words, the readmission of citizens of third States in transit States is compulsory only when determined conditions occur, conditions which have to be clearly expressed in the agreements and, at the same time, encounter some relevant exceptions related to specific situations existing between the contracting States (Bonetti and Casadonte, p. 448).
First of all a State is obliged to readmission only if the person passed directly from the requested Country to the requesting one, this condition has to be verified with a grade of reasonable probability, following up the admission of adequate evidences or the police interrogation of the individual by the requesting State.
In the second place, the obligation to readmission of citizens of third States has some important derogations. Although they can change from case to case, these exceptions commonly concern: a) the citizens of third States who obtained a valid visa or residence permit; b) the third State citizens who regularly live for more than six months on the territory of the requesting State; c) the individuals expelled for public order or national security reasons from the requesting State toward their State of origin or towards a third State, or the individuals whose readmission is rejected by the requested State for valid and justified reasons of national interest.
Readmission encounters some *relevant general exceptions* as much in the case of citizens of the requested State as in the case of citizens of third States. These exceptions are provided for not only by readmission agreements but also by international consuetudinary and conventional law, or more favourable national rules.
In general, these limitations aim to mitigate the strictness of removal repressive measures, reaffirming in some situations and on certain conditions the centrality of fundamental human rights, whatever the citizenship of the individual may be. Derogations to readmission are part of a wider and well known theme concerning the attempt to reconcile the State's right to control migration flows with the protection of individual freedom and rights (this question is strictly connected with the eventual restriction of the sovereignty of the State). However, today the balancing between the two opposed principles seems to be very difficult, and the protection of human rights is surely the disadvantaged party, although this protection goes beyond territorial limits (Goodwin-Gill, 1975, p. 55; Calamia, 1980; Nafziger, 1983; Favilli, 1998).
Usually, readmission agreements provide for some limitation on expulsion or rejection of aliens. The principal one is surely the prohibition to proceed to the repatriation of third States' citizens who have the *status* of refugee or displaced person recognized by the requesting Country[26]. Although the provision of this general prohibition, the more recent readmission agreements (as the one between Italy and Libya, signed in 2008, and hardly criticized by the UNHCR) in some cases allow the readmission of individuals who presented an asylum request, in order to control that particular form of illegal migration connected with asylum seekers flows. So that two different procedures are provided for by readmission agreements.

[26] This fundamental principle has been clearly stated in the following international and European conventions: (1951) Geneva Convention relating to the status of refugees; (1954) Convention relating to the Stateless persons; (1950) European Convention on human rights.

The first one has the aim to prevent the *asylum shopping* phenomenon[27] and provide for the readmission of individuals in the State of first residence where he could have obtained protection (this is also called *front-end* readmission procedure). The second exception to the general international rule developed in answer to the trend of individuals to remain on the territory of the State where they requested the asylum also after that the final decision of rebuttal of the request and provide for the obligation of readmission by the State of origin or by the State of transit (so called *post-procedural* readmission proceeding).
There are also some particular limits to readmission of irregular and illegal immigrants stated by a wide range of conventional documents concerning protection of human rights and promoted by the United Nations[28].
Today the conventional instrument which is directly applicable to prevent the expulsion and the removal of individuals is represented by art. 3 of 1950 European Convention on Human Rights. This article provides for the prohibition of torture and other inhuman or degrading treatment. In more occasions the Court of Strasbourg stated that an expulsion proceeding could violate the prohibition provided for in the article 3 of the European Convention also when such a proceeding has the effect to coercively repatriate an individual in a State where fundamental human rights could be openly violated (Esposito, 2001)[29].
Is also relevant on this matter the prohibition provided for by article 4 of Protocol 4 annexed to European Convention on Human Rights, which in an extremely clear manner disposes that *"collective expulsion are prohibited"*. This rule enforces the principle stating that an expulsion proceeding must ever be adopted individually, considering the real and not the supposed situation of each individual involved.
Last but not least, in some circumstances national legal systems provide for a prohibition of the expulsion procedure or, in the case that the proceeding has been already adopted before that the impedimental reason intervened, the obligation to revoke the proceeding. Among the limits at the State power to dispose the removal or the readmission the more relevant are the ones concerning the expulsion of minors. Analysing the different legislative systems of the States, the prohibition of readmission seems to be referred just to that alien minors who, although they do not have regular documents for residence, have at least one parent who is regularly living in the State of destination

[27] In this case the asylum seeker presents more asylum requests in different countries.
[28] See UN Pact on Political and Civil Rights (1966); Convention on the Elimination of all Forms of Discrimination Against Women (1979); Convention Against Torture and other Cruel, Inhuman or Degrading Treatment (1984); International Convention on the Rights of the Child (1989). Very interesting is also the UN Convention on Trans-national Organized Crime (adopted in Palermo in December 2000), especially in the part concerning the Protocol on Traffic of Human Beings and Protocol against the Smuggling of Migrants. In particular, is extremely useful to compare the provisions concerning "repatriation" of the victims of human beings' trafficking, with the ones referring to "readmission" of smuggled irregular migrants. Two Protocols use a different terminology – "repatriation" and "readmission" – in order to point out that that the two phenomenon of "human beings trafficking" and "illegal migrants smuggling", although they are very similar for what concerns the concrete operative methods of the crime, present remarkable differences on a conceptual plan, as a consequence requesting different answers on a juridical plan. Human being traffic is more dangerous than illegal migrants smuggling, as it very often involves not only a situation where individuals are submitted to an international criminal organization which is transferring they under payment by a State to another, but also concerns a situation of further slavery and exploitation of these individuals by the crime organization in the State where they illegally entered (prostitution, etc.). In the first case individuals have the possibility to be immediately readmitted in their State of origin or transit, in the second they have wider legal protection provided for by the State where they have been exploited (Saulle, 2000; Finckenauer, 1998; Bhabha, 2005; Mucci, 2003).
[29] In detail, the case-law of the European Court confirms the applicability of the above mentioned principle also in situations when the request of expulsion comes from a State which is not part of the Convention, and when there is only the risk that the violation of article 3 could be committed by a State. See *Soering v. Great Britain*, July 7, 1989 *(Publications de la Cour Européenne des droits de l'homme*, Série A, n. 161). For a wider analysis of art. 3 of ECHU see Esposito, 2001.

or who are regularly granted for custody to a citizen of this State or to a regularly registered immigrant.
The concession of residence permit does not seem to be applicable to minors whose parents are illegal immigrants nor to not accompanied minors, who should be removed. Although the particular legal status of the minor helps us to exclude, in the above mentioned situations, that the removal from the destination country could assume the form of an expulsion proceeding. As a matter of fact, in the first case the minor whose parents are irregularly living on the territory has the right more than the obligation to leave the State of destination with the expelled parents or foster parents, so that the measure of expulsion is adopted not against the minor but, on the contrary, adopted in his specific interest. In the second case, the not accompanied minor has the benefit to be subject to assisted repatriation methods, this procedure is completely different than the expulsion (in fact the coercive element is completely absent in this specific situation, and the State which follows this procedure has the obligation to verify the living condition that the minor will find in his country of origin at his return, if these conditions are not present the State is obliged to grant the permanence of the minor on his territory – this obligation for the State is completely absent in the case of normal expulsion procedure)[30].
For what concerns the *readmission procedure* there are slight differences between first and second generation readmission agreements. In the past, the requesting State had to advance a formal demand to the diplomatic delegation of the requested State. After a formal acceptance of the request, the requested State issued to the individual a travel document with limited validity. These procedures were very often very long and difficult, and allowed the requested State to delay and refuse the readmission requests in order to procedural reasons, so that this readmission procedure was extremely ineffective.
First of all, in order to avoid these inconveniences the recent agreements entrust to the Ministry of Interior of the contracting States the presentation of readmission requests. These requests have to be carefully completed by police authorities with the data concerning the personal identity and eventually the documents of the individual to be readmitted, as well as all the information concerning the period he illegally lived in the territory of the requesting State and the circumstances regarding his illegal entry in the country[31]. In the second place, another provision which is common to more recent agreements is the principle of readmission *without formalities*. This rule provide for that the request of readmission could be evaluated by the border authorities who have immediate competence to decide about the eventual readmission of the individual. These *informal procedures* are generally foreseen in the airports or in the case that the illegal immigrant has been stopped near the border and/or immediately after he entered the territory of the State, on condition that the requesting State is able to give certain proofs that this individual illegally entered in his territory In particular, the readmission agreements provide for that border authorities of the requested State, on request of the border authorities of the requesting State and without formalities, have to readmit on their territory also the citizens of third States who illegally entered through the common border and are handed over within 24 hours from the entry; or who, at less than ten kilometres from the common border, have been submitted to a police control which verified the irregular entry. When an individual is stopped in a border zone it is possible to follow an accelerate procedure: informal

[30] All these aspects are also referred to pregnant women, with the only difference that in this case on legal plan there is a sort of "temporary suspension" of the eventual expulsion procedure, in order to protect the women and the new born (Calamia, 1980, p. 85).
[31] Although the obligation of a State to readmit his citizens is not subject to a temporal limitation, generally the readmission agreements provide for a term of eight (8) days. After this period the State has to communicate by written form his decision. The authorization to readmission is valid about one month occurring from the date of the written notification. Instead, for what concerns the citizens of third States the agreements clearly state the term within which the State has to transmit his request (usually this term is between three and six months from the illegal entry in the territory of the requesting State).

notification – by fax, telex or phone – and the execution is entrusted to border policemen (Nascimbene, 2001, p. 348).

Usually, the concrete proceedings for removal and readmission are provided for in specific applicative protocols annexed to readmission agreements, these protocols are negotiated by the technical administrations of the contracting States. Although, some questions concerning some procedural and administrative aspects are detailed in the readmission agreements (Nascimbene, 2001, p. 349)[32].

1.4. The latest developments in the management of regular immigration: the circular immigration and the 'Mobility partnerships'

As already stated, the circular migration processes and the need for qualified workers by EU's developed countries characterize the latest developments in immigration trends in Europe.
In 2007, the European Union (EU) introduced for the first time the Mobility Partnerships. These partnerships should "identify novel approaches to improve the management of legal movements of people between the EU and third countries ready to make significant efforts to fight illegal migration" (Commission, 2007a, p.2).
But to date, the EU has concluded Mobility Partnerships only with Moldova and Cape Verde (May 2008) and with Georgia (November 2009). The Commission has indicated that Mobility Partnerships will be used more widely in the future – for example, they will be the main tool in so-called 'Mobility and Security Pacts' to be offered to the countries bordering the EU to the east (Commission, 2008a, p.6). In its 2009 evaluation of the Mobility Partnerships, the Commission recommended further developing this tool by extending it to two or three more countries during 2010 (Commission, 2009, p.8), and the Council of the EU supported this proposal in its draft conclusions on the Mobility Partnerships (agreed in November 2009), in which it invited the Commission to initiate talks with interested third countries with a view to launching further Mobility Partnerships (Council, 2009a, p.5). Despite the fact that this policy tool will play an increasingly important role in the EU's migration policy, little has so far been written about the Mobility Partnerships.
It is a matter of fact that also the Mobility Partnerships reflect the general politics of EU migration policy – member states are reluctant to hand over control particularly of legal migration, and therefore attempt to maintain control over this policy. The Mobility Partnerships also continue the trend of migration policy at the EU level being linked to other policy areas. There are two main reasons for these linkages: first, the Commission has recognised that there is a need to offer third countries an incentive to cooperate with the EU on illegal migration; second, broader political considerations (unrelated to migration) are being brought into migration policy. This is clear in terms of the partner countries selected for Mobility Partnerships and member States' motivations for joining the agreements. The conclusion is that this process has implications for the future of the instrument.
The notion of Mobility Partnerships was first mentioned in the Commission's evaluation of the Global Approach to Migration. The Global Approach (agreed by the Council in 2005) highlights areas of action on migration to be undertaken with Africa and the Mediterranean countries. In it, the European Council "agrees on the urgent need in the short-term for broad-ranging *concrete actions*, which form part of on-going work to ensure that migration works to the benefit of all countries concerned" (Council, 2005, p.9; emphasis added). The Commission's 2006 evaluation lists recommendations for the further development of the approach (particularly the inclusion of legal

[32] Perhaps the general expenses concerning readmission procedure – including transport expenses and administrative expenses for the preparation of travel documents – are usually paid by the requesting State.

migration, and the extension of the Global Approach to cover the eastern and south-eastern regions neighbouring the EU) (Commission, 2006). It also suggests agreeing Mobility Packages with a number of interested third countries which would enable their citizens to have better access to the EU.

The overall logic of these agreements reflects the clear need to better organise the various forms of legal movement between the EU and third countries. Mobility Packages would provide the overall framework for managing such movements and would bring together the opportunities offered by the Member States and the European Community, while fully respecting the division of competences as provided by the Treaty (Commission, 2006, p.7).

In May 2007, the Commission issued the communication on Mobility Partnerships. The partnerships will "identify novel approaches to improve the management of legal movements of people between the EU and third countries ready to make significant efforts to fight illegal migration" (Commission, 2007a, p.2). In addition, they will aim at "exploiting potential positive impacts of migration on development and responding to the needs of countries of origin in terms of skill transfers and of mitigating the impact of brain drain" (ibid.). In June 2007 the Council suggested that this concept should be tested through a limited number of pilot partnerships (Council, 2007b) and in December it and suggested opening negotiations on Mobility Partnerships with Moldova and Cape Verde (Council, 2007c).

In May 2008, joint declarations on Mobility Partnerships were agreed with Moldova and Cape Verde (Council, 2008a; Council 2008b), and in November 2009 a Mobility Partnership was concluded with Georgia (Council, 2009b). The Mobility Partnerships are mainly understandable as a framework for projects being undertaken. The partnerships are signed as political declarations and are implemented through the proposed projects (attached to the declarations as an annex). Projects can be proposed by EU member states, the Commission, or the partner country concerned[33].

The Mobility Partnerships are tailored to the situation of each partner country in that different projects are proposed.

The political declarations all cover mobility, legal migration and integration; migration and development; and border management, identity and travel documents, fight against illegal migration and trafficking in human beings. Commitments which might be expected from partner countries include initiatives to discourage illegal migration through targeted information campaigns; efforts to improve border control including through operational cooperation with EU member states and/or Frontex (the EU's border agency); efforts to improve the security of travel documents against fraud or forgery; and commitments to promote employment and decent work (Commission, 2007a, p.4). In return, Mobility Partnerships will offer projects which broadly fall under the areas of: improved opportunities for legal migration for partner country nationals; assistance to help partner countries develop their capacity to manage legal migration flows; measures to address the risk of brain drain and to promote circular migration or return migration; and improvement and/or easing of the procedures for issuing short-stay visas to their nationals (ibid., pp.5-8). Examples of specific projects being implemented in the Mobility Partnerships include: drawing up a migration profile for the partner country; providing information on legal migration routes to the EU; study visits for officials of the partner country; support for returning migrants; bilateral agreements on social security rights; and training border guards.

But how do the Mobility Partnerships relate to the politics of EU migration policy as identified above? At first sight, the Commission seems to play a significant role in the Mobility Partnerships. The concept of the Mobility Partnerships originated in its Directorate-General (DG) for Freedom, Security and Justice (JLS), and the Commission negotiates Mobility Partnerships with partner countries on the EU's behalf. Two main factors define the context for the development of the

[33] The Mobility Partnership with Moldova proposed 64 projects, that with Cape Verde 31, and that with Georgia 17 (though the list is updated as new projects are proposed).

Mobility Partnerships by the Commission. The first is the crisis in Ceuta and Melilla in 2005 – during August and September, several migrants attempting to scale the border fences surrounding the Spanish enclaves were trampled to death or shot (though it was unclear whether Spanish or Moroccan border guards fired the shots) (Nash, 2005). This event brought migration from Africa to the EU to the attention of policy-makers.

In addition, in the context of the Global Approach to Migration, the Commission wanted a policy tool reflecting a balanced approach to migration issues (including legal migration, illegal migration, and migration and development).

Controlling illegal immigration remains an important concern, however as outlined above the Commission has also acknowledged that third countries are unwilling to sign readmission agreements with the EU, and there is a need to offer some concessions in return to secure such agreements.

Some member States have, in the past, adopted such an approach – for instance, the Italian government opened a legal migration quota for Albanian citizens in order to be able to successfully conclude a bilateral readmission agreement with Albania (Roig and Huddleston, 2007, pp.377-378); the same approach has been used by Italy in 2008 in signing the agreement on readmission and common control of the borders with Libya, inserting a number of provisions concerning the cooperation in the building of infrastructures (mainly roads) and the part of the agreement (waited for more than 60 years by the Libyan government) concerning the compensation for the 2nd world war damages. This type of approach has led to fierce criticism by academics of the EU's migration policy – Chou (2006, p.2) has described the EU's method as 'coercive' as it "uses development aid or related incentives in exchange for third countries' cooperation in achieving EU migration objectives, such as the tackling of irregular migration".

This is reflected in the aims of the Mobility Partnerships, which will be offered to countries "ready to make significant efforts to fight illegal migration" (Commission, 2007a, p.2). Indeed, one of the commitments which might be expected from partner countries in a Mobility Partnership is to readmit third country nationals and stateless persons who arrived in the EU through their territory (p.4).

While accepting the rationale for the Mobility Partnerships as put forward by the Commission, the member States have demonstrated their determination to remain in control of migration policy. Already when selecting partner countries for the first Mobility Partnerships, the Council requested the Commission "*in close liaison with Member States and/or the Presidency, in order to ensure a close involvement of the Council*, to open dialogue with Moldova and Cape Verde, with a view to launching pilot mobility partnerships" (Council, 2007d; emphasis added).

This determination to remain in control has manifested itself in several ways, most importantly through the legal framework designed for the Mobility Partnerships. The Mobility Partnerships are not legally binding international treaties, and they do not cover all member States – member States instead take part in the partnerships on a voluntary, opt-in basis. Only four member States signed the agreement with Cape Verde , 15 signed the agreement with Moldova and 16 the agreement with Georgia.

At the beginning of the process of developing this policy tool, the member States made clear their opposition to a legally binding agreement , and therefore the format chosen for the Mobility Partnerships was a political declaration with an annex of proposed projects (Chou, 2006, p. 16). The Commission acknowledges that such a format has advantages – for instance, due to the flexible nature of the agreements, signatories can begin working immediately. In addition, legally binding agreements are not necessarily a panacea, as there may be problems with ratification or implementation. However, the voluntary basis of the partnerships is also problematic in that it becomes difficult to have a unified EU approach towards migration issues with that country. In addition, the issues of most interest to partner countries (legal and labour migration) are controlled

by member States – this complicated the discussions between the Commission and the partner countries on the Mobility Partnerships, as the Commission could not guarantee what the member States would be willing to offer.

The European Parliament and the European Court of Justice do not play any role at all in the Mobility Partnerships – the Mobility Partnerships are agreed between the Commission, the member States and the partner country, with no official possibility for the European Parliament to influence the negotiations, and as the agreements are not legally binding they are not subject to the jurisdiction of the European Court of Justice.

Stetter (2000, p.88) has argued that previous cooperation outside the Community structure was "lacking any legal and institutional contractual foundation" and therefore "inefficient with regard to outcomes". The Commission's 2009 evaluation indicated the possibility of such problems by stating that the Mobility Partnerships risk becoming simply a collation of proposed projects (Commission, 2009).

The member States' determination to remain in control of the Mobility Partnerships is clear in their continuing prioritisation of their own bilateral relations with the partner countries over an EU approach. But the Commission seems to consider the coordination of member States' projects as an important added value of the Mobility Partnerships (Commission, 2008) and would ideally like member States to propose projects jointly.

But a matter of fact is that it continues to receive proposals for projects by only one member State acting individually (Roig and Huddlestonn, 2007, p. 162). Member States clearly emphasise their bilateral relations – naturally, this has an impact on the coherence of the Mobility Partnerships. By prioritising their own bilateral projects, member states are not coordinating with each other, leading to a duplication of the projects being proposed (Commission, 2009).

There has been some tension between the member States and the Commission regarding the issue of legal migration. Member States are reluctant to surrender control over legal migration, which they emphasise is still a matter for national policy (Roig and Huddleston, 2007). The Commission, in turn, highlights that legal migration is one of the three components of the Global Approach and therefore needs to be included if the EU is to pursue a balanced approach to migration (Commission, 2009, p. 3).

The Treaty of Amsterdam (which transferred competence over migration and asylum policy to the EU), did state that the EU shall adopt measures on immigration, including on conditions of entry and residence (Art. 63 (3)), however, as Caviedes (2004, p.289) points out, "nation-States view immigration control policy as critical to maintaining sovereignty and are slow to relinquish their policy monopoly". Indeed, the Amsterdam treaty went on to State that measures adopted relating to immigration "shall not prevent any Member State from maintaining or introducing… national provisions which are compatible with this Treaty". The member States' reluctance to hand over control of legal migration is thus codified in EU law.

Some member States therefore state very clearly that they will not be offering legal migration opportunities as part of the Mobility Partnerships (Berramdane and Rossetto, 2009, p. 34), while others instead emphasise the other components of the Global Approach (illegal migration and migration and development) (ibid.). This approach is also clear when examining the projects proposed in the framework of the Mobility Partnerships.

The Commission communication does foresee that Mobility Partnerships will provide opportunities for migration from the partner countries to the EU, either for work or studies/training, in the form of quotas, matching of job offers in the EU with jobseekers from partner countries and favourable treatment of nationals of partner countries (Commission, 2007a, p.5), though it does also state that such possibilities will depend on the labour market needs of member States and respect the principle of Community preference for EU citizens (ibid.). However, most of the projects dealing with legal migration do not focus on creating new opportunities for citizens of the partner countries

to migrate to the EU. Rather, the emphasis is on raising awareness and informing about the opportunities for legal migration to the EU. For instance, of the 64 projects proposed under the agreement with Moldova, only 7 relate to labour migration schemes, and of these only two projects propose new possibilities for labour migration (the others dealing instead with bilateral agreements on local border traffic or the dissemination of information in Moldova on EU labour market regulations) (Reslow, 2010).

The Commission's 2009 evaluation recommended extending the Mobility Partnerships to two or three more countries, implying that it is on a collision course with certain member States.

Overall it is clear that the Mobility Partnerships represent a shift away from the traditional policymaking method in the EU. The member States are determined to remain in control of this new policy tool and avoid handing over power to the EU level. The role of the Commission has therefore been limited, and the European Parliament and Court of Justice play no role at all. The partnerships are voluntary and not legally binding. This is in line with the argument by Héritier (2001) that, if EU policy-making is to proceed in areas which member states consider sensitive or key to their sovereignty then an element of voluntarism will be needed.

The Mobility Partnerships are coherent with the trend at EU level for migration to be linked to other policies, particularly foreign and development policy. One of the innovations of the Mobility Partnerships is the idea to offer legal migration opportunities in return for third countries' support for controlling illegal immigration, thereby linking two dimensions of migration policy. This is due to the problem identified by the Commission in convincing third countries to cooperate on issues such as readmission without an appropriate incentive (see above).

In order to incentivise cooperate, the Mobility Partnerships offer "novel approaches to improve the management of legal movements of people between the EU and third countries ready to make significant efforts to fight illegal migration" (Commission, 2007a, p.2), (though, as argued above, most of the projects proposed under the Mobility Partnerships do not offer new opportunities for legal migration). The Commission also clearly envisages a link between the Mobility Partnerships and development policy when it states that the partnerships will aim at "exploiting potential positive impacts of migration on development and responding to the needs of countries of origin in terms of skill transfers and of mitigating the impact of brain drain" (ibid.).

However, broader considerations (seemingly unrelated to migration) have also come into play in the negotiation of the Mobility Partnerships, both in terms of selecting partner countries and in terms of member States' decisions to join particular Mobility Partnerships.

The Commission's 2009 evaluation (based on the experience of negotiating and implementing Mobility Partnerships so far) explained that the selection criteria applied in choosing partner countries were the geographical balance between Eastern Europe and Africa, the importance of migration flows from or through the country to the EU, the readiness to cooperate on readmission and fight against illegal migration, the interest of EU Member States to cooperate with the country in question and its interest to enter such a partnership (Commission, 2009, p.3).

However, it goes on to State that there should be more strategic reflection surrounding the selection of partner countries (ibid.). Indeed, migration does not seem to have been the single central concern when selecting partner countries for the Mobility Partnerships. To the east, perhaps, there are significantly more migrants coming to the EU from Ukraine than from Moldova or Georgia[34] (Reslow, 2010).

Why, then, were these partner countries selected? Officials of both the Commission and member states emphasised that Moldova and Cape Verde were selected in order to test the notion of Mobility Partnerships (Reslow, 2010). For this reason, it was considered important to select countries which would be 'quick wins' (ibid.) – in other words, countries with which it would not

[34] However, Ukraine stated that it was not interested in concluding a Mobility Partnership Agreement.

be too difficult to reach agreement in a short period of time. The Commission's evaluation of the Mobility Partnerships indicates that both Moldova and Cape Verde quickly confirmed their interest in participating (Commission, 2009, p.3).

In addition to broader political considerations, Commission officials point out that an important element in selecting partner countries for Mobility Partnerships is the level of interest by member States (Reslow, 2010, p. 15). This, however, can be problematic due to member States having very different interests. A government official of one member State points out that a tour de table of the member States would lead to very different partner countries being proposed (Reslow, 2010, p. 22).

In particular, there is frequently a split between 'southern' member States (who favour partnerships with Mediterranean and African countries) and 'eastern' member States (who favour partnerships with eastern and south-eastern European countries) – these divisions between member States can lead to heated discussions (ibid.).

Ultimately, then, selecting countries for Mobility Partnerships is bound to be related more to the 'balance' between east and south in the EU than necessarily about migration (ibid. p. 23). Indeed, the Global Approach to Migration originally focused on Africa and the Mediterranean countries, but was extended in 2007 to cover also the eastern and south-eastern regions neighbouring the EU. This east-south divide is therefore institutionalised in EU policy.

Overall then, the Mobility Partnerships reflect the trend in EU migration policy of linking migration policy to other policy areas (particularly development policy). However, the decision-making process leading to the signing of the Mobility Partnerships also involved much political reasoning seemingly unrelated to migration policy (such as the importance of the geopolitical context and historical/cultural relations between member states and the partner countries).

This paragraph has argued that the Mobility Partnerships depart from the traditional Community method of policy-making in the EU, as the member States are determined to keep control of a policy area (migration policy more generally, and legal migration in particular) that is seen as central to their sovereignty (cf. Caviedes, 2004, p.289).

Despite the role of the Commission in proposing and negotiating the Mobility Partnerships, member States have made sure that they remain at the heart of the decision-making process by insisting that the partnerships are not legally binding and that participation and the proposal of projects takes place on a voluntary basis. There is no role for the European Parliament or the European Court of Justice. The Mobility Partnerships also respond to the general development within EU migration policy, which has increasingly become linked with foreign policy and development policy – cooperation with third countries is seen as essential to achieving the EU's migration goals (in particular in order to limit illegal immigration to the EU), however given that this is not in the direct interest of the third countries concerned there is a need to offer an incentive in return. Mobility Partnerships are based on the innovative premise that third countries which assist the EU with managing migration should be offered increased legal migration opportunities to the EU, but the analysis showed that the projects proposed by member States have largely been unrelated to increasing legal migration opportunities.

Indeed, broader political considerations than only migration policy (such as the state of relations with the third countries, the member States' attitude towards EU migration policy, and domestic political concerns) have come into play in the decision-making process on the Mobility Partnerships.

The future of the Mobility Partnerships is therefore unclear. The EU's Stockholm Programme (which lays down priorities in justice and home affairs for the period 2009-2014) foresees "continued and expanded use of the Mobility partnership instrument as the main strategic, comprehensive and long-term cooperation framework for migration management with third countries" (Council, 2009c, p.62).

However, the potential for conflict between the Commission and the member States was outlined above – for instance, some member States do not want to see further Mobility Partnerships in the immediate future, despite the Commission's stated intention to negotiate two or three more partnerships in 2010. In addition, the central role of broader political considerations in member States' decisions to join a Mobility Partnership with a particular country may dilute the notion of the partnerships – the risk is that the Mobility Partnerships will no longer be an instance of migration policy.

1.5. The management of EU external borders after Lisbon: a new role for Frontex?

This paragraph will focus its analysis by looking at how the Lisbon Treaty will affect the management of the EU's external borders after its entering in force on December 1st 2009[35].
The underlying theme of this part of the study is the distinction between legislation and operational cooperation in this policy field. Although external border management may be considered exemplary for developments in the Area of Freedom, Security and Justice (AFSJ) as a whole, it is unique in forming the only "police power" currently covered by the First Pillar of the EU.
As already stated in other parts of this paper, it was not until the Treaty of Amsterdam that the Community acquired powers for the regulation of the external borders, through the transfer of policies from the Third Pillar to Title IV EC and the transformation of the Schengen *acquis* into European law. Article 62(2)(a) EC confers upon the Council the power to adopt measures on the crossing of the external borders of the Member States, establishing standards and procedures to be followed by Member States in carrying out checks on persons at such borders. On the basis of Article 66 the Council can take measures to ensure cooperation between the relevant departments of the administrations of the Member States in the areas covered by Title IV EC, as well as between those departments and the Commission[36].
The transfer of powers in JHA to the First Pillar has been both partial and gradual. Article 67 EC provided for a transitional period of five years in which the Commission shared its right of initiative with the Member States. This period ended on 1 May 2004, although the Commission remains under a duty to take into account requests of the Member States to submit proposals to the Council. During the transitional period decision-making in the Council was unanimous, with a right of consultation for Parliament. On the basis of the second indent of Article 68(2) EC, the Council extended, as of 1 January 2005, the co-decision procedure to Article 62(2)(a) EC.(Council, 2004a).[37] Article 68 EC restricted the role of the European Court of Justice (ECJ) under Title IV EC. Only national courts from which no further judicial remedy is possible have a duty to refer preliminary questions to the ECJ. The second paragraph excluded the Court's jurisdiction from measures taken under Article 62(1) EC - the legal basis for measures related to the abolition of internal border controls - in as far as they relate to the maintenance of law and order and the safeguarding of internal security[38].

[35] For the purpose of this work the term "management of the external borders" is understood as the processes and procedures associated with border checks, which take place at authorized crossing points, including airports, and border surveillance, which is carried out on the so-called green (land) borders between authorized crossing points as well as along the blue (sea) borders. This definition is largely the same as given by Hill, who however does not include sea borders (Hill, 1996).
[36] No agreement was reached on the legal basis for the Schengen Information System (SIS) and consequently it was brought under the Third Pillar, on the basis of Article 2, fourth paragraph, of the Schengen Protocol.
[37] In accordance with Protocol No 35 on Article 67 EC, the Council has acted since 1 May 2004 by qualified majority, on a proposal from the Commission and after consulting the European Parliament, in order to adopt the measures referred to in Article 66.
[38] A similar exception is contained in Article 2(1) of the Schengen Protocol.

The most likely interpretation of Article 68(2) EC is that it formed the Community equivalent of Article 35 EU, aimed to prevent the Court from pronouncing itself on the legality and proportionality of Member States law enforcement authorities. Peers has however argued that the article would not prevent the Court from ruling on the interpretation or validity of Community acts in a preliminary ruling procedure (Peers, 2000, p. 47)[39]. Interestingly, its wording would also not prevent the Court from pronouncing itself on the correct interpretation of measures based upon Article 62(2) EC, relating to the external borders. It would therefore be possible for the Court to rule for instance on the conformity of border guards' actions with such legislation, even if this would run counter to the member States' likely intention to exclude their enforcement authorities from the scope of the Court's powers of review.

It is imperative to realise that due to the opt-out of the United Kingdom and Ireland, the external borders of the Schengen area do not coincide with the "external borders" of the area in which there is free movement for persons having this right under Community law. Likewise the external borders of the Schengen area, because of the association with the Schengen *acquis* of Norway, Iceland, Switzerland and Liechtenstein, as well as the exclusion of the non-European territories of the Schengen Member States, do not coincide with the external borders of the EU.

It is the Schengen external borders, as initially defined in Article 1 of the Schengen Implementing Convention CISA, that form the object of Community competence. Whilst at the Schengen external borders, border procedures are regulated by EC law, at the non-Schengen EU external borders it is the national law of the Member State in question that determines the procedure to be followed[40]. It is important also to point out that the Schengen external borders are defined by reference to the Member States' external borders. The new Article 69(4) FEU underlines once more that the powers currently contained in Article 62 EC leave the competence of Member States as regards the geographical demarcation of their borders, in accordance with international law, unaffected[41].

In the first few years following the entry into force of the Treaty of Amsterdam, there was relatively little legislative activity in the field of external borders management. Regulations concerning local border traffic and common standards for the surveillance of land and sea borders envisaged in the 1999 "Schengen Regulations Action Plan" of the Council's Frontiers Working Party were not adopted until 2006 (Council, 1999a).

Of course a considerable *acquis* was already in place in the form of those parts of the Schengen acquis that were incorporated in the EU legal order by the Treaty of Amsterdam and that were assigned to the new legal bases provided for by that Treaty (Council 199b and Council 1999c). It was the impending enlargement however, reinforced by the sharp increase in sub-Saharan migration across the Mediterranean from 2000 onwards and the events of 9/11 that brought borders back on the EU's policy agenda (Monar, 2003, p. 124; de Haas, 2007, p. 15).

The December 2001 JHA Council meeting agreed on the following four points: 1) to strengthen and standardise European border controls 2) to assist candidate States in organising controls at Europe's future external borders, by instituting operational cooperation 3) to facilitate crisis management with regard to border control and 4) to prevent illegal immigration and other forms of cross-border crime (Council, 2001, p. 13). Again without making any reference to possible legislative initiatives, the Laeken European Council Conclusions of 14 and 15 December 2001 asked the Council and the

[39] The Case C-150/05, *Van Straaten* [2006] ECR I-9327, seems to confirm this approach. In this case the ECJ ruled on the correct interpretation of the CISA which lay at the basis of an entry into SIS made by Italian enforcement authorities, giving the referring Dutch court the tools to order the removal of the entry.

[40] These limits then concern the way in which EU citizens and their relatives with border crossing rights based on the EU's fundamental freedom of free movement are to be treated.

[41] This was also stipulated in the 9th recital to Decision 2004/927/EC, *supra* note 36. Of course, Member States will always be under the obligation to comply with EU law in exercising this competence. See in this respect Case C-146/89, *Commission v. UK* [1991] ECR I-3533 on the extension by the UK of its territorial sea and the effects thereof on the activities of fishermen from other Member States.

Commission to " (…) work out arrangements for cooperation between services responsible for external border control and to examine the conditions in which a mechanism or common services to control external borders could be created (...)." (Council, 2001).
In response, the Commission came forward with its 2002 Communication on the integrated management of the external borders. In this communication for the first time reference was made to the establishment of a "common corpus of legislation" in relation to the management of the common Schengen borders (Commission 2002c, p. 12). On a short term, the most important measures envisaged remained the recasting of the Schengen *acquis* in a regulation - the Schengen Borders Code - and the long overdue adoption of measures on local border traffic[42].
The Communication further stated by having recourse to Article 66 EC, the Community budget should contribute to the financing of a common policy. A financial burden sharing system should be established as a run-up to the creation of a complementary operational burden sharing mechanism. The operational mechanism was to take the shape of a European Corps of Border Guards; a body endowed with a "genuine operational inspection function", which it could exercise either at the request of a Member State or of its own initiative (Commission, 2002c). The Council's Action Plan for the Management of the External Borders of the Member States largely took over the Commission's proposals, but was understandably much more careful as regards the setting up of a European Corps of Border Guards[43]. It generally put much less emphasis on the eventual need for common legislation and financing, focussing instead on measures of an operational rather than legal nature giving the plan a very "pragmatic" orientation (Monar, 2006, p. 181).
Notwithstanding this practical approach, a wide range of legislative measures has been adopted which determine, either directly or indirectly, the way in which the Schengen external borders are managed. These measures do not necessarily relate to the act of crossing an external border exclusively, nor do they fully coincide with those envisaged in the Commission Communication or the Council's Action Plan.
As a result, measures developing the Schengen *acquis* on the external borders adopted on the basis of Articles 62(2)(a) EC and Article 66 EC cover a broad range of legislative initiatives from the establishment of the EU's border agency Frontex to common requirement regarding EU passports. Moreover, a considerable number of measures that find their legal basis in other areas of competence under Title IV EC (such as irregular migration, visa or asylum) or under the Third Pillar, include provisions which affect the way in which the Schengen external borders are managed. As such, the rules that make up the "Schengen external borders *acquis*" are to be found across a broad range of measures, which can be roughly divided in five categories.
One may first identify a Schengen border *acquis* in a narrow sense: the measures that establish the border crossing regime at the Schengen external borders The essence of EU activity in the area of border management is to ensure the respect for and correct application of these measures. The most important piece of legislation in this category is of course the Schengen Borders Code (SBC).(Commission, 2006a). A second category of legislative measures consists of measures that aim to establish a degree of financial burden-sharing as regards the management of the Schengen external borders. Here the most important instrument is the External Borders Fund (EBF) (Commission, 2007c). A third category of measures relates to the establishment of centralised databases for the purpose of migration and border management: the Schengen Information System (SIS), the Visa Information System (VIS) and Eurodac (Council 2007e; Commission 2006b;

[42] Article 3 Convention Implementing the Schengen Agreement (CISA).
[43] Council Document 10019/02, point 120. The plan was officially endorsed in the European Council Conclusions, Seville, 21-22 June 2002, point 27.

Commission 2008c; Council 2000)[44]. A fourth category is made up of measures that penalise illegal entry, smuggling and trafficking (Council 2002a; Council 2002b).
The last category, institutional measures for the coordination of operational cooperation, is closely linked to the establishment of operational cooperation for the purpose of the management of the external borders. Operational cooperation has in fact been the cornerstone of the EU's policy for the management of the external borders. Many of the measures in the previous categories enable or facilitate operational cooperation between border guard authorities, through financial support or information exchange.
The most important steps for the operational cooperation at the external borders, if not from a legal point of view, then from a symbolic one, has been the adoption of Council Regulation (EC) No 2004/2007 establishing a Community agency for the coordination of operational cooperation at the external borders of the Member States (Frontex) (Council 2007f). This regulation was subsequently amended by Regulation (EC) No 863/2007 (Council 2007g).
Both regulations are based on Articles 62(2)(a) and 66 EC. As the Court confirmed in Case C-77/05, the Frontex regulation constitutes a development of that part of the Schengen *acquis* in which the UK and Ireland do not participate for which reason they have been excluded from the Agency[45]. The Commission's proposal for an amendment of the Frontex Regulation added that the UK and Ireland were to be excluded since the agency was to be regarded as a measure of solidarity applicable only to the countries participating in the Schengen *acquis* on external borders (Council 2005a).[46]
The road to Warsaw, from where the Agency has been functioning since 2005, has been winding. The Council's Action plan focused on practical initiatives, rather than legislative measures. Informed by an Italian-led feasibility study into the setting up of a European Border Police, it advocated the establishment of a "polycentric" network structure consisting of *ad-hoc* centres specialized in different areas of border management (Monar, 2007, p. 177). It called for joint operations of national border guard agencies at the external borders and the creation of national contact points. The Council further followed the Commission's suggestion to set up a Common Unit of External Border practitioners falling under the Council's Strategic Committee on Immigration, Frontiers and Asylum (SCIFA).
The Common Unit (or SCIFA+) consisted of the members of SCIFA and the heads of Member States' border control services. Its task was to oversee the development of a common policy on the external borders and act as a coordinator for the network structure and the joint operations proposed in the Action Plan.
Between July 2002 and March 2003, SCIFA+ approved a total number of 17 different programmes, ad-hoc centres, pilot projects and joint operations.[47] The Council has always maintained that these constituted intergovernmental cooperation arrangements between Member States. Depending on how one defines the term "measure" in Articles 62(2)(a) and 66 EC, one could argue that the Treaty does not directly confer upon the Council the competence to engage in such coordinating activities, but merely gives the Community legislator the power to adopt legislation for that purpose (Monar, 2007, p. 175)[48]. This is because the EC Treaty lacks an equivalent of Article 36 EU which establishes a Coordinating Committee (Committee Article Trente-Six, CATS) made up of senior

[44] These Regulations repeal all provisions from the CISA regarding the SIS, although SIS II remains to become functional.
[45] Case C-77/05, *United Kingdom v. Council* [2007] ECR I-1145.
[46] Here one could argue however that solidarity is a broader value underpinning Member States' cooperation in general, as expressed in Article 2 EC. Under the Lisbon Treaty solidarity underpins all cooperation on asylum, immigration and external borders, see Article 61(2) TFEU.
[47] Council Document 14708/02.
[48] As Monar has noted this study was "shaped by the input of national experts, who tended to defend national methods and organizational structures".

Member State officials in JHA with specific coordinating tasks under the Third Pillar. The presidency's report on the implementation of the joint activities expressly referred to a lack of legal basis for the setting up of *ad-hoc* centres and the carrying out of common operations.[49]

The Commission Communication in view of the Thessaloniki European Council noted that the limitations of SCIFA+ as a working party had been demonstrated (Commission, 2003, p. 7). These limitations related to its large membership and wide agenda, but presumably also by a lack of a common approach. The Commission therefore argued that while "certain more strategic coordination tasks could remain with SCIFA+, the more operational tasks could be entrusted to a new permanent Community Structure" (Commission, 2003, p.7-8). This became the Practitioners' Common Unit (PUC), replacing SCIFA+ and consisting only of the heads of Member States' border guard services. SCIFA would remain responsible for the general strategy to set up an integrated border management system, while the PUC would deal exclusively with operational issues (Council, 2003).[50]

Throughout the summer of 2003 irregular landings at the EU's southern maritime borders continued to make headlines (Coslovi, 2007).[51] The Thessaloniki European Council emphasized the importance of determining a more structured framework and the necessity of creating new institutional frameworks in order to enhance operational cooperation for the management of the external borders (Council, 2003b, points 12 and 14). The Commission, from the outset a proponent of more centralized cooperation, seized the opportunity and proposed the creation of the European Agency for the Management of operational cooperation at the external borders of the EU Member States (Frontex). The Commission's intention to come forward with this proposal had already been welcomed by the European Council (Council, 2003c, under III). The Regulation was adopted in October 2004, after another summer witnessing the arrival of irregular migrants by sea.

The establishment of Frontex shows how the coordination of operational cooperation, not unlike the competencies in border management themselves, has gradually communitarised. If one is willing to accept that the coordinating activities of SCIFA+/PUC constituted purely intergovernmental arrangements, the case of Frontex confirms that in the case of delegation to agencies, powers are often transferred vertically (from the national to the EU level), rather than horizontally (from Community institutions to specialized agencies) (Dehousse, 2002, p. 12).

If one is to consider the coordinating activities of SCIFA+/PUC as Community actions, it becomes clear that with the transfer of operational coordination from the PUC to Frontex, there has nevertheless been a shift from a Member State driven coordination within the Council to the more supranational approach of a Community agency. Simultaneously, this shift has empowered the Commission because of its influence on the agency. It could even be argued that the Commission, rather than SCIFA, is increasingly taking responsibility for more strategic co-ordination tasks, mapping out the general strategy for the integrated management of the external borders.[52]

Fostering European integration in the AFSJ by focusing on the "mere technical" cooperation between Member States' competent authorities is however problematic. It fails to acknowledge the highly political and value-laden nature of the competences that are grouped in this policy field, or

[49] Council Document 10058/1/03, 9-10.

[50] The political role of SCIFA was underlined also by the Finnish Presidency of 2006, envisaging SCIFA to take the lead in the implementation of integrated Border Management. Presidency note for the Informal JHA Ministerial Meeting, Tampere, 20-22 September 2006, 2.

[51] Even if in a Member State like Italy numbers were actually declining over 2003, the phenomenon continued of great concern to the Member States involved. See also the Council's Programme of measures to combat illegal immigration across the maritime borders of the European Union, a clear example of the Council's executive role in operational coordination of the management of the external borders (Council Document 13791/03).

[52] See for instance the Commission Communication on the Reinforcing the Southern Maritime Borders, (COM(2006) 733 final) and the Council Conclusions on this Communication (Council Document 13231/06). The Commission will of course require the endorsement of the Council for such coordinating activity.

rather, it acknowledges this highly political nature by masking it as non-political. Of course, "any decision about whether something is *unpolitical* is always a *political* decision" (Schmitt, 1985, p. 2). Yet, the coordination operational cooperation in the AFSJ should not be allowed to substitute policy and lawmaking processes as defined in the EU Treaties and according to which the future direction of the European project in a given area normally would be determined.

One of the characteristics of the different forms of operational coordination that have emerged under the AFSJ is that these originate in practical cooperation arrangements between the law enforcement agencies of a number of individual Member States. Monar has argued that these "common, rather informal structures, play an important role as points of encounter and information exchange between officials from different Member States, especially after enlargement." (Monar, 2003, p.12).

Operational cooperation is generally given a legal basis once a certain level of trust has been achieved and there is the need to remedy the shortcomings of a more intergovernmental approach, linked to concerns of transparency and accountability, but also compliance and coordination. Frontex forms a point in case in this respect. The Council in its more recent Draft Conclusions of the principle of convergence and the architecture for internal security, seems to show for the first time a greater sensitivity to the need for a legislative dimension to operational cooperation in JHA. It not only calls for closer cooperation between personnel and the harmonization of equipment and practice, but also for the harmonization of legal frameworks, including the establishment of common legislative instruments "where these represent added value for the Member States."[53]

It should be recalled that even where legislation is adopted for the purpose of fostering operational cooperation, this does not detract from the intrinsically operational nature of law enforcement tasks themselves. For this reason alone the operational dimension of the AFSJ remained, till the entering in force of the Lisbon Treaty, a prominent feature under Title IV EC, in as far as the management of the external borders is concerned.

Operational cooperation in the AFSJ had the specific characteristic that it focuses on compliance with national rules and regulations, rather than Community legislation. This was in particular so under the Third Pillar. However, even when operational cooperation is aimed to ensure compliance with Community legislation, such as the SBC, it does not of itself create rights and obligations for third parties. An example here is a joint patrol carrying out border surveillance in the context of a Frontex joint operation, attempting to prevent irregular border crossings under the SBC.

The non-binding nature of operational activities vis-à-vis third parties does not mean that in the course of such activities rights and obligations cannot arise. For instance, if during a joint patrol a police officer arrests a suspected criminal or a border guard denies a third country national access to EU territory this has of course effects in law. In the first case however, the decision is taken on the basis of national law. In the second case, it is taken on the basis of the SBC, but by law enforcement personnel endowed with public authority on the basis of national law. Do note however that border guards from one Member State that participate in a joint operations/the deployment of a Rapid Border Intervention Team in another Member State may use force in accordance with the rules and regulations of the guest Member State (Council 2007f, art. 10(6); Commission 2007c, art. 6(6)).

Under the International Principles of State Liability the Member States could be held responsible for fatalities that are a direct result of specific border control measures, such as the sinking of migrant boats or the shooting of irregular border crossers (Spijkerboer, 2007, p. 137; ILC, 2001, chap. IV). As far as these measures could be imputable to the EU's coordinating activities, one could assume in theory, a parallel responsibility of the EU, under the Principles of the Responsibility of International Organisations (ILC, 2001, chap. V). Member States could

[53] Council Document 13459/08, 3-4.

furthermore be held responsible for violations of human rights in the course of operational activity under the European Convention on Human Rights.

The approach taken above with regards the possible responsibility of the EU for its coordinating activity is of course very formalistic. For instance, in the case of wrongdoings by Member States' border guards in the course of Frontex coordinated operational activity, it would be very difficult to actually attribute responsibility to the EU. Yet, it may be argued that whenever the EU acts as coordinator of operational activity, it has a positive obligation to ensure that all participating Member States fully respect fundamental rights, such as the right to life. This is all the more so, bearing in mind that respect for these rights is one of the Union's foundational values listed in Article 6 EU, one of the Copenhagen criteria for accession and a condition in its external relation with Third Countries.[54]

In what respect does the Lisbon Treaty change the legal framework outlined in the first part of this paragraph?

Most importantly of course, the entering in force, on December 1st 2009, of the Lisbon Treaty merged the First and Third Pillar, making co-decision the standard legislative procedure for the whole AFSJ and as such completing the process of communitarisation of competences in JHA. Under the Constitutional Treaty the ECJ would have immediately been given full jurisdiction over this whole policy area. The Lisbon Treaty delays this for a maximum of five years for those policy areas that currently fall under the Third Pillar. In addition the special protocols on the position of the UK, Ireland and Denmark are now extended to cover the whole of the AFSJ.

The possibility for the Court to review the legality and proportionality of operations carried out by a Member State's police or other law enforcement agencies or of the exercise of a Member State's duty to maintain law and order and safeguard internal security remains excluded in Article 276 TFEU. However, it would apply only to the chapters on judicial cooperation in criminal matters and police cooperation.

In the first chapter of Title V TFEU, the general provisions applicable to the AFSJ as a whole, the link between the absence of internal border controls and the policy on the external borders is much less prominent in Article 67(2) TFEU than under Article 61(a) EC, attributing a more independent importance to each. Article 67(3) TFEU states that the Union shall strive for a "a high level of security" amongst others through the "coordination and cooperation between police and judicial authorities and other competent authorities".

The previous Title IV EC is only amended to a very limited extent and is clearly recognisable as such in Chapter 2 of Title V TFEU. Article 74 TFEU almost literally retakes Article 66 EC on administrative cooperation. The legal basis for measures on the external borders is however refined. Article 77(2)(b) refers to measures "concerning the checks to which persons crossing external borders are subject", while Article 77(2)(d) provides that the Union has competence to "any measure necessary for the gradual establishment of an integrated management system for external borders."

It is very interesting that the Treaty introduces the concept of integrated management system for external borders. This notion has so far been defined only in the December 2006 JHA Council Conclusions and is moreover a very broad concept, including not only border control, but also the fight against crime and inter-agency cooperation (Council, 2006, p. 26). It is to be seen in how far Article 77(2)(d) TFEU will allow for a move away from the exclusive focus on the movement of persons in respect of the crossing of the external borders so far. On the one hand, it could be argued that the article is sufficiently broadly formulated to serve as the legal basis for instance to extend

[54] As evidenced by the systematic inclusion since 1992 of a clause in its agreements with third countries, defining respect for democratic principles and human rights clause as an "essential element."

Frontex' competences to the field of police cooperation.[55] On the other hand, one may insist that this should be done under the chapter on police cooperation.

Let us now consider how the Lisbon Treaty will affect executive action in general and operational coordination in the AFSJ in particular. One of the major innovations of the Constitutional Treaty was the introduction of a hierarchy of acts, explicitly distinguishing for the first time between legislative and executive measures or rather "legislative and non-legislative acts". This distinction has been maintained by the Lisbon Treaty. Article 289(3) TFEU defines as legislative acts, all legal acts that are adopted under legislative procedure.[56]

There are two types of non-legislative acts. First, Article 290(1) TFEU provides that the legislator can by legislative act delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act, so called delegated acts. Second, under Article 291(1) "where uniform conditions for implementing legally binding Union acts are needed," these acts shall confer on the Commission the power to adopt implementing acts.

The Convention Working Group on Simplification "broached the idea" of introducing in the Constitutional Treaty the possibility of assigning decentralized agencies (or "regulatory authorities") the task of adopting certain implementing acts (Commission, 2002d, p. 12). Neither the Constitutional Treaty, nor the Lisbon Treaty however makes reference to the execution of Union legislation by agencies, effectively ignoring an important institutional reality in the EU. A sound legal basis in the Treaty for the delegation of powers to these agencies remains lacking. Curtin has rightly remarked that the Constitutional Treaty fell short of "constitutionalising" a framework for the administration of the Union as a whole. This observation applies equally to the Lisbon Treaty, not only in respect of delegated and implementing powers, but also of operational activity (Curtin, 2004, p. 7).

However, the Council's document on the Architecture of Internal Security and the Council's Conclusions of 2008 seem to take only very small steps into the direction of a more centralised coordinated of operational cooperation at EU level, referring once more to "better coordination" and "continuing reflection" on the functioning of the Council's working structures. At the same time, the six-monthly meetings between the JHA agencies and the presidencies of the CATS and SCIFA have been in place since 2005 and they have been intensified upon recommendation by the Council.[57] One of the first topics on the agenda has been the exchange of information between these agencies. Importantly, it was decided by the heads of the EU JHA agencies that from now on the confidentiality rules/security regulations of other agencies, including those regulations governing classified information, would be considered as equivalent.[58]

The entering in force of the Lisbon Treaty is a clear opportunity for an increased democratic and judicial overview of the legislative measures that shape this policy. At the same time, one should realise that the focus of both this policy area and the AFSJ as a whole remains very much on the

[55] EU Counter-Terrorism Coordinator De Kerchove has called it "absurd" that under the current legal framework Frontex cannot deal with other security related threats, than irregular migration: *De Standaard*, "Europe is kwetsbaar voor Terrorisme", 11 September 2008.

[56] Legislative procedure as such is not defined in the TFEU. From Articles 289(1) and (2) it follows however that it covers the adoption of a Regulation, Directive or Decision under the ordinary legislative procedure (the current co-decision, laid down in Article 290 TFEU) or special legislative procedure (limiting the role of either the Parliament or the Council to "participation", the particular modalities of which are to be found in the respective legal bases throughout the Treaty). Note that the definition of legislative acts is a formal one.

[57] Council Document 16831/06, 5.

[58] Council Document 11644/08. Currently, information exchange between agencies is subject to confidentiality agreements. The obligation to conclude such agreements seems to flow from the agencies' own security regulations which often copy the Council's Security Regulations which require the conclusion of a confidentiality agreement prior to the exchange of information with third countries and/or international organisations.

coordination operational cooperation between national enforcement authorities and that law enforcement activities are by their very nature operational tasks. For this reason, it will be necessary to give more thought on developing a sound legal framework which ensures at least a minimum of judicial control by the Member States' courts, with a subsidiary role of ensuring the respect for fundamental rights by the ECJ during joint operational activities. This paragraph has shown that the Lisbon Treaty, although attempting to separate legislative acts from non-legislative acts, as well as legislative activity from operational activity, fails to provide a comprehensive legal framework in this respect.

The Hague Programme will expire in 2010 and preparations for its follow-up, the Stockholm Agenda, to be adopted under Swedish Presidency, are under way.[59] It is to be regretted that in respect of the external borders policy, the "EU future group", charged with the task of given more deep thought over the future development of the AFSJ after the end of the Hague Programme simply echoes the Commission's border package.[60] As was argued, these Communications lack a well thought through vision of the future direction of the EU's policy in this area. It is to be desired that the Stockholm agenda gives clear guidance for a future direction of the AFSJ as a whole and the external borders management in particular. The Lisbon Treaty gives guidance on how the Community intends to use its competences in this field and how it envisages the relation between the former First and Third Pillar, not merely in terms of legislation but also in terms of operational cooperation.

In conclusion, it is possible to argue that the process of perfecting border management is sometimes seen as an integral part of a repressive strategy to make borders less permeable and discourage the free movement of persons. Many sectors of public opinion, Ngo's operating with immigrants and certain political parties are traditionally defining this policy as an attempt to build and enforce a "fortress Europe".

1.6. Conclusions. Towards a European migration and asylum policy: sustainable development, European Neighbourhood Policy and key policy areas

The number of immigrants in EU countries today amounts to about 40 million people, in terms of population, making up a 28th member State. Europe's population is clearly changing in composition and size. As it grows older and the functioning of social security systems is not guaranteed, most European governments place great importance on the continuous settlement of immigrants and refugees.

As already demonstrated in previous paragraphs, economic prosperity and political stability of the EU are the factors which attract a lot of migrants in the Region. These factors greatly influence on the migration flows.

The specificity of migration policy is that it touches upon the topics concerned with economic policy and at the same time with such phenomenal aspects as culture of the society, its traditions and identity. That is why there is a great necessity of complex studying of the questions concerning the migration policy. While planning the migration policy governors should consider demographic aspects of the society, sufficiency of labour force and cultural situation in the country.

[59] See for instance the public consultation on the future of AFSJ launched by the Commission: http://ec.europa.eu/justice_home/news/consulting_public/0001/consultation_questionaire_en.pdf.

[60] Report of the Informal High Level Advisory Group on the Future of European Home Affairs Policy (The Future Group), 'Freedom, Security, Privacy - European Home Affairs in an open world (June 2008). The EU future group was established by the German Presidency in 2007 and drafted recommendations for after The Hague Programme ends (2010), 36: http://www.statewatch.org/news/2008/jul/eu-futures-jha-report.pdf .

Migration policy becomes one of the most popular aspects of the western science. The reason for this is that the migration problems are the most urgent questions during elections in different European countries.

The European Union is enjoying an unprecedent high standard of living, and the longest peace in its history - but what about the states just outside its borders? Just at a time of ending the division of our continent, it is important that the outer perimeter of the EU should not become a new dividing line.

The European Neighbourhood Policy is about working together with those states who share a land or sea border with the EU, to increase their prosperity and stability too.

Neighbours who want to carry out reforms to improve their standards of democracy and human rights, to increase their access to the Union's single market, to improve the environment or to step up their co-operation with the EU on issues like energy, transport or migration, have the chance to work on a joint Action Plan with the EU, and can look forward to substantial assistance: technical help, political support, and more aid money.

Concluding this chapter it is possible to argue that Europe's migration, asylum and immigration policy has two aspects: while there is a clear demand for immigrants because of the declining population in most European countries, there is also a heated debate about controlling migration because of "failed" integration and risks for national and social security. The popular rhetoric of "failed" integration policies and the need to control migration a new reinforces anti-immigrant sentiments and the introduction of restrictive immigration policies.

2. THE RELATIONS BETWEEN EU AND RUSSIA, UKRAINE, MOLDOVA, AND BELARUS ON MIGRATION POLICY

Migratory flows from 'eastern' to 'western' Europe have increased in the last twenty years, largely triggered by geopolitical and geo-economic changes in the former 'Eastern block'.
After the fall of the Berlin wall and the dissolution of the Communist camp with its controlled barracks, the European Union feared "floods" of immigrants and refugees from the former Soviet Union, that would arrive out of economic need, political conflict or ecological catastrophe after the Chernobyl disaster of 1986. Western analysts warned of tens of millions of refugees or migrants, and Western ministers held conferences on how to deal with the expected mass of migrants and made plans to prepare large-scale absorption camps (Thränhardt 1996).
Floods of migrants did not arrive, except for specific civil-war victims from Bosnia-Herzegovina and Kosovo, and the boat people from Albania. Russia has, on the contrary, in the last years become a new economic magnet, besides the EU, and East-West migration processes are close to equilibrium. Still, however, the Western public is beset by a feeling of danger and uncertainty, and an atmospheric aftermath of Cold War tensions, renewed in summer 2008, and recently abandoned by the signature of the new Start III agreement, between the Russian Federation and the US, on the limitation of nuclear weapons in Prague.
The migration landscape is changing fast. Whereas Germany and Austria were the main destinations of East-West migrations in the early 1990s, Italy, Spain, Portugal, Greece, Great Britain and Ireland, all (except Great Britain) traditional emigration countries, became major destinations in the beginning of the 21th century.
Beside this the whole continent of Europe is confronted with a growing demographic deficit. This is particularly pronounced in the majority of the larger countries, Russia, Germany, Ukraine, Italy, Spain, and in a belt that reaches from Portugal through Spain, Italy, Greece, and the Balkan countries to Ukraine and Russia. It is less pronounced in France, Britain, and the Scandinavian countries, even if they do not reproduce their populations, either. The only large country with a positive balance is Turkey – a fact that makes this dynamically developing country a demographic asset and not a danger, in contrast to the wide-spread anxieties in West European discourse. Even in Turkey, birth rates are going down, and have now arrived at the demographic optimum.
Thus there is no demographically based migration pressure inside Europe any more. The demographic breakdown after the end of Communism in all East and South East European countries after 1990 will in the next decades result in a generation coming of age much smaller than them generation before. Such demographic downturn is very dynamic, since less than two thirds of the population are reproduced in the Eastern and South Eastern European countries. Thus in only two generations, the population is reduced to less than half of their original size. In out-migration countries, the negative dynamic is further accelerated by the loss of young families (UN, 2006).
Contrary to older traditions and many expectations, East European immigration in the last ten years was mainly directed to the Mediterranean countries, Spain, Italy, Portugal and Greece. This was not so much caused by the low birth rates of these countries which will affect them in the future, nor did it result in particularly high growth rates, except for Spain. Rather, the explanation lies in the specifics of these countries' economic and social welfare systems which are family-based, and prioritize welfare payments over State services. With rising female labour participation this results not only in low birth rates but also in high rates of largely informal immigrant employment in households, mostly female, to take care of young children and old-age people (Sciortino 2004).
Other informally organized sectors like construction and agriculture employ mainly men. Tourism is another thriving area of immigrant employment. Thus specific internal structures of certain EU countries are important for the dynamics of pull factors attracting immigration, and particularly East and South East European immigration. Agricultural preferences and subsidies are another driving

force, e. g. giving preference to Spanish or Italian over Albanian or Moldovian products. A further structural factor is the failure of many EU countries and professional sectors to acknowledge foreign certificates, forcing immigrants to work in sectors and occupations well under their level of qualification. This is to the detriment not only of the immigrants and their home countries but also of the EU itself. The size and control of the informal sectors and the existence and implementation of minimum wage systems are another important point, influencing migration patterns and the wellbeing of migrants.
Consequently the countries East and Southeast of the EU can be divided into three categories:

Categorization of East and South East Migration Countries

Recruitment country, resource rich	Russian Federation
Multiple migration countries, relatively stable	Ukraine, Croatia, Belarus
Outmigration pressure, instability, low incomes, low exports, transfer economies	Albania, Moldova, Bosnia-Hercegovina, Serbia, Kosovo, FYROM

Obviously for the purposes of the present research we are just interested in the analysis of the situation concerning migrations in Ukraine, Russia, Belarus and Moldova and its implications with EU policy and relations with these countries. But the above reported categorization seems to be interesting also by this point of view, due to the consideration that this four countries are distributed in all the three reported categories.

2.1. The European Neighbourhood Policy and the Eastern Partnership

The European Neighbourhood Policy (ENP) was developed in 2004, with the objective to avoid an appearance of new divisions between the enlarged EU and EU's Eastern neighbouring countries. The (very general) strategic objectives are set out in the European Security Strategy paper (Council, 2004b).
The enlargement of the European Union brought closer also its neighbours. That's why the events passing in the Eastern neighbourhood affect EU countries and vice versa.
The European Neighbourhood Policy (ENP) was first outlined in a Commission Communication on Wider Europe in 2003, followed by a more developed Strategy Paper on the European Neighbourhood Policy published in May 2004. This document sets out in concrete terms how the EU proposes to work more closely with these countries. The ENP goes beyond existing relationships to offer a deeper political relationship and economic integration for the EU neighbours. The ENP remains distinct from the process of enlargement although it does not prejudge, for European neighbours, how their relationship with the EU may develop in future, in accordance with Treaty provisions.
The European Neighbourhood Policy includes EU neighbours: Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Occupied Palestinian Territory, Syria, Tunisia and Ukraine. It is interesting to note that Russia is not included in the ENP.
The central element of the European Neighbourhood Policy is the bilateral ENP Action Plans agreed between the EU and each partner. These set out an agenda of political and economic reforms with short and medium-term priorities.
For what concerns, the Eastern Partnership initiative, it was built up in the frame of the European Neighbourhood Policy for the EU's Eastern neighbouring countries. These are: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. It must be said that the participation of

Belarus in this program depends more or less on the political situation in the country and the further development of the relations between EU and Belarus.
However the status of the relations between EU and the eastern neighbours is not the same, they all are interested in further developments of their bilateral relations with the European Union. Moreover all of them are in a process of development of new political, social and economical reforms. EU in turn is interested in further economic development, democratic governance and stability in the respective countries. Eastern Partnership process pursues common interests and shared values, so that both sides can benefit from this program.
The main new points in this initiative are:

- New association agreements including deep and comprehensive free-trade agreements;
- Comprehensive EU funded programs giving partners possibility of their administrative improvement in order to be able to participate in tenders (handle with EU grants, etc.);
- "Mobility and Security pacts" allowing free legitimate travel to EU countries; combating corruption, organised crime and irregular migration. These pacts will also cover asylum systems to EU standards and the establishment of integrated border management structures. The long term goal is the visa-free travel with all cooperating partners
- The possibility of labor mobility;
- Enhancement of energy security in partner countries and with the EU
- Providing seminars for individual countries to improve their understanding of EU legislation and standards, sharing experience in this context and if necessary to organise joint activities. Four policy platforms are proposed: 1) Democracy, good governance and stability. 2) Economic integration and convergence with EU policies. 3) Energy security. 4) Contacts between people.
- Environment protection and climate change;
- People – to –people contacts and involvement of civil society and other stakeholders.

Financing is the main instrument of the Eastern Partnership (EaP) initiative. The new "Vademecum on Financing in the Frame of the Eastern Partnership" (Commission, 2009a) provides some information on the way in which the € 600 million earmarked for the EaP will be used over the period of 2010-2013.
It is also interesting to quote that Civil Society Organisations in general may benefit from the implementation of the Pilot Regional Development and cross border cooperation programmes. CSO active in the areas Youth and Culture will benefit from a specific Culture programme and the opening of the Youth in Action programme.
It is clear that the success of the development of democratic and market-oriented reform in the frame of the Eastern Partnership is mainly based on the strong involvement of the civil society in each of the participating countries. Due to this organizational aspects the Eastern Partnership seems to be a very useful tool also to foster cooperation on migration and border controls issues.

2.2. The relations between EU and Russia on migration, visa regimes, border controls and mobility Issues

Russia, the largest country on earth, is by far the most important state to the East of the EU, politically, strategically, and economically. Thus it has to be discussed here first and foremost. Russia lost millions of people; many of them qualified academics, to Western countries. Germany, Israel, Greece, Finland, Hungary, Poland, Korea and the United States invited special migrant categories, selected upon ethnicity or qualification. These waves of migration have now largely come to a halt.

As for the other three cases we are going to analyse it seems useful to report the IOM's data on migration issues concerning the Russian Federation[61]:

- Population (2010): 140,4 million
- Area: 17 million sq km
- GDP per Capita PPP (2007): USD 14.690
- Human Development Index rank (2007): 71 of 182
- Remittances (2008): USD 6.033 million
- Net migration rate (2005-2010): 0,4 migrants/1.000 population
- Immigrants (2010): 8,7%
- Women as a percentage of immigrants (2010): 57,8%
- Population under 15 (2010): 15%

Parallel to these substantial out-migrations, Russia became an immigration magnet. A distinct Russia-centered migration system came into being during and after the dissolution of the Soviet empire. Russia's drastic loss of 800,000 people per year by falling birth rates and rising death rates and the out-migration to the West was compensated by large-scale immigrations of ethnic Russians and other ethnic groups from the former Soviet republics in Central Asia, and from Transcaucasia, Ukraine, Moldova and the Baltic states. Although Russia's population figures were stable on balance, the country went through a far-reaching exchange of populations.

At the beginning of the twenty-first century, this process has come to a standstill, since its sources are largely exhausted. Most of the ethnic Russian population from Central Asia and Transcaucasia have moved to the Russian Federation. The Russians in Ukraine are not likely to move to Russia for good, even if many commute there for work. Moslems from Central Asia and from the Caucasus, often labelled "blacks" in Russia, are not welcomed by large parts of the population, and non-Russian migrants work and live in rather precarious situations in many Russian cities and towns. On the other hand, the Jewish and German emigration to Israel and Germany has largely petered out.

The net result is that Russia's population is dramatically shrinking since the beginning of the century, by about 800.000 a year. Forecasts predict that around the year 2043 Russia will no longer be the most populous country in Europe, despite its immense territory, and Turkey will have more inhabitants (UN, 2006). Neither the Russian nor the Western public has yet accepted this revolutionary change. We have to go back four hundred years to the glorious times of the Ottoman Empire to find a comparable balance of population between the two countries.

In addition, Russia suffers from an acute problem of high death rates of the economically active population. Russia's work force is actually shrinking. The life expectancy of Russian males has decreased dramatically, and is now at 58.9 years. This process endanger the functioning of the economy, the services and the military (Lindner, 2008). To die between 15 and 60 years is likely for 48 % of Russian men, compared to 11.2 % for German and 9.2 for Japanese men.

Prime Minister Putin has identified the demographic downturn and the loss of manpower as a main challenge Russia is facing, and the demographic crisis and immigration were important issues in the elections of 2007. Russia has since developed immigration programmes, with an emphasis to bring people to the depopulating areas in Siberia and in the North, and a preference for ethnic Russians and former Russian citizens. It is to be expected that these programmes will not be attractive since there is a strong trend among the existing population to move away from these places, towards prospering cities like Moscow and St. Petersburg and the climatically attractive Southern part of the country. Only tiny minorities among the emigrants to Germany and Israel are inclined to return to Russia. A local study in Berlin found that only one percent wished to do so (Haupt/ Wockenfuß 2007). However, there will be a need for follow-up programmes, to fill the essential positions in the Russian energy and resources industries and to develop the country's infrastructure.

[61] See: http://www.iom.int/jahia/Jahia/russian-federation.

The economic means are there. Russia profits enormously from the rising oil, gas and other natural resources prices. The consequence is that Russia, with its new wealth, will be a competitor for engineers, technicians, research personnel, medical doctors, and qualified and non-qualified workers of all kinds in the foreseeable future, with energy prices soaring. Even if some of Russia's oil and gas fields seem to be at a turning point these days, and even if the global economic and financial crisis affected also Russian economy and growth, this will only increase the need to produce more efficiently and again create more demand for well qualified specialists.

Expectations for the future of Russia vary widely, from a total breakdown to a glorious future as one of the "BRIC" countries Brazil, Russia, India and China, as Goldman Sachs analysts saw it (Wilson and Purushothaman 2003).

A realistic evaluation, taking into account the human devastations of the past and the present, as well as the riches in natural resources, will forecast a window of growth opportunity in the next thirty years, with mounting windfall profits from oil and gas. Russia's future will depend on the use of these windfall profits. They will decrease at the end of that period, even if some new fields in the Arctic can be developed. The sudden wealth can be invested wisely but it can also be spent at non-profitable projects, civil or military, prestigious or traditionalistic, or go into corruption and luxury. All these possibilities are already in place. Corruption is running high, and Russian billionaires are building large company empires and cultivating prestigious spending habits. It is in the interest not only of Russia but also of Europe as a whole that Russia's riches lead to a virtuous rather than a vicious circle.

Russia is in a situation similar to the EU with respect to two problems: the demographic crisis in general, and the need for specialists in particular. Since the EU and particularly its core countries are highly developed centres of industry and services, and Russia at present more relies on a resource extraction economy, the structures of both sides are complimentary and can grow together, even when they compete for scarce specialists.

In the relations between the West and Russia, Cold War resentments often come back on both sides. Such thinking is based on confrontation, and cannot create a cooperative climate. The recent armed conflict between Russia and U.S. backed Georgia has intensified such feelings, even if they are somewhat anachronistic and even if there also, as already stated, clear and unequivocal signs of reciprocal dialogue and cooperation, as for what concerns the agreements on nuclear weapons reduction.

The race to build oil and gas pipelines from Central Asia and Azerbaijan, both former parts of the former Soviet Union and defined as "near abroad" by Russia is an important part of the economic rivalry between the U.S. and Western companies at one side and Russia and its companies on the other. It also strengthens the Turkish position as a gateway between Europe and the Middle East. At the same time, Russian-Turkish trade grew tenfold in the last eighteen years, and Russia is now Turkey's most important trading partner, before Germany. Russia provides Turkey with gas and oil, whereas Turkey exports fruit and vegetables. The Turkish construction industry, now a major international player, is particularly active in CIS countries, and Russian tourists flock to Turkey. Turkish business begins to invest in Russia, as well as the other way round.

The links between Russia and countries outside the former Soviet Union have been growing in many respects. Tourism is very important for opening up migration pathways, as it unblocks the countries and the minds of the people, creates jobs and development, and is sometimes used as a tool for permanent migration: "From 1995 to 2007, the number of Russian tourists visiting countries outside the former Soviet Union grew from 2.6 million to 7.1 million....The world is becoming part of their lives....Through all this travel, we are seeing a change in mentality at home....Their life compass changes, from 'I don't care about anything' to 'I would like to have a better life'. Travel is a part of this." (Levy 2008). Thus it is not only the millionaires but also the middle class who get a

new look at the outside world, after the long closure of the country in Soviet times, from 1917 to 1992.
If the West wants to liberalize Russia, abolishing the visa system and thus opening the borders is the easiest, the cheapest and the most effective way. First, it is contradictory to criticize the closure of the Soviet Union and Russia, and at the same time to establish a strict visa regime that hinders free travel, and is often even a problem when Russian artists, business people or other guests are invited to Western countries. A visa system does not contain state officials or secret service agents who want to go to the West. Rather, it impedes the access of the population, of tourists curious to see foreign cities, students eager to learn and to live, business people who want to do deals, or artists who want to perform and communicate. In addition, the Russian visa system mirrors the EU system, and this discourages people to go for travel to Russia.
Thus civil society contacts are hampered. The visa regime diminishes peaceful contact which can lead to exchanges of ideas and information and to experience with democratic practice, freedom of information and free civil societies.. If the Russian government or the Russian public imagine that the West tries to undermine the Russian statehood, sovereignty or independence, the reaction will be negative, and conflicts will arise. There is a widespread Russian perception of a Western or American will to dominate Russia and its neighbours, connected to the isolationist traditions, the feeling of loss after the disintegration of the Soviet Union, the inclusion of East Central Europe and the Baltics into NATO and EU, and the attempts to include CIS republics like Ukraine and Georgia into NATO.
On the other hand, the Russian public takes an immense interest in the West, its high and its popular culture, its economic achievements, status symbols, and its way of life. The Russian government lobbies for visa free travel with the EU, and some progress has been made for businessmen, scientists, cultural figures, athletes, journalists, students, teachers and relatives in 2007. In the agreement, Russia also committed itself to take back Russian and foreign citizens that have travelled through Russia to the EU – an obligation that in the future might become reciprocal, as both sides now harbour millions of informal immigrants. Interestingly, Russia enjoys visa-free travel with Israel from September 20, 2008 on.
In spite of all difficulties, deficiencies, and pockets of unlawful treatment, and coherently with the EU commitment on human rights protection, the EU countries basically uphold the principle of equal treatment of immigrants and indigenous people in the economy and in the welfare systems, and the possibility to naturalize and become full and equal citizens.
The construction of the EU as an open space combining 27 nations of different character, tradition, political style, and affluence is a singular achievement. All the nationals of the member countries enjoy equality and equal rights, and they are protected by the European Court of Justice which also deals with third country nationals, particularly under the association agreements. Without civil society, however, the courts would not help. Public opinion has again and again spoken out against misuse and ill-treatment. Even if the immigration regimes differ widely in the EU, between the orderly planned Scandinavian welfare state (Hammar 2003) and the informal mechanisms in the Mediterranean countries (Sciortino 2004), time and again corrected by amnesties, a rather high level of inclusion and rights are assured. Exploitation and misuse are scandalized, nationally and EU-wide.
If the European Union wants a stable migration regime in Russia, too, it must work on creating conditions of openness, rights, and an atmosphere of decency and equality there too. The judicial basis largely exists, as Russia is a member of the Council of Europe and has signed most of the European human rights conventions. Russia is prone to sanctions of the European Court of Human Rights as well as other European countries. What is missing, and needs to be developed, is the strengthening of the rule of law and an atmosphere of decency and equality for migrants and foreigners as well as citizens. The opening of the borders and the reality of a greater open European

space is the easiest and best precondition to achieve that, without endangering Russian statehood. After the Eltsin's years, and the reconstruction of a dominant state in Russia, there seems to be a longing for the rule of law and consolidation, as long as stability is preserved (Remington 2008, 215). Moreover, the legitimate Russian need and interest for a more orderly immigration administration, registration and integration policy can be coordinated with the needs and wishes of the EU.

Up to now, the reconstruction of a strong state and is controls and the aversion of large parts of the Russian public against certain kinds of foreigners has made Russia an unlikely transit country towards Europe for migrants from outside, be it Asian or African. Thus it is not the Eastern but the Southern and South Eastern border of the EU that is rather porous. More cooperation with the administration of migration should build on this situation and try to strengthen efficient and functioning border regimes, and to minimize counterproductive and inhumane effects.

We are strongly convinced that for migration issues even more than for other themes, personal contacts and experiences are an excellent chance to further understanding and learning between EU countries and Russia.

As stated by Andrienko and Guriev : "Both external immigration and internal migration are crucial for social and economic development in Russia. Russia is in the middle of a severe demographic crisis. Despite minor recent improvements, ageing and depopulation are most likely to continue for decades. Given current trends in migration, Russia's population is estimated to shrink by 20% to 112-119 million people by 2050. In the nearest future Russia will also face the problem of a shortage of working age population. To compensate for this, Russia needs an annual inflow of 1 million immigrants – 3 times as many as the average official annual flow over the last 15 years, and 5 times as many as in the recent years after tightening the migration legislation. Not only is there a need for immigrants, but there is also a huge potential pool from which to draw from: tens of millions of skilled Russian speaking residents of former Soviet Union countries, many of whom are willing to migrate to Russia. Internal migration is also important as it can help mitigate huge interregional employment imbalances and put Russia's scarce labour resources to more efficient use. (…). The existing data and research on both external and internal migration is far from complete in providing a clear picture of the intensity and composition of migration flows; the impact of immigration on the labour market opportunities of native populations; the careers and human capital accumulation of legal and illegal migrants; and the implications of migration for overall social welfare. All existing work does suggest, however, that the major barriers to migration are administrative controls and underdevelopment of financial and housing markets." (Andrienko and Guriev, 2008).

2.3. Relations between EU and Ukraine on migration, visa regimes, border controls and mobility Issues

In the early nineties at the latest the Ukraine caught the eye of the so-called risk analysts, not merely as an emigration country but also as an essential passage for the "eastern human trafficking route". The country was not an EU-candidate and therefore – contrary to its western neighbouring states: Poland, Slovakia, Hungary and Rumania – also not under the obligation to adopt the so-called Schengen Standards.

The official IOM data on Ukraine are[62]:

- Population (2010): 45,4 million
- Area: 603.700 sq km
- GDP per Capita PPP (2007): USD 6.914

[62] See http://www.iom.int/jahia/Jahia/activities/europe/eastern-europe/ukraine.

- Human Development Index rank (2007): 85 of 182
- Remittances (2008): USD 5.769 million
- Net migration rate (2005-2010): -0,3 migrants/1.000 population
- Immigrants (2010): 11,6 %
- Women as a percentage of immigrants (2010): 57,2 %
- Population under 15 (2010): 13,9 %

Against this background the IOM at first played the executive part in "outposting" the EU Migration Regime to the most important transit migration country in the east. As early as 1998 an IOM team of experts met with high-ranking Ukrainian government officials in Kiev to start up a "Migration Management Program" (IOM, 1998). At several levels it was directed against transit migration: the registration and documentation of refugees and immigrants, the set-up of a first deportation camp in Pawschino[63], training courses for the Ukrainian border guards at the US-Mexican border and equipment of a pilot project in Kharkiv (at the Russian border) with radio and infrared technology.

In 2004, it has been stated that: "In the course of their work the IOM specialists were confronted with a – for them surprising – problem: they found that more than 70% of the transit migrants entered the Ukraine legally. The government was therefore offered help in introducing new laws and visa regulations. Thus immigration into the Ukraine was first criminalized under the direction of the IOM, in order to be subsequently fought against with means made available by the IOM" (Antirassismus Büro, 2004).

Up to 2004, Ukraine had a negative migration balance. The main targets of migrants were Russia, Poland, Italy and Portugal. This changed in 2005, due to an economic upturn, connected to the economic boom in Russia which began with rising oil and gas prices after the American invasion of Iraq. Ukraine is intensely tied to Russia – historically, economically, linguistically, as many citizens, particularly in the East, speak Russian as their mother tongue. But at the same time Ukraine historically tried to achieve a major autonomy and freedom of choice towards its powerful eastern neighbour.

Besides loosing people through migration, Ukraine has a negative population balance, even more than Russia. In 2008, estimated 9.55 births stand against 15.93 deaths per thousand people. The natural balance went negative as early as 1991, a year before Russia. As a result the population is shrinking particularly fast. Despite the Schengen visa system, millions of Ukrainians made it into the EU. All EU countries include Ukraine on their visa list, Ukrainian citizens must have a visa and, as a consequence, after 2004, journeys of Ukrainians to Poland and other EU neighbours decreased by over 50 per cent.

As early as 1998, a Partnership and Cooperation Agreements (PCA) was signed between EU and Ukraine. This included some subcommittees on customs, trans-border co-operation 'combating illegal migration'. In 2001, the EU in its Action Plan on Justice and Home Affairs made clear that Ukraine is held responsible for migration to the European Union. This was confirmed by the integration of Ukraine in its neighbourhood policy (ENP) in 2004 aiming at setting up a 'ring of friends' along the new EU borders. In the same year, and in the wake of the British prime ministers proposal for Transit Processing Centres (TPC) and Regional Protection Programmes (RPPs) Ukraine, amongst other countries was mentioned as a possibly country for implementing these plans. These included EU detention centers, asylum application procedures outside the EU.

Following these footsteps European Union Border Assistance Mission **(**EUBAM), with its headquarter in Odessa, was set up in 2005 on the basis of PCA (see above) to address security and

[63] The internment camp in Pawschino in Transcarpathia was set up and operated by the IOM at the end of the nineties, a militarized starvation camp that was increasingly criticized and was closed down in December 2008 also due to international public opinion and protest actions, see http://pawschino.antira.info/ .

smuggling issues related to the autonomous zone of Transdnistria, situated between northern Moldova and Ukraine. EUBAM needs to be seen in conjunction with another EU – and UNDP-funded project "Enhancing Border Control Management Programme". In Ukraine, EUBAM has three field offices, in Timkove, Platonove and Kurchahan, and another three in Moldova.
Meanwhile, they also cover migration issues on Ukraine's black sea coast, in southern and eastern Ukraine and in Moldova.
Despite these approaches and programmes, it seems that EU does not have a convincing concept towards Ukraine (Fischer et al. 2008), since it neither clearly welcomes the country as a member candidate nor offers an attractive alternative option. Despite the EU's strong positive appeal as a model of prosperous countries and of a stable and peaceful union, neither the elites nor the people feel welcome. They are not prepared to bring sacrifices to take over the *aquis communautaire*, if that does not connect them a brighter future. Whereas most old EU members see Russia as the more important player, do not want to risk a conflict with this big power over Ukraine, and in addition fear to overstretch the EU, most new members feel that Russia has no legitimate right to influence decisions beyond its borders.
Similar disputes and disagreements continue about a possible NATO membership of Ukraine. Yet, tensions between the West and Russia make Ukraine's position more difficult, as it cannot really choose between Russia and the West, but depends on good economic and political connections to both sides, and would be disrupted if it tried to cut ties to the West or to the East. Thus Ukraine, with all its agricultural and industrial resources, remains in an unstable situation, or "constructive ambiguity" (Fischer et al., 2008, p. 6), between democratic engagement and oligarchic influence, and between close traditional ties to Moscow and the attractions of the West. The great hopes of the orange revolution have faded, and a "certain fatigue" and disappointment is characteristic for EU-Ukraine relations, "trapped in a vicious circle without having an exit strategy" (Fischer et al. 2008, 16). Infighting between the president and the prime minister intensifies these problems.
Characteristically for much of the foreign-relations literature, the analysis I quoted here makes no mention of migration. Here, however, lies a chance for constructive clarity and engagement. Since millions of Ukrainians are already working in the EU, more millions in Russia, and since Ukraine itself attracts more and more immigrants from other CIS countries and is now in a balanced migration situation, the EU should lift its visa regulations, and welcome Ukrainians as Europeans and legal workers as much as they are needed, instead of forcing them into illegality.
Ukraine itself has made an important step towards cooperation, discontinuing visa requirements for EU citizens, and thus is now visa-free to both the CIS states and the EU. In the coming years return migration towards Ukraine is to be expected, due to the improved economic situation in the country itself and the economic downturn in Spain, Greece, Italy and other Southern European countries. In such a situation, a rigid visa policy will rather distract people from returning to Ukraine, and thus have counterproductive effects.
A delicate point for the EU is the control of third country nationals in Ukraine, since the country is on the main transit route to the EU from the East. Ukraine has no adequate migration management up to now. It has been quoted that: "The competences of different institutions have not been rationally divided; there are cases in which tasks are duplicated, and there are also difficulties in determining which organ is responsible for a given area of policy." (Fischer et al., 2008, 99).
Thus it would be important to strengthen Ukraine's migration management, and coordinate it with the EU's. If the EU reduces its visa requirements for Ukrainians, the immense capacities that are now used to process their visa applications could be used for outside control and the strengthening of the countries' immigration system. Anyway, it must be said that this approach has been already followed in the past years
The IOM is active in the Ukraine up to this day, in particular by setting up in 2008 the deportation prison in Zhuravychi/Volyn, a brand-new clink equipped according to EU standards and financed

with EU means. But the responsibility for the preparation of this "perfect buffer state" has meanwhile been taken over by EU authorities and institutions. The aforementioned clink is part of a comprehensive asylum and migration program, which is being installed since 2004 within the scope of the already recalled "European Neighbourhood Policy" (ENP).
As known, a concrete perspective of accession is not offered by ENP, but in reward cooperative States can expect visa and trade facilitations as well as special support programs, for which the EU demands on the one hand efficient guarding of the borders and on the other effective readmission treaties.
For the Ukraine the ENP-Program for 2007-2010 made available an aggregate support amount of 494 million euro, 30 million euro of which are for the establishment of another five internment camps for immigrants in the context of Readmission-related Assistance (Speer, 2009). And in the so-called GDISC Ukraine Project[64] several EU states assume functionally-differentiated "sponsorships". Thus Hungary will assist the Ukraine in setting up eight so-called "screening centres" having the function of selecting between "people in need of protection" and "illegal migrants", which centres are not to be established at the European external borders, but rather at the eastern borders with Russia. They will serve on the one hand to hold so-called "initial interviews" and will on the other hand provide internment facilities for up to ten days.
Finally, this Europe-wide "division of labour" is completed by the supplementary activities of the EU border patrol agency.
For the Ukraine 11 June 2007 should be written in the history books as the day the starting shot was given for the Frontex-era. On this day, still under German EU presidency, a first treaty between Frontex and the Ukraine was negotiated and finalized in Luxemburg. The arrangements made in view of "the strengthening of border security by intensifying border patrols as well as the exchange of information" obviously constituted the basis for a first Frontex operation that started shortly thereafter under the name "Five Borders" and for the first time involved Ukrainian border guards. This pilot project, which ran from July until December 2007 , was divided into four sub-projects which, as Ursus I to IV, aimed at improving the cooperation of the border patrols at the Slovakian, Polish, Rumanian and Hungarian borders to the Ukraine. With a total of 350,000 Euro the budget of the operations was still relatively small. The "yield" – approx. 100 run-in "illegal migrants" in the border area and 250 entry refusals – also seems rather symbolic. But Frontex was obviously less concerned about efficiency, than about for the first time involving the Ukrainian border authorities in guarding the external borders of the EU in the east. The Frontex operations for 2009 and 2010, named Jupiter, are also focusing on the Slovakian-Ukrainian border because there the pressure of illegal migration is continuously high.
Finally it seems important to comment on the perhaps most important treaty, which in the years to come might turn the Ukraine, in the literal sense of the word, into a hot spot.
What was set on foot with the ENP procedures as well as at the Frontex meeting in Luxemburg, came into force in its first step in January 2008: the Readmission Treaty between the EU and the Ukraine.
This first step concerns the "readmission" of Ukrainian citizens who are picked up in EU States and should be deported more quickly. The second and decisive step will, as from January 2010, also involve third-country nationals, that is refugees and immigrants who pass through the Ukraine on their way to the EU. The Ukraine will not only be totally overloaded in terms of infrastructure with

[64] GDISC: the General Directors' of Immigration Services Conference was founded in Rotterdam in 2004 as an EU Network for Adjustment Programs. "Capacity Building and Technical Support to Ukrainian authorities to Effectively Respond to Irregular Transit-Migration (ERIT) – A comprehensive and complementary approach to migration management support in Ukraine" is the full title of the program, which is moreover being realized under the authority of the Viennese ICMPD. Obviously nearly all the important migration management agencies want(ed) to be involved in the Ukraine.

thousands of additional returns, but the mentioned efforts in the context of the ENP Program and in particular the Readmission Treaty rather show the strategic purpose of the EU: to certify as soon as possible that the Ukraine is a safe third-country. For in spite of new treaties the EU border guards are actually under the obligation to differentiate between "illegal migrants" and asylum-seeking refugees.
As long as the Ukraine is not a safe third-country, the latter may theoretically not be send back. But as early as 2006 the UNHCR reported about unlawful returns of Chechen refugees from Slovakia to the Ukraine. And border-monitoring initiatives in Hungary and in Western-Ukraine again found in the early summer of 2009 that Somalian and Afghan refugees were regularly denied access to asylum procedures. Rounded up in the Hungarian border region, the persons concerned are turned over to the Ukrainian border guards, who intern them up to six months in the wretched and crammed full deportation camp of Chop. In the same way as put into practice in the Mediterranean by Greek and Italian border guards (who are at least covered if not supported by Frontex!), the Non-Refoulement prohibition is also systematically violated at the eastern external borders. The Geneva Convention is virtually rendered inoperative in this hot spot as well. The comprehensive efforts of the EU to enable by all means the certification of the Ukraine as a safe third-country appears in this respect as an attempt to legalize, at least for the future, the continuous practice of illegal returns.

2.4. Relations between EU and Belarus on migration, visa regimes, border controls and mobility Issues

Belarus is in a geographical position analogous to Ukraine, between Russia and the extended EU. Unlike Ukraine, on balance it has been an immigration country in the years after the dissolution of the Soviet Union. Relying on the Union of Russia and Belarus, it has largely maintained its traditional planned economy and its integration with Russia. Economically, the regime has been rather successful. Per-capita incomes are higher than in all other CIS states, even if rising oil prices may be about to endanger that. At the same time, Belarus has developed a political regime still solidly linked to the control of public opinion and close to "authoritarian" approaches, and isolated itself from Europe. As part of this isolationist policy, the government has been charged by EU institutions to try to limit the population's contacts with Western countries, and in particular to prevent students and oppositionists from travelling to the West – a situation reminding of Cold War times. Western countries have reacted with travel restrictions against the Belarusian *nomenclatura*.
Economically, the situation in Belarus is rather stable; there is no danger of a great rush to the West. Politically, Western visa requirements affect the people's contacts with the neighbouring EU states, Poland and Lithuania, and favour the orientation towards Russia where Belarusians in principle enjoy equal rights – in about the same way as EU citizens have in other EU countries. In this situation, political arguments speak for an opening of EU borders for the average citizen.

Very significant are the IOM data concerning migration Belarus[65]:

- IOM member since 2005
- Population (2008): 9,6 million
- Total area: 207.595 sq km
- GDP per capita PPP (2007): USD 10.841
- Human Development Index Rank (2007): 68 of 182
- Remittances (2007): USD 334 million
- Net Migration Rate (2005-2010): 0,0, migrants/1.000 population
- Immigrants (2010): 11,4%

[65] See www.iom.int/jahia/Jahia/pid/809.

- Women immigrants as a percentage of immigrants (2010): 54,2%
- Population under 15 (2010): 14,7%

Due to a number of political problems and misunderstandings the relations between the Belarus government and EU institutions have been often in danger. A positive sign of cooperation has been given in September 2009 when it has been enacted a "Joint Statement by the EU and Belarus on the EU Migration Mission to Belarus" (Commission, 2009b) . In this occasion "the EU mission met within a plenary session with representatives from the relevant Belarusian bodies, agencies and ministries. It was followed by individual visits to these agencies. (…). The dialogue covered a large number of issues related to migration and asylum in a balanced and comprehensive manner, including: the organisation of legal migration; integration policies and measures against xenophobia; asylum and protection matters; the tackling of irregular immigration and border control; and broader migration and development matters involving, *inter alia*, remittances, diasporas and the brain drain. Other issues addressed included the fair treatment of foreign nationals and visa issues". (Commission, 2009b).

Despite the 'diplomatic' approach and the clear need to deepen the cooperation, in our opinion this official document well shows all the difficulties which are still characterizing the relations between EU and Belarus in this sensitive policy field.

Belarus is still a very closed country, both for immigrants coming form third countries and for emigrants. The main issues concerning the relations with EU are focused on the eventual role of Belarus as transit country for third countries nationals moving westward coming especially from central Asia. Due to this concrete matter, EU is concentrating its cooperative approach mainly on border controls issues, using the Visa tool as an incentive and postponing the question of migrants' human rights respect.

The Government of Belarus has demonstrated its commitment and made visible efforts to counteract irregular migration, trafficking in human beings and related crime. However, the country's capacity to respond to existing migration challenges is still limited, and additional efforts and support to address these issues is needed.

Belarus is the second most important country of Eastern Partnership countries after Ukraine, and it represents a very important economic potential, this essentially means that EU has a great interest inBelarus. EU has a common interest with Belarus in fighting a number of cross-border issues, like illegal immigration, trade in drugs, etc. In other words, security of borders is considered to be very important both for Belarus and EU.

By this point of view is important to give a quick overlook at what is the present state of EU-Belarus relations and how it will look like in the next future. The first think that is notable when we look at this relationships, is that EU and Belarus do not have, unlike with other countries of Eastern Partnership, a legal basis for their relationships. And the main reason for this is that the Council of EU Foreign Ministers froze since 1997 the ratification process of the Partnership and Cooperation Agreement with Belarus, charging the Belarusian government for the lack of political reform and recurrent violations of human rights and fundamental freedoms. Obviously these charges are harshly remitted by Belarus, and its Government accuses EU to blackmail Belarus in order to obtain economic reforms and a liberalistic approach to economy. This should mean allowing Foreign Direct Investments, but destroying the still functioning Belarusian welfare State and the undoubted successes its economy had in the last 15 years, despite the isolation and the condemnation of its political economy by a number of IO's as IMF or WB.

However, over the last two years, EU gradually tried to strict its relations with Belarus. It used an approach of gradual and positive engagement trying to encourage reforms. EU expressed clearly to its Belarusian partners that it would like to see Belarus taking place as a full participant of the European Neighbourhood Policy.

EU and Belarus engaged themselves in a number of sectorial discussions, often referred to as technical dialogue, which are basically discussions in normal areas as energy, transport, migrations, border controls, etc.
In addition, the Commission proposed an increase in allocation of financial assistance to Belarus for 2011-2013. And finally, responding to request by the Belarusian authorities, EU is now considering how to provide macroeconomic financing assistance that would be complementary to the programs implemented by the IMF.

2.5. Relations between EU and Moldova on migration, visa regimes, border controls and mobility Issues

Compared to Russia, Belarus and Ukraine, Moldova is much smaller. In this country stabilization must be the prime objective of EU policy, not only in political and military but especially in economic terms. Free trade agreements and chances to earn money and make a living from work under stable conditions are the best means to reduce poverty, trading in drugs, other illicit commodities and in human beings, and to prevent or suppress violent structures and criminal gangs. Here too, a controlled and supervised opening of the borders will have positive effects in the long term, if basic stabilization is secured.
Starting from these preliminary considerations it seems useful to recall the basic IOM facts and figures concerning Moldova[66]:

- Population: 3,88 million
- Area: 33.845 sq km
- GDP per Capita PPP (2007): USD 2.100
- Human Development Index rank (2007): 111 of 182
- Remittances (estimated): USD 1.180 million
- Net migration rate (2005-2010): -1,9 migrants/1.000 population
- Immigrants (2010): 10,5 %
- Women as a percentage of immigrants (2010): 57,8%
- Population under 15 (2010): 20 %
- Population living below poverty line: 64,7 %

Moldova was part of the Soviet Union and provided its large markets with wine and other special agricultural and industrial products. After the demise of the Soviet Union, it depends on the EU as well as on Russia and the Russian market where most Moldovan emigrants work. The secession of Transdnistria with its Russian peace keeping force makes Moldova even more dependent, as the breakaway quasi state is oriented towards Russia, and Russian is the official language there. Moldova suffers under extreme poverty. In 2003, 43 % of the population lived from less than 2 $ a day, and 85 % had less than 4 $ a day (UN, 2003).
The World Bank stated that in 2006 almost 17% of Moldovan residents where emigrants (World Bank, 2008) and that the remittances as percentage of GDP in 2006 where about 36%, the highest rate between south-eastern Europe countries (World Bank, 2008a).
All these small States (all former Yugoslav republics except Slovenia and Croatia, Albania) can be characterized as emigration-remittance-economies. Large parts of the active population have migrated to the EU and to Russia, and some also to Israel, Turkey, and the Gulf states. Although all the statistics lack reliability since most of the migration is informal or illegal, Moldova is clearly the most intense remittance country, and Macedonia (the country with least internal conflicts), the least remittance dependent (World Bank, 2008a).

[66] See: http://www.iom.int/jahia/Jahia/activities/europe/eastern-europe/moldova.

Moldova is characterized by a strong migration eastward, to Russia and to some extent also to Ukraine and Belarus, and westward, to the Southern EU countries. Several hundred thousand Moldovans also hold Romanian passports, and thus are able to travel freely in the EU. Since Moldovan/Romanian is a Latin language, Moldovans are able to communicate rather easily in Italy, Spain, and Portugal.
More than anything else, migrants and their remittances contributed to the economic transformation and restructuring of Moldova. Remittances do flow down to the last village, stabilize the country socially and economically, create demand for goods and services, and thus stimulate the economic process (ETF, 2007). If this process can be solidified and regularized, the country can gain stability. If not, it will remain instable and a problem for Europe as a whole.
Clearly, European border controls have not prevented the informal immigration, particularly to Southern Europe, and, in some sectors like care giving and households, also to countries like Italy, Germany, Austria, and Poland. This policy has driven the migrants underground and in many cases it motivates them to stay, as commuting is difficult because of the border controls.
In Moldova (as in many other south-eastern countries) we find a consensus about the accession to the EU, but frustration because the EU's doors are closed. Such feelings are aggravated by the stigmatization of "Rumanian" speaking migrants in Italy and Greece. On the other hand, strict EU control policies play into the hand of organized crime, as migrants become dependent on non-legal ways of passing borders.

2.6. Conclusions and hypothesis to enhance and foster EU-Eastern Partnership on migration issues

Ever since 1989 the European Union aims to expand its migration control capacity towards non-member states. Long before the Central and Eastern European countries (CEE) became members of the EU they were integrated into the EU's migration control regime.
This was managed through various processes, such as the Berlin process, the Budapest process and the Visegrad process. The driving force, however, was the EU accession process, the obligation of future member States to comply with EU regulations and to adopt according standards before they could become full members. Thus, Europe was divided into three groups of countries, member States, candidate countries and non-candidate countries.
The Schengen *aquis* represents a second set of requirements, even though the Schengen *aquis* is meanwhile integrated into the EU *aquis communitaire*. Full membership to Schengen is separate from EU membership. As a result there are two European Unions, the Schengen EU countries and the non-Schengen EU countries, but most of these will soon become Schengen members. Finally, there are non-Schengen non EU countries.
Another agreement, the Dublin Convention – identifying so-called safe third countries and clarifying responsibility for asylum procedures – allowed western countries to send back asylum seekers to their first safe country of arrival. Meanwhile, there are many so-called safe countries. Finally, another important instrument in distinguishing countries is visa requirements. Countries that are considered of no concern are visa-free countries whereas countries considered as of concern are visa-countries. Their citizens are requested to undergo pre-entry screening and sometimes to pay considerably visa fees which can act as entry fees.
The period between 1990 and 2007, covered the candidature period of 12 EU neighbouring States. During this period, these countries served as a sanitary cordon, a belt of countries that was designed to prevent unwanted migrants, often asylum seekers or undocumented migrants to reach EU territory. Meanwhile, and because of EU accessions in 2004 and 2007 those countries that previously served as a sanitary cordon are themselves members of the EU. As a consequence, the EU lost its safety belt around its territory. This leads to yet again another expansion of the EU's

migration control regime. Meanwhile, a whole range of new policy processes are invented which aim at deterring and detecting unwanted migrants before these reach EU territory.
The European Union has been tremendously successful with its enlargement. Free movement was achieved in the six-country-EEC in 1969, extended to Britain, Denmark and Ireland in 1973, to Greece in 1981, to Spain and Portugal in 1986, to the ten new member states in 2004, and to Romania and Bulgaria in 2007.
The European openness contrasts most favourably with the rising wall and the death toll at the Southern border of the United States of America, and is so successful that even Switzerland since 2008 has opened up towards the EU – despite its neutral and local political tradition.
Only a few European countries to the East and in the Balkans are now missing in the area of free movement. They can be integrated, too, step by step, without any danger of "floods" of migrants or a disruption of public order. The opening of borders for goods, services, capital and people on the EU model would further an optimal allocation of resources in a greater European free space. The severe counterproductive effects of border controls and visa regimes would come to an end, with respect to human as well as financial costs. It is clear that undesirable exploitation of migrants and all sorts of racketeering are associated with inefficient border controls.
Today, more than one million Romanians live in Italy. With the accession of Poland, Hungary, the Czech Republic, Slovakia, Estonia, Latvia, Lithuania, and Slovenia in 2004, and Romania and Bulgaria in 2007, these countries joined the open migration system of the European Union, even if certain restrictions can be maintained up to 2009/11 for the E8 and up to 2012/2014 for Romania and Bulgaria. As a consequence of the outflow of workers and the rapid development before and after accession, Poland, the Czech Republic, Hungary, Slovakia and Slovenia now begin to attract immigration from countries to the East. Similar developments can be expected for Romania (from Moldova) and for Bulgaria in later years. Croatia qualifies for EU membership economically and politically, even if it might not be granted entry for some time (probably till 2012), due to internal problems of the EU. Thus it belongs more to the EU category than to the countries discussed here.
With the exception of Russia-Georgia and Russia-Turkmenistan, the countries east of the EU – Russia, Ukraine, Belarus, Moldova, the Caucasian and the Central Asian states – enjoy visa free travel among themselves (before Poland's accession to the EU, its borders with its Eastern neighbours were visa-free, too).
Therefore, the enlargement of the zone of free travel should not proceed through a state-by-state extension of the EU sphere, as it is not an enlargement of the EU. It should uphold the amount of free travel and exchange that is now in place, and create a greater mutual visa-free zone, from the Atlantic to the Pacific. Certain conditions like health certificates and deposits can safeguard the transition, particularly in the first years. Relying on the experience of the Schengen process, a monitoring system and the option of a return to controls in emergency and special cases should accompany the opening up. In contrast to the Schengen arrangements, there must not be common border arrangements but the EU and the states to the East would be independent to arrange border controls as they feel best, like in the relation between the U.S. and the EU. Over time, cooperation could become more intense, in the common interest of optimising security as well as a prospering economy. To abolish visas with Russia and the countries between the EU and Russia would be important to build trust, develop civil society relations and increase interdependency and manifold human contacts between the two sides.
Up to now, the EU presents itself in a rather counterproductive way to its Eastern neighbours. Internally, the community is open, and migration, communication and cooperation function better than even optimists would have expected. At its outer borders, however, the EU focuses on strict controls, more than is useful and effective. Functional cross-border networks are endangered and cut through, and it will take much energy to reconnect once new members join and the community is then going to fund new euro-regions and other connecting networks to bridge the borders.

As already shown, even the new mobility partnership agreement of 2008 with Moldova is – aside from declarations about cooperation – focused on the strengthening of Moldova's border controls and the implementation of Frontex standards in the neighbouring States. The EU deals with individual neighbouring countries, and there is no comprehensive concept for mobility in a greater Europe.

The effect is to strengthen the borders between the States to the East of the Community, and thus to further economic *balcanization*, instead of cooperation and opening up – in contrast to creative policy of a joint accession of ten new member States that then could transfer their existing cooperation and networks into the new EU environment.

A central element in this policy is the hidden or open antagonism against Russia which in its logic would force countries like Ukraine, Moldova and Belarus to choose between Russia and the West. This would go against their best interest which lies in productive links to both the CIS countries and to the EU, to access all European resources and markets as well as to furthering free movement of people for all kinds of purposes. With respect to migration, it brings working options to the West and to the East, and thus optimises individual chances as well as economic development in the larger European area.

Moreover, the strengthening and full control of borders is not feasible between the successor states of the former Soviet Union, since the borders – former internal borders - are ill defined, porous and not well controlled. It would necessitate an immense amount of funding and energy to bring them on the level of the present Schengen borders, let alone the U. S. wall.

Another effect of the strengthening of controls are more and more sophisticated illegal border crossings, the formation of organized criminal activity to overcome controls, corruption of border guards, embassies or other agencies, the merger of human smuggling with other illicit activities, and the diversion of large funds into these activities. Since the high fees for the smugglers functionally resemble entrance fees, some economists argue for a monetization of border controls, to dry up the illegal sector and lead the money flow into legitimate and productive channels.

Whereas open borders facilitate contacts on an equal footing, and a knowledge of the functioning of open societies based on the rule of law, civility, democracy, responsible government and voluntary engagement, illegal migration forces people underground, and makes them dependent on informal arrangements or even criminal gangs.

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Part 1:

LEGAL AND POLITICAL FRAMEWORK OF THE EU MIGRATION POLICY

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EU POLICY AND LAW CONCERNING MIGRATION – CRITICAL EXAMINATION

1. Main problems and identification of the migration issue within EU

Europe is currently absorbing 2 million migrants each year – more as a proportion of its population than any other part of the world, including North America. This influx is altering the make-up of member-states' populations more than birth rates or death rates. Increased migration into Europe is part of a global trend. Cheaper travel and more information entice skilled and unskilled workers from poorer countries to rich ones. The UN predicts that, on current trends, the numbers of people migrating worldwide will increase by 40 per cent over the next 40 years[1].

Since the end of the sixties European Union's immigration policies followed an irregular trend as a consequence of the different characteristics that migrations had and still have at international level and of the different perception that the immigration States have of this process.

But since the end of the sixties international migrations undergo a radical transformation, not much regards to *quantitative* data, if we consider the relative immobility of the number of emigrants if compared to world population (IMO, *World Migration Report 2006*)[2], as in *structural* and *qualitative* terms. Concerning *structural* aspects is recorded a growing complexity in the global geography of migrations, with an exponential growth, since the last thirty years of the past century, of *major senders* countries, of *major receivers* countries, and of States that are at the same time senders and receivers countries (OECD, *Globalisation, Migration and Development*)[3]. Moreover, differently than in the past, the *qualitative* aspects of international migrations are characterized no more as an unidirectional, permanent and definitive *event*, but rather as an open, circular and reversible *process*, a sort of "*pendular movement*" there and back, which is possible due to continuous advance of means of communication and transport – progress which allows the maintenance of regular contacts between the migrant, his family and his country of origin (Stalker 2000; Sopemi 2003, p. 55; Pastore 2004).

The global dimension of migration processes caused a progressive change of perspective in the adoption of governmental policies in this sector, policy which has been characterized since the early eighties by the slow but progressive renouncing of an unilateral and sectorial approach to the management of migratory flows and the development of an international cooperation policy (Nascimbene 1999; Chaltiel 1998; Kaczorowska 2006)[4].

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[1] Most immigration figures, especially projections, are by necessity a mixture of estimation and guesswork.

[2] UN sources affirm that, in the last fifty years, less than 3% of world population lived outside its State of origin for more than one year. There are almost 180 million emigrants in the world (2005 data), more than half of them live in less developed countries and the great part of migration flows concerns the same Continent. Even so, data are testifying a growth in migration flows in the last twenty years and a record level absorption of immigrants in North America and in the EU's States.

[3] Between 1970 and 1990 the International Labour Organization (ILO) noticed a considerable growth of the countries of origin of the migratory flows (from 29 to 55), of the countries of destination of massive migratory flows (from 39 to 67) and of the countries which are at the same time major senders and receivers (from 4 to 15).

[4] The strengthening of international cooperation in this sector is partially a reflection of the importance that the supranational level of governance of migratory phenomenon assumed in the last few years. This is a tendency which

Immigrants have become the subject of increasingly strident political debate in many European countries. The flow of workers into the UK and Ireland following the EU's 2004 enlargement was the largest inward migration ever recorded into either country over a two-year period. Spain's official immigrant population has risen by 400 per cent in ten years. And Italy worries about an estimated 100,000 Romanian immigrants, most of whom are thought to be without a job. In some places, robust growth and falling unemployment have helped to assuage concerns about the impact of immigration on local labour markets. But despite this – and economists' warnings that Europe will need ever more migrants in the years ahead – most polls show that migrants are seen as a problem, rather than as an opportunity.

Notwithstanding this, international and European cooperation suffered for a long time and is still suffering on some hand from a minimal and inadequate approach to the a such complex phenomenon as migration is. The lack of a strategic vision – a starting point that cannot be disregarded in order to elaborate a serious and functional governance of migration processes – leaded to the adoption of strictly defensive policies just oriented to gain the "immigration zero" objective, which – although rhetorical and unreal – has become a political priority for a lot of western Governments (Sciortino 2000; Pastore 2001; Guild and Harlow 2005)[5].

Since the nineties the merely restrictive management of external migration in EU showed all its limits: barely efficient in the long period, hardly sustainable on the political plan and not suitable to real interests of European societies. On the one hand, contrary to all expectations, restrictive immigration policies carried out the stabilisation of immigrants in the emigration countries (by means of family reunification praxis) and the growth of illegal immigration, handled by trans-national criminal organisations. Whereas on the other hand, emerged the positive effect of migrations on demographic policies in a medium-long period perspective (IMO 2006)[6] and on economic development of *major receivers* countries (EC Commission 2000)[7].

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has been and is particularly evident in the context of European Union and has no analogy in the experience of other continents. The EU experimented the passage from inter-governmental forms of cooperation between the member States, to a common policy which is determined by the EC Institutions, while the residual competence of the member States can be exercised only through national rules which have to be compatible with the Treaty and international agreements. In particular, following the coming into force of Amsterdam Treaty (may 1st 1999), "*Visas, asylum, immigration and other policies connected with the free circulation of people"*, already subject matter of inter-governmental cooperation provided in the 1992 Treaty on European Union (Title VI: "*Cooperation in the fields of justice and home affairs*"), are disciplined by EC law (Title IV TCE, artt. 61-69). The member States have just residual competencies in the fields of entry and residence, anyway they can adopt and maintain some national rules, as long as they are compatible with EC law and international treaties (art. 63 TCE), and in general the exertion of competences for the maintenance of public order and the protection of national security (art. 64 TCE).

[5] Consequently, international and EU cooperation ceased to be focused exclusively on *static* controls on national frontiers, privileging controls outside national frontiers – through the prevision of some forms of pecuniary responsibility for the carriers – and *dynamic* controls on illegal immigrants and trans-national criminal organisations devoted to the migratory smuggling – through the diffusion of advanced technologies (radars, radio systems, bio-sounding etc.), the exchange of police information and the development of data bases for the scheduling of illegal immigrants and the comparison of fingerprints (we are referring perhaps to the Info System Schengen rather than the EUROPOL's or EURODAC's data bases).

[6] Western countries are characterised since the end of the eighties by a worrying birth rate decrease combined with population ageing; this process put the problem for these societies to guarantee a population in working age sufficient to sustain the welfare costs. So that policies aimed to support regular immigration are playing a decisive role if related to adequate policies directed to reduce demographic lack of balance in industrialized countries, allowing to counterbalance the loss of active population and consequently to maintain an acceptable level of economic growth..

[7] For a long time liberalist doctrine asserts the necessity for the States to announce more generous quotas of immigrants, especially of qualified workers to be used in high technology sectors, in order to maintain global competitiveness of their economies. United States of America, Canada and Australia have been the first industrialized countries to announce an increase in entry quotas for qualified workers in high technology industry (e.g. almost 65% of qualified workers in informatics sector in United States of America is Chinese or Indian. See IMO, 2004). Although a similar

Despite years of discussion and initiatives, a real EU migration policy has proved elusive. This is because the member-states cannot agree on clear political objectives (and thus, a legal mandate) for such a policy. Some countries think that a European migration policy would allow them to escape rigid national debates. Others want a pan-European migration policy so as to put pressure on countries outside the EU to take back more illegal entrants. For a few European federalists, a single migration policy is attractive almost by definition. It could advance the notion of the EU as a single state providing European citizenship, not just to the existing population but also to newcomers.
These different motivations complicate EU initiatives on migration. EU and national officials, for example, talk about the need to promote 'circular migration' and establish 'co-operation platforms' with African countries. But they struggle to clarify what these things will mean in practice, or how action at the European level would add value. Overall, the EU's response to public demand to 'do something' about migration has been to focus on policies aimed at immigrants' countries of origin. This is also a way to paper over disagreements at home: proposals from the European Commission to adopt uniform immigration procedures across the EU often end up gridlocked.
But even in the absence of a coherent policy, EU co-operation is facilitating an exchange of experience with, and ideas about, managing migration. The emerging consensus amongst member states is that European countries manage migration best when they work with the migrant's country of origin on everything from border control to development issues; have well-advertised, easy to understand schemes for skilled migration; provide a clear and fair route to citizenship for newcomers; and use the right mixture of sticks and carrots to get illegal immigrants to leave. However, efforts to advance these aims at EU level are still in their infancy.
All Member States of the European Union (EU) are affected by the flow of international migration. They have agreed to develop a common immigration policy at EU level. The European Commission has made proposals for developing this policy, most of which have now become EU legislation. The main objective is to better manage migration flows by a coordinated approach which takes into account the economic and demographic situation of the EU.
In spite of the restrictive immigration policies which have been in place since the 1970s in most Member States, large numbers of legal and illegal migrants have continued to come to the EU together with asylum-seekers. Taking advantage of persons seeking a better life, smuggling and trafficking networks have taken hold across the EU. This situation meant that considerable resources have had to be mobilised to fight illegal migration especially to target traffickers and smugglers. Furthermore, it is recognised that the EU needs migrants in certain sectors and regions in order to deal with its economic and demographic needs.
Realising that a new approach to managing migration was necessary, the leaders of the EU set out at the October 1999 European Council in Tampere (Finland) the elements for a common EU immigration policy. The approach agreed in Tampere in 1999 was confirmed in 2004 with the adoption of The Hague programme, which sets the objectives for strengthening freedom, security and justice in the EU for the period 2005-2010.

2. Legislative tools and developments in EU migration policy within the Den Haag programme (2004-2009)

2.1. Economic migration

The European Commission put forward in July 2001 a proposal for a Directive on the conditions of admission and stay of third country workers. However, due to Member States' diverging views on this issue, the negotiations did not lead to the adoption of legislation. The Commission re-launched in 2005 the debate on the need of common rules for the admission of economic migrants with a

trend has been recorded also in some European countries – especially in Great Britain and Germany - is clear, by admission of EC institutions themselves, that the level of European competitiveness in this sector is very modest.

Green Paper on an EU approach to managing economic migration (COM (2004) 811). This consultation led to the adoption in December 2005 of a *'Policy Plan on Legal Migration'* (COM (2005) 669) which lists the actions and legislative initiatives that the Commission intends to take, so as to pursue the consistent development of the EU legal migration policy.

2.2. Integration

In September 2007, the Commission presented the *Third Annual Report on Migration and Integration* (COM (2007) 512), continuing the monitoring process of policy developments on admission and integration of third-country nationals in the EU. The report provides information on the establishment of the EU framework for integration up to June 2007 and it includes specific information about the various dimensions of the integration process in Member States for the calendar year 2005 and the first half of 2006.

2.3. Illegal immigration and return

On 16 December 2008, the European Parliament and the Council of the European Union adopted *Directive 2008/115/EC* on common standards and procedures in Member States for returning illegally staying third-country nationals as published in the Official Journal (L 348 of 24.12.2008). The transposition deadline for the Member States is 24.10.2010.

In July 2006 the Commission adopted a Communication on policy priorities in the fight against illegal immigration of third-country nationals (COM (2006) 402) which builds on the guiding principles and EU achievements and further develops new priorities. It follows a comprehensive approach, striking a balance between security and basic rights of individuals and thus addresses measures at all stages of the illegal immigration process.

In order to fully implement the Return Action Programme agreed in 2002, the Commission adopted in September 2005 a proposal for a Directive on common standards and procedures in Member States for returning illegally staying third-country nationals. The objective of this proposal is to provide for clear, transparent and fair common rules concerning return, removal, use of coercive measures, temporary custody and re-entry while taking into full account the respect for human rights and fundamental freedoms of the persons concerned.

2.4. Migration and development

In September 2005 the Commission adopted the communication "Migration and development: some concrete orientations" (COM (2005) 390). This Communication constitutes the response of the European Union to the invitations made by the Council in March 2003 and the European Council in November 2004 to submit concrete orientations to improve the impact of migration on the development of countries of origin in a number of fields. It constitutes therefore a contribution by EU immigration policy to the objectives of development policy. The Communication highlights measures and initiatives which are likely to lead to concrete progress.
The Communication identifies a number of concrete orientations in the following areas: Remittances; Facilitating the involvement of willing diaspora members in the development of countries of origin; Facilitating brain circulation; and Limiting the impact of brain drain.

3. The common policy for asylum and migration enters a new phase: from Den Haag to Stockholm programme

The Commissions' 2007 "Green Book" had the scope to monitor the progresses made in the objectives stated in the European Council of Tampere (1999) and re-stated in The Hague Programme (2004) and in the Global approach on migration issues (2005) concerning a common space of "freedom, justice and liberty".

In this document it has been clearly stated that there is the need to go forward creating a truly EU common migration system. But the real problem is that till now there is still no legislative harmonization at all between EU member States on these issues. By this point of view the "Green Book" emphasizes the necessity to proceed in two phases:
First phase: to harmonize legal instruments of each member State on the behalf of minimum common rules;
Second phase: to reach a higher level of common rules which should grant unique treatment in different countries.
The idea is to create a unique legislative regime regulating the evaluation of asylum requests, the problem is that a number of organizations acting in protection of refugees speak about a "less protection for individuals"
On June 17 2008 the Commission respected its commitments and published a Communication concerning "*A common immigration policy for Europe: principles, actions and instruments*" and "*A strategic plan on asylum*" which defines the architecture of the 2nd phase of the CEAS (Common European Asylum System)[8].
The idea of the Commission was that this two documents had to be both approved by the European Council in the October 2008 meeting in order to insert them in a new five year plan in the sector of freedom, justice and security.
The 2008 Communication presents ten common principles for a common migration policy grounded on three principal axis of EU strategy:
Prosperity
1) clear rules and equality conditions,
2) meeting between qualifications and needs,
3) integration of migrants: the key of a successful migration process,
Solidarity:
4) transparency and cooperation,
5) concrete and coherent use of the instruments,
6) third countries partnerships
Security
7) a visa policy which should protect EU interests,
8) borders integrated management,
9) to intensify the fight against illegal immigration and zero tolerance,
10) sustainable and effective repatriation policies.

Concluding it is possible to argue that in the opinion of the EU Commission the European Common policy on migration should be based on a real partnership between EU institutions and member States, and on regular follow-up monitoring of the migration phenomenon in Europe.
In this sense, the vice-president of the Commission Jacques Barrot, Commissary responsible for the program justice, freedom and security, declared in February 2008 that immigration, if correctly (but what does it mean correctly??) managed, is an opportunity and a challenge for EU and for the development of its economies fighting against illegal immigration continuing to sustain universal values as the refugees' protection, tolerance and the respect of human dignity.

[8] The fact that the Commission decide to prepare two different documents indicates the fact that the problem of asylum is a specific and relevant problem within the EU. The first phase of legal harmonization, concerning minimum legal standards has been already completed (conditions for the acceptance of asylum seekers, procedures for asylum requests the conditions for the recognition of the status of person who need international protection and the Regulation Dublin II, concerning the determination of the State competent in order to examine the asylum request, which has been hardly criticized by many organizations which deal with asylum), so that in the second phase the ambitious aim is to reach the objectives stated in Den Haag programme.

3.1. The 2008 European pact on immigration and asylum and the Stockholm programme

In July 2008 a team of experts of the French government, at that time turn President of the EU, presented in Paris a new important document in order to go forward towards the constitution of a truly European common policy on asylum and immigration: *The European pact on immigration and asylum.*
This document has been officially adopted during the European Council held in Bruxelles on October 15 2008.
For the first time an official document of the EU does not define immigration a problem but an opportunity in the context of the freedom of circulation which the Union grants to its and foreign citizens in the member States' territory.
It has been stated clearly that immigration is an opportunity. It is a factor of human and social exchange and development (fundamental for the EU working market). The document clearly states the immigration zero objective is dangerous and not realistic at the same time.
This document also affirms that a global approach to migration issues is fundamental (as already stated in the European Council in 2005), due to the fact they are integrant part of external relations of EU. An effective and harmonic management of migration have to be global, facing at the same time the organization of legal migration flows and the fight against illegal immigration, and finally this would favour a synergy between migrations and development.
However, it is said in the document, the EU has not all the necessary instruments in order to receive all the migrants who are aiming to enter within EU. So that the management of migratory flows has to be founded on the European receiving capacities for what concerns labour market, homes and social and scholar services.
This approach should be based on a "common spirit of responsibility and solidarity between member States and mobility partnership with third countries of origin or transit for migrants"; it is also stated that a national policy concerning immigration has immediately repercussions on the interests of other member states.
This document is based on five fundamental points (which will foster the new Stockholm programme on immigration policy which substitute, probably in June 2010, the 2004 Den Haag Programme):

1) *to organize legal migration flows in conformity with priorities, exigences and capacities of each member State, favouring integration of migrants within EU societies;*
2) *to fight against illegal immigration flows, fostering the return to their origin or transit countries of illegal non EU nationals through readmission agreements and mobility partnerships;*
3) *to enforce the effectiveness of border controls (enhance the role and the funds for Frontex)*
4) *to built an Europe based on asylum principles;*
5) *to create a global partnership with third countries of origin and transit which should endeavour a synergy between migrations and development.*

Another very important issue, concerning the emerging EU migratory policy beside this, is the fact that EU adopted in November 2009 the so called Stockholm Programme which is substituting the Den Haag programme 2004-2009.
On April 23rd 2010 Justice and home affairs ministers heard presentations by the Commission on its recommendations for an action plan implementing the Stockholm Programme (5731/10). Ministers welcomed the Commission paper, stressed, however, that the action plan should more closely mirror the objectives set out in the Stockholm Programme itself. The Council asked its preparatory bodies to swiftly start consultations on the action plan with a view to adopt the it in June 2010.The Stockholm Programme is the multi-annual strategic work programme in the area of freedom, security and justice. It was adopted by the Council on 30 November 2009 and endorsed by the

European Council on 10-11 December 2009. It sets out the priorities for EU action in the area for the next five years (2010-14). It puts the citizen at the heart of EU action and deals, among other things, with questions of citizenship, justice and security as well as asylum, migration and the external dimension of justice and home affairs.
It is ten years since the EU set itself the target of creating an area of freedom, justice and security. The Stockholm Programme will built on the progress made during the implementation of the Tampere Programme (2000-2004) and the Hague Programme (2005-2010).
But, as it will be demonstrated in the next paragraph, it is important to note that the entering in force on December 1st 2009 of the Lisbon Treaty also had a great impact on the recent developments concerning the common EU migration policy, including the Stockholm programme.

4. The impact of Lisbon Treaty on the development of EU immigration legislation

The changes and additions of Lisbon Treaty in the field of Justice and Home Affairs are remarkable.
The Lisbon Treaty reaffirms the merging of Title VI of the TEU and Title IV of the EC Treaty. Also there are changes made to the decision making process by shifting several measure to a qualified majority vote in the Council and by giving European Parliament joint decision making powers by introducing a ordinary legislative process (previously called co-decision). Though, the changes in the Justice and Home Affairs seem to be more in technical nature than substantial. Nevertheless the rules in the Lisbon Treaty constitute a further step in the ongoing development in the field of Justice and Home Affairs that some decades ago were treated as sole and sovereign matter of a Member State. The analysis has shown that it has become more and more harmonised in current years and the Lisbon Treaty provides tools for further development in harmonization of immigration field. The shortcomings will emerge through practice when the Lisbon Treaty is enforced until that time the EU has to play with the old rules and do as much as possible in order to fulfil its tasks given by the Treaties. Also the conditions under which the third country nationals shall have the freedom to travel within the Union for a short period should be adopted as currently they do not provide enough support from the Community level. If persons are crossing internal borders there shouldn't be a control regardless of their nationality so therefore the third country nationals who have a right to enter one country will also enjoy the free movement of persons provision. There seems to be a small conflict in the free movement of third country nationals. As Schengen area does not cover the whole EU but the Treaty itself speaks about the internal borders[9] which should mean the EU internal borders but not Schengen internal borders. The Schengen *acquis* is attached to the Lisbon Treaty by the Protocol Integrating the Schengen *acquis* into the Framework of the European Union. The attachment of Schengen *acquis* to Lisbon Treaty makes the free movement provisions more transparent and clear although they are applicable even in the current moment.
The aim of the EU common immigration policy is to ensure the efficient management of migration flows, fair treatment of third country nationals who are residing legally in Member States and prevention and combating illegal immigration and trafficking in human beings. [10] In the current Treaty the aim is not specified but simply lists the topics in which the Council has to take measures in the field of immigration and asylum.[11] Though the treaty makes an reservation to the competences of the EU regarding the number of people that can be accepted to EU. [12] This

[9] Article 77 (2) (e) of Lisbon Treaty.
[10] *Ibid* art 79.
[11] Articles 61, 62, 63 of TEC.
[12] Article 79 § 5 of Lisbon Treaty. 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.

provision doesn't make much difference as the member states can't really control the movement and stop their movement further, of persons who were admitted for example in Germany and then go to France as other articles of the Treaty refer to the free movement clause of third country nationals who are admitted to one Member State. Particularly Article 77 of Lisbon Treaty that says Union shall develop a policy to ensure the absence of any controls on persons. So in fact the states do not control the flow of the persons who has a right to reside in one member state can go to another member state.

Looking back to the TEC and comparing it to Lisbon it can be said that changes have occurred. It is clearer what can be done on the EU level, the goals set are more clear but at the same time some provisions that were on the TEC Agreement are not reflected in Chapter 2 of Lisbon Treaty. Before the policy covered by title IV called visas, asylum, immigration and other policies related to free movement of persons and now the chapter 2 of Lisbon Treaty dealing with the issue is called policies on border checks, asylum and immigration and belongs under area of freedom, security and justice.

The Lisbon Treaty will have several major implications for police and judicial cooperation in criminal matters as co-decision, qualified majority voting and the ECJ's jurisdiction will be extended to this area. [13] The present Title IV of the TEU "Visas, Asylum, Immigration and Other Policies related to Free Movement of Persons" and present Title VI of TEU "Police and Judicial Cooperation in Criminal Matters" has been replaced with Title IV "Area of Freedom, security and Justice." With the Treaty of Amsterdam, "visas, asylum, immigration" were transferred from the intergovernmental to the EC pillar, becoming subject to EU decision-making procedures and the scrutiny of the European Court of Justice. "Police and Judicial Cooperation in Criminal Matters" (third pillar) are presently subject to unanimity. The Lisbon Treaty will abolish the Maastricht Treaty pillar structure and move "Police and Judicial Cooperation in Criminal Matters" to the Treaty on the functioning of the European Union (the existing EC Treaty). The new title 'Area of Freedom, Security and Justice' brings together the presently dispersed JHA policies under one heading. The Lisbon Treaty will have several major implications for police and judicial cooperation in criminal matters as co-decision, qualified majority voting and the ECJ's jurisdiction will be extended to this area. The 'Community method' is extended to police and judicial cooperation in criminal matters.

The Lisbon Treaty facilitates the Union to develop its own Union action and policies concerning security and justice with the ECJ ensuring that the common area of "Freedom, Security and Justice" is not undermined. It transfers increased powers to the EU institutions, in the area of security and justice. Qualified Majority Voting at the Council of Ministers and co-decision (called 'ordinary legislative procedure') will be the rule. Hence, the European Parliament will have a stronger and more influential role. In 1997, the Treaty of Amsterdam incorporated a large part of the former third pillar into the EC Treaty. Consequently, the ECJ's powers concerning Title IV (Visas, Asylum, Immigration, judicial cooperation in civil matters) were established as equivalent to its powers for upholding and interpreting other Community law areas. Nevertheless, its preliminary rulings on jurisdiction concerning these matters, according to Article 68 TEC, is restricted to national courts from which there is no judicial remedy. The Lisbon Treaty repeals Article 68 TEC. It is clear that the ECJ will make sure that the common area of "Freedom, Security and Justice" is not undermined.

[13] For more look at 'FIGHTING CROSS-BORDER CRIME: EU CO-DECISION, QMV, AND ECJ JURISDICTION TO BE EXTENDED INTO AREA OF POLICE AND JUDICIAL COOPERATION [ARTICLE 61]' http://www.europeanfoundation.org/docs/Tuesday%2029%20January/ARTICLE%2061.mht, accessed 12 March 2009.

6. Conclusions

First of all it must be underlined that the European pact on immigration and asylum, on which are based all the recent developments (Stockholm programme) in the field of EU migration policy is an atypical document within the common praxis of EU institutions.
It is a sort of programmatic document, a framework useful to follow a common political line where to insert the various proposals concerning asylum and immigration.
Many scholars and politicians criticized this agreement defining it "a compromise on below", whose aim is not develop European solidarity, but looks only to the economic dimension of immigration, trying to enforce the idea of a "chosen migration" functional for the economic development of the EU countries.
It has also been pointed out the scarce internal coherence of the document. The premises ("The immigration zero objective is dangerous and not realistic at the same time") are in fact in opposition with the five statements.
There are no concrete proposal in order to regularize the already illegal migrants living in EU. Another paradox is that almost 64% of immigrants arriving in EU enter through normal borders, while just 14% enter through maritime borders. This means that the action of Frontex is not worthy (too much money, too scarce results) and that the migration emergence is very often manipulated by medias.

The specificity of migration policy is that it touches upon the topics concerned with economic policy and at the same time with such phenomenal aspects as culture of the society, its traditions and identity. That is why there is a great necessity of complex studying of the questions concerning the migration policy. While planning the migration policy governors should consider demographic aspects of the society, sufficiency of labour force and cultural situation in the country.
Migration policy becomes one of the most popular aspects of the western science. The reason for this is that the migration problems are the most urgent questions during elections in different European countries.
The European Union is enjoying an unprecedented high standard of living, and the longest peace in its history - but what about the states just outside its borders? Just at a time of ending the division of our continent, it is important that the outer perimeter of the EU should not become a new dividing line.
The European Neighbourhood Policy is about working together with those States who share a land or sea border with the EU, to increase their prosperity and stability too.
Neighbours who want to carry out reforms to improve their standards of democracy and human rights, to increase their access to the Union's single market, to improve the environment or to step up their co-operation with the EU on issues like energy, transport or migration, have the chance to work on a joint Action Plan with the EU, and can look forward to substantial assistance: technical help, political support, and more aid money.
Concluding this paper it is possible to argue that Europe's migration, asylum and immigration policy has two aspects: while there is a clear demand for immigrants because of the declining population in most European countries, there is also a heated debate about controlling migration because of "failed" integration and risks for national and social security. The popular rhetoric of "failed" integration policies and the need to control migration a new reinforces anti-immigrant sentiments and the introduction of restrictive immigration policies

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FUNCTIONING OF THE EU MANAGEMENT OF EXTERNAL BORDERS WITH EMPHASIS ON MIGRATION AND ASYLUM PROBLEMS

Abstract
Never as much as today has a multidisciplinary approach to borders been necessary, given the growing attention paid by the EU member states to migration and border management, particularly regarding the fight against illegal immigration and the reinforced control of the external borders of the EU. The need to intensify co-operation with migrants' countries of origin and transit, through capacity-building, training, financial and technical assistance, has gained momentum in migration talks. Moreover, there is now growing consensus that the effective control of the EU external borders, particualrly in the Euro-Mediterranean and Eastern European area, should also be accompanied by measures aimed at helping neighbouring third countries in managing their borders and migration flows. Countries in the direct neighbourhood of the EU, particularly North African countries, have been repeatedly called to strengthen their border control capacity with a view to limiting migration flows transiting through their territories on route to the EU. Based on an EU citizen's perspective, effective measures against cross-border crime are of key significance. But such efforts for increased security must not come at the expense of the individual's human rights, integrity and the right to privacy. Accordingly, crucial issue here is to strike a balance between measures to ensure common security in the EU and measures that ensure the rule of law and the legal rights of the individual. Well-managed migration can be positive for all actors, the EU member states and the EU as a whole, as well as for the country of origin and the individual migrant. This should be an integral part of the further development of a common immigration policy and common European asylum system that focus on efficiency, the rule of law and predictability. In these efforts, it is important to ensure the individual's access to the asylum process while continuing with work towards a common asylum system that is open and legally secure.

Key words: external borders of the EU, border management, border control, border surveillance, border security, Schengen acquis, asylum, migration, refugees, illegal immigration, human rights protection, Frontex

Introduction

The issue of EU borders has attracted a lot of attention in recent years, particularly in terms of the problems of maintaining territorial security and the ability to control flows in the context of threats stemming from transnational crime, trafficking, and terrorism in a Europe increasingly characterised by mobilities, networks and 'borderless Europe.' In times marked by trends as diverse as economic globalisation, international migration as well as fear of terrorism and organised crime, the efficient handling of borders has become an issue of political priority in the EU. The EU is developing a border management strategy, based on strict control of the EU's external frontiers, which aims at an "integrated and global response" to the challenges emerging from irregular immigration through the common external borders. The EU member states have to rely on a

flourishing trade and offer a comfortable degree of security to their citizens. The formula commonly chosen in combining these two objectives is that of 'integrated border management',[1] which represents the delicate attempt to marry security concerns with trade facilitation. If the implementation of this innovative approach is already proving to be a challenge to well-established nation states, it becomes a genuine balancing act for an incomplete federation such as the EU, with its sensitive mix of a single external border and 27 separate legal/administrative systems. The EU seeks to develop solutions that should firmly go into the direction of a coherent, communitarian approach in border management, such as that sketched out by the European Council Regulation No. 2007/2004 establishing the European Border Agency (FRONTEX).

So far a remarkable progress has been made in developing an integrated EU border management system. Important issues here include the establishment of FRONTEX (External Borders Agency) in Warsaw, and the adoption of the Regulation No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders (the Schengen Borders Code) and the Regulation laying down rules on local border traffic at the external land borders of the Member States, amending the Schengen Convention and the Common Consular Instructions.[2] Thus, in recent years, a growing number of instruments have been introduced, new institutions crafted and policies hardened. Internal border controls have been removed in the Schengen area and the external borders of the EU are now managed in a more coherent manner. Promotion of free trade, as well as co-operation on such issues as illegal immigration, human trafficking and human rights, should help to ensure greater prosperity and stability at the EU external borders. Good relations of the EU with its neigbourhood and the concept of an effective integrated (external) borders management represent a long-term strategic interest of the EU, which is vital for the maintenance of peace, stability and security in both the EU and its neighbouring region.

This paper aims at exploring how and to which extent the integrated and co-ordinated management of common external borders followed by the EU and its member states may help to overcome existing legal, institutional, political, economic and social shortcomings and concerns in realisation of the EU's common migration policy, which includes, inter alia, common asylum and immigration policy. More specifically, by providing a more differentiated and critical view on the remaining legal and other challeneges in the field, the paper indicates some solutions in border management which could have a positive spill-over effect on major migratory and asylum problems.

The relevance of effective management of the EU's external borders for regulating immigration and asylum issues

International migration, by definition, implies the crossing of international borders. Border management is thus an integral part of regulation of migration flows.[3] In the EU, the lifting of internal border controls (between EU member states) in the expanded Schengen area has been accompanied by the strengthening of external border controls (between a Schengen state and an

[1] The term "border management" covers two key aspects of border policy, namely border control and supervision. Border control means exercising control in established border checkpoints. Border supervision means exercising supervision between state border checkpoints. An integrated state border management in the EU is a major area that assumes keeping and expanding the free zone of security and justice and addresses such aspects as migration, asylum, border control, combating drugs and human trafficking, co-operation at the national and international levels.

[2] In Article 17 of the 1985 Schengen Agreement, external borders are referred to as the place to which checks will be transferred. Mention is made in the same article of the need to harmonize laws, regulations and administrative provisions for this purpose, complemented by measures aimed at safeguarding internal security and preventing illegal immigration.

[3] For the purpose of this paper the term "management of the external borders" is understood as the processes and procedures associated with border checks, which take place at authorized crossing points, including airports, lake ports, river ports and sea ports, and border surveillance, which is carried out on the so-called green (land) borders between authorized crossing points as well as along the blue (sea, river and lake) borders.

adjacent non-Schengen state).[4] In the framework of its European Neighbourhood Policy (ENP), the European Commission is trying to secure the management of its Eastern and Mediterranean borders, by reframing its partnership with its direct neighbours and by promoting sustainable economic and social development of the bordering regions. The rationale of the ENP lies in showing that the EU and its neighbours have a mutual interest in cooperating, both bilaterally and regionally, to ensure that their migration and asylum policies, customs procedures and frontier controls do not prevent or delay people or goods from crossing borders for legitimate purposes. The EU is endorsing an integrated approach to border management, promoting co-operating among its member states and moving toward increasing policy harmonisation. Although the emerging politics of border management remains complex, the materialisation of new forms of border management such as cross-border policing and bilateral border management in the EU can be distinguished. By its nature, the management of external borders in the EU is interwoven with migration and asylum issues and challenges that the EU faces and tries to properly address.

The efficient control and surveillance of the EU's external borders contribute to responsible managing flows of persons entering and leaving the territory within the EU, they help to protect EU citizens from threats to their security and they constitute a fundamental element in the fight against illegal immigration networks, terrorism, cross-border crime and the traffic in human beings. Thus, in Schengen area, which is characterised by the suppression of internal border controls, the surveillance and control of external borders of the EU is essential. In a nutshell, the external borders of the EU play a key role in defining and protecting the EU area of freedom, security and justice.

The lowest common denominator of the EU border management, asylum and immigration concepts: the need for balancing the approaches of security and human rights protection

The EU is an area in which freedom of movement must be ensured. For the purposes of realising this fundamental freedom to the maximal extent the EU must safeguard the security of its citizens. Control and surveillance of external borders with their real and perceived security function is therefore of great material and symbolic importance.[5]

Controlling movement of persons wishing to enter the EU is perceived primarily as a security issue.[6] This fact is apparent from all policy documents and legislation on the subject. The EU policy and regulations dealing with management of external borders and migration issues focus strongly on tracing and keeping out undesired individuals. This filtering process does not start or stop at the EU external borders, and is not restricted to 'suspect' migrants. A much broader class is subject to survey. The EU migration security regime can for these reasons rightly be called 'expansionist' (Tekofsky 2006, 15-16).

Different regimes apply to different categories of people. The position of citizens from the 27 member states that form the EU and nationals of their Schengen partners (Iceland, Norway and Switzerland) is the strongest; other 'free movers' such as third country nationals with derivative rights have a similarly strong position, as their rights are modelled to the EU citizens' regime. Third country nationals without free movement rights will have more or less difficulty gaining entry to the

[4] Intuitively perhaps the external borders of the EU should be the borders of the EU member states with neighbouring non-EU member states. In strictly legal terms, however, this is not the case. The EU legal regime on external borders applies to the Schengen area.

[5] Developments in the EU law, notably the Schengen interpretation of the internal market as an area without internal frontiers, have introduced a logic that renders some form of EU external border policy indispensable. As a result, this traditional domaine r´eserv´e eventually turned into a domaine partag´e, a field of shared competence.

[6] Since its beginnings in the Schengen agreements, EU external border law has primarily been associated with security: most of the Schengen rules are measures to guarantee the internal security of the Schengen Area. Borders are considered an appropriate place to protect the community from outside threats. In terms of movement of people this means checking, and, if necessary, keeping out people who are not part of the inside community. Standards for checking and admission procedures are part of migration law; integration and residence rights are also part of this legal discipline, but not our main concern here, because they deal with situations after the borders have been crossed.

EU, depending first of all on their country of origin. The EU member states are not free to invoke reasons of public order and security to refuse entrance of the EU citizens and third country nationals with 'derivative' rights. For the residual category of third country nationals however, the issue of public order seems in principle to be reserved to the EU member states. There is never a 'right of entry' for this category. Asylum applicants and those who claim to be exposed to persecution or torture if returned to their country of origin or transit may however not be turned away at the border without first examining their request for protection. Obviously, borders are the place to discriminate between different classes of people and individuals: citizens of the EU member states, non-EU citizens, privileged foreigners, regular aliens and those in need of international protection. The right to discriminate at will is limited by the EU law, although there remains room for discretionary decisions, depending on the class of people concerned. But even these decisions, if negative, need to be 'reasoned' to a minimum degree and on a limited number of grounds.

Safeguarding security within the EU and at its external borders and guaranteeing international human rights standards to individuals trying to cross these borders and enter into the EU are underlying objectives, which seem to be in striking contrast. Published statistical data reveal fatal consequences and dire straits of thousands of migrants trying to reach and cross external sea and land borders of the EU.[7] Security has the reputation of serving the interests of governments at the cost of individuals and therefore raises the most suspicion, at least in the eyes of lawyers.

According to some authors (including Aliza Tekofsky), the EU security concept can be given at least three different meanings in connection to migration. In some contexts it is part of an exceptional clause, reserving power for the EU member states to act in the interest of public order and national security. As such, it is not defined exhaustively at EU level, but different opinions exist on the broadness of the exceptions. Another way in which security plays a role in migration control is in the identification of groups as prima facie threats through the visa system. Individual identification of people as threats takes place through the Schengen Information System (SIS). Whereas SIS alerting should be focused on threats of a criminal nature, the visa system as a whole includes the risk of 'illegal migration' as a legitimate reason to refuse entry in order to protect EU citizens. A third way in which security comes into play is in the protection of migrants and those crossing external borders of the EU: in the form of legal protection (legal certainty, the right to reasoned decisions and recourse to judicial review); in the form of international protection for purposes of 'human security' when the migrant is threatened to be persecuted or tortured; in the protection of migrants' human rights and in honouring rights migrants may have under the EU free movement law (Tekofsky 2006, 15-16).

[7] According to this statistics, at least 14,921 people have died since 1988 along the EU external frontiers. Among them 6,469 were missing in the sea. In the Mediterranean Sea, and through the Atlantic Ocean towards Spain, 10,925 migrants died. In the Sicily channel 4,183 people died along the routes from Libya, Egypt and Tunisia to Malta and Italy, including 3,059 missing; 138 other people drowned sailing from Algeria to Sardinia. Along the routes from Mauritania, Morocco and Algeria towards Spain, through the Gibraltar strait or off Canary Islands, at least 4,507 people died, including 2,302 who were missing. Then 1.355 people died in the Aegean sea, between Turkey and Greece - but also between Egypt and Greece - including 824 missing, and 603 people died in the Adriatic sea, between Albania, Montenegro and Italy, including 220 missing. And at least 624 people were drowned trying to reach French island of Mayotte, in the Indian Ocean. But the sea is not only crossed aboard makeshift boats. Sailing hidden inside registered ferries and cargo vessels 153 men died asphyxiated or drowned. Travelling stowaways in the trucks 359 people were found dead. And 208 migrants drowned crossing border rivers, the majority in the Oder-Neisse, between Poland and Germany; in the Evros, between Turkey and Greece; the Sava, between Croatia and Bosnia and Herzegovina; and the Morava between Slovakia and Czech Republic. Then 112 other people froze to death in their tracks through the icy mountains frontiers, especially in Turkey and Greece. In the Greek border with Turkey there are still mine-fields along Evros River. Here at least 92 people died over the mines trying to enter Greece. Few migrants were killed by French, German, Spanish and Swiss policemen. Then 41 men were found dead hidden in the undercarriage of the planes, and 31 people died in Calais, or under the trains in The Channel tunnel trying to reach England, while other 12 people died under other trains in different borders and 2 drowned crossing the Channel. (Fortress Europe).

There are many intricate questions, which still need to be properly addressed. For instance, how are migrants' individual rights guaranteed as they approach the external borders of the EU? How is the EU able to ensure protection for everyone who has a risk of refoulement and to identify persons at risk? How can the EU monitor the external borders in coherence with international obligations? How can authorities and organizations in the EU ensure humane and fair reception standards? The legal practices concerning asylum procedures in the EU member states differ considerably – how are these practices harmonized? Is there a need for a common legal procedure? If so, is there a need for a special "European Court for international protection" or can the existing European courts be used? How can the EU ensure a fair asylum procedure that guarantees the legal rights of each individual? How should the definition of subsidiary protection be implemented? What needs to be done to eliminate negative perception that exist among some critics stating that external borders of the EU represent "walls", which hinder migrants and refugees from entering into "Fortress Europe"? How can the EU ensure just and legitimate access to its territory? Is the present system sufficient or does the EU needed to develop other means so that persons in need of international protection have the possibility to access? What are the alternatives to provide protection for people at risk? etc.

Persons seeking international protection in territorial waters or at maritime borders, independent of the situation and the form of protection sought, are to be handled the same as persons who apply for protection on land. This arises from Article 3 of the Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status (the EU-Asylum Procedures Directive) and the prohibitions of refoulement. The principle of non-refoulement forbids the expulsion, deportation, rejection or extradition of a person to a state in which he or she would face threats of elementary human rights violations. Different prohibitions of refoulement derive from international customary law and, in particular, from international human rights treaty law (Article 33(1) of the 1951 Convention relating to the Status of Refuges; Article 3(1) of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 regarding the threat of torture; and from Article 7 of the 1966 International Covenant on Civil and Political Rights, Article 3 of the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms and Article 19 of the 2000 Charter of Fundamental Rights of the European Union regarding the threats of torture or inhuman or degrading treatment or punishment).[8] In this respect, states are also obligated to examine whether the said dangers pose a threat through chain deportation.

[8] From the validity of the principle of non-refoulement at the border there arises a basic obligation to allow entry to the person concerned, at least for the purpose of examining his or her application, and to guarantee his or her right to remain. A right to remain that protects the applicant's elementary human rights in effect can only be guaranteed within the state's territory. This is also the assumption of the EU-Asylum Procedures Directive, which, as a rule, grants applicants the right to remain in the Member State, at its border, or in its transit zone until their applications are reviewed. Against the background of the principle of non-refoulement, other approaches would be theoretically conceivable only where and insofar a country exists that accepts the applicant, and in which none of the discussed elementary violations of human rights threaten the applicant. This constellation corresponds to the safe third-country concept in the variant of so-called "super-safe countries", which has found entry into the Asylum Procedures Directive. The UN High Commissioner for Refugees (UNHCR) and international literature in the field remain very critical of the conformity of such third-country arrangements with international law—especially against the backdrop of the European Court of Human Righs jurisprudence that requires an individual examination of each application for international protection. In any case, however, the representatives of the EU member states in the European Council have not yet succeeded in assembling a binding list of such super-safe third countries as foreseen by the Asylum Procedures Directive because currently no states outside the EU exist that fulfil the requirements for the necessary safety of the third country and are not already attached to the Dublin system. Therefore, on no account is return or rejection to a third country outside of the EU without any examination of the application currently under consideration. International Human and EU fundamental rights require that the enforceability of the non-refoulement principle be secured through procedural law and rights to effective legal remedy. Especially required then, are a thorough, individual, and substantive examination of the application for international protection; the right to legal representation; the right to contact the

The EU acquis regulates the aforementioned human rights requirements only incompletely, and in some points explicitly or implicitly even permits actions of the EU member states in violation of fundamental rights. The Asylum Procedures Directive obligates the EU member states to examine applications for international protection made in territorial waters, at the border and during controls in the contiguous zone. As a rule, the Directive guarantees the right of applicants to remain in-country pending an examination of the application, as well as fundamental procedural guarantees. Articles 35 (border procedures) and 39 (right to an effective remedy) of the EU-Asylum Procedures Directive are contrary to EU fundamental rights. Article 35 allows the EU member states to maintain border procedures that from a human rights perspective have completely inadequate procedural guarantees. Article 39 contains the principle that applicants have effective legal remedy before a court or tribunal. But the directive leaves to national regulation by the EU member states the form of legal remedy, including its suspensive effect and concomitant right to stay in the territory until a decision has been reached on the legal remedy. It would be impermissible both according to international law, and with regard to EU fundamental rights, according to EU law — if the EU member states actually reduce procedural guarantees in border procedures to the minimum intended in the Asylum Procedures Directive, and do not provide for the suspensive effect of a legal remedy.[9]

The EU acquis does not contain further provisions on how to deal with applications for international protection made during interception or search and rescue measures beyond state borders. The Asylum Procedures Directive has no application beyond state borders, with exception of the contiguous zone. The Schengen Borders Code is also applicable beyond state borders but contains only a reference to the rights of refugees and persons seeking international protection, especially with regard to non-refoulement. The obligations of the EU member states deriving from those rights are not prescribed. At the same time, while the Schengen Borders Code anticipates that a right of appeal against denials of entry must be guaranteed, it determines that such a right of appeal has no suspensive effect (Article 13.3).[10] This provision conflicts with fundamental rights as far as it is applicable to persons seeking international protection who are encountered beyond state borders during preborder controls (Weinzierl 2007, 8).

There is a fundamental and human-rights obligation to provide to persons seeking protection, taken up at or beyond state borders at sea, access to a procedure in an EU member state that examines their need for protection. The human rights of the protection seekers must be secured through procedural rights and legal remedy. At the same time EU fundamental and human rights prohibit the escorting or towing back of boats with a mixed group of migrants on board to states outside the EU,

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UNHCR; and an effective legal remedy with suspensive effect that enables a stay in-country pending a decision on the appeal. Because from a human rights perspective the severity and potentially irreversible nature of the harms through expulsion are decisive, there is no room for a limitation of the guarantees of procedure and legal remedy at the external borders of the EU. For practical reasons, these requirements for procedures and legal remedy cannot be observed on a ship. For that reason, if applications for international protection are submitted at the maritime border or in the territorial waters of a coastal state, the applicants are to be allowed disembarkation and a stay on dry land pending a decision on legal remedy (Weinzierl 2007, 5-6).

[9] Exactly this happened in Slovenia where the opportunity for conforming the national asylum law to relevant EU directives was misused since new International Protection Act of 2007 lowered previous higher national legal standards of international protection to the very minimum prescribed by the EU asylum law (and consequently even under fundamental international legala standards), even though all EU directives in the field allow for maintaining existing higher level of legal protection for people seeking international protection provided by an EU member state when implementing secondary legislation of the EU in its domestic asylum system. Also, the suspensive effect of a legal remedy in some crucial stages of the asylum procedure was omitted.

[10] From the foregoing it is clear that the Schengen Borders Code's exclusion without exception of temporary legal remedy is in violation of EU fundamental rights because the provision cannot even be interpreted in a way that it conforms to those fundamental rights. The EU legislature thus has a duty to regulate explicitly the requirement of temporary legal remedy against denials of entry at the border with respect to those seeking protection.

because this could result in grave violations of human rights. Although the EU law regulates border protection and refugee law and the EU border protection strategy foresees pre-border migration controls, EU law does not regulate this obligation. Rather it even or explicitly or implicitly permits for actions in violation of EU fundamental and human rights. The duty to regulate in this regard, arising from EU fundamental rights, lies at the feet of the EU legislature. Due to the tightly interlocking actions of the EU and its member states in border protection and the functional distribution of responsibility to overburdened EU border states, adequate protection of fundamental rights can only be efficiently guaranteed through regulation under EU law (Weinzierl 2007, 9).

Migration and border controls by the EU members states may not be carried out in such a way as to bring harm to people,[11] for example through collisions with small refugee boats or through driving unseaworthy boats out to high sea.[12] The EU member states are bound in all of their measures by the prohibition on discrimination, so that the differentiated treatment of migrants, for example on the basis of their ethnic or social origin, is in violation of human rights. This obligation stemming from the prohibition on discrimination arises from the Schengen Borders Code, EU fundamental rights, the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, and the international law of the seas.[13]

Another highly controversial issue is the question of responsibility for possible human rights violations in case of joint actions, when the EU member states are conducting joint border and migration controls with third countries. The actions of one state's organs are only attributable to another state when these organs are made available to the other state in such a way that the other state exercises exclusive command and control, and when the actions of these state organs appear to

[11] As arises from the annexes to the Schengen Borders Code, the scope of application of the Schengen Borders Code includes controls of persons that are conducted beyond the state border. For example, to ease high-speed passenger train travel, the explicit possibility of conducting border controls in agreement with a third country, at train stations of that third country, is foreseen (Annex IV, No 1.2.2. of the Schengen Borders Code). With regard to controls at maritime borders, the Schengen Borders Code does not stand in the way of the conducting of border controls and the applicability of the Schengen Borders Code. The Schengen Borders Code is therefore also applicable to immigration controls that take place beyond the territorial waters and contiguous zone, on high seas or in the territory of third countries. But it makes the admissibility of such border controls dependent on compatibility with the provisions of international law. The provisions of the Schengen Borders Code with which human rights obligations at border controls are concerned are not differentiated according to where the border controls take place. Therefore the obligations of the EU member states under EU law, arising from the Schengen Borders Code, to protect the rights of refugees and persons seeking international protection, especially with regard to non-refoulement, also extend to border controls in this area.

[12] In the protection of the EU's external borders, the actions of member states tightly intertwine with the actions of the EU. The EU member states thus carry out border control in accordance with the Schengen Borders Code and the rest of the Schengen acquis that is binding under EU law. They are supported in this by the EU border-protection agency FRONTEX. The planned transformation of the FRONTEX regulation on the formation of Rapid Border Intervention Teams further entwines vertically the national and EU levels. This is because the decision on deployment of the Rapid Border Intervention Teams, as well as portions of their financing and equipping, will be realised at the EU level. Additionally, deployments are to be based on a mission plan agreed by FRONTEX and a host member state. National officials are to be provided with a special FRONTEX badge and an armband with the insignia of the European Union. The amendment to the FRONTEX regulation anticipates the delegation of sovereign powers among member states. Officers in action are to be bound by the EU law and the law and instructions of a host member state, but remain under the disciplinary law of their home member state.

[13] The EU member states are required to implement their border control and border surveillance obligations in conformity with human rights standards arising from international law. Article 6 of the Schengen Borders Code includes an obligation of the EU member states to maintain human dignity and proportionality in carrying out border-crossing controls. Moreover, this article strictly forbids discrimination on grounds of sex, race, ethnic origin religion or belief, disability, age or sexual orientation. However, the provision cannot be understood in such a way that, in carrying out border controls, the member states are merely obligated to maintain human dignity or avoid grave violations of human rights. On the contrary, arising from the EU member states ties to EU fundamental rights in the scope of application of the EU law, in carrying out border controls along the common EU external borders in accordance with the Schengen Borders Code, the member states are bound by the entirety of EU fundamental rights. Violations of EU fundamental rights in the implementation of border controls fall under the ECJ's jurisdiction.

be the sovereign actions of the other state. For joint patrols with third countries in the territorial waters and contiguous zones of these third countries, such effective control by other states does not exist. For this, the contractual transfer of individual control rights to which only the coastal states are entitled is insufficient. Thus the EU member states in these cases remain fully responsible for human rights violations.[14]

On the way towards Common European Asylum System – what is the impact of the EU integrated border management?

Millions of people today are forced to flee their homes as a result of conflict, systemic discrimination, persecution, and other serious violations of their human rights or seeking the opportunity for better life abroad, including in the EU member states.[15] The core instruments on which they must rely to secure international protection are the 1951 Convention relating to the Status of Refugees and its 1967 Protocol,[16] now complemented by relevant international and regional human rights treaties.[17] Thus, refugee and asylum law has become a subject of global importance.

Primary idea on abolition of internal borders and free movement of persons has at the EU external borders eventually developed to very restrictive policy of prevention from entering into its territory and restricted movement of persons. Control and surveillance measures at the external borders of the EU aggravated; as a consequence, an access of third country nationals and stateless persons to the EU territory became considerably difficult. In this chapter, ways for tackling main legal, institutional and operational challenges to the system of international protection, particularly those arising from within the EU asylum process,[18] increased controls over the movements of people, and

[14] It is also significant that even when a state's action itself does not violate human rights, international law provides for human rights responsibility if the action constitutes an act of abetting a violation of human rights on the part of another state. Such an abetting act that triggers responsibility exists if the assistance is offered in knowledge of the circumstances of the violation of international law, and the abetting act supports the main action of the primarily acting state. Such abetting acts can include the provision of infrastructure and financing, but also such political actions as declarations, assurances and the conclusion of contracts that support an act that violates international law. In this connection, joint patrols in the territorial waters of third countries and the support and advising of third countries must be considered critically, as these especially can constitute the abetting of violations of the right to leave. Additionally in this regard, the external dimension of the migration strategy must be considered critically. The exercise of political pressure on issues of migration control or the granting of financial or technical assistance in border control can possibly support the handling of migrants in violation of human rights, and in ways that are foreseeable. This is especially true when assistance is given to states that are recognised as having an especially low standard for human rights protection and an inadequate asylum system. The EU-primary law, including the 2007 Treaty of Lisbon, defines the objective of developing and consolidating of the rule of law, and respect for human rights and fundamental freedoms as an objective of the EU's external policies. Therefore, in the external migration strategy as a whole, the EU interest in easing its burdens should not be at the fore, but rather, along with the battle against causes for flight, support for systems of human rights and refugee protection in countries of origin and transit. Creation of an international burden-sharing system should ensure that the EU and its member states take on the burdens of international protection to a degree that corresponds to their strong economic position (Weinzierl 2007, 10).

[15] The right of every person to seek and to enjoy in other countries asylum from persecution is included also in the 1948 Universal Declaration of Human Rights adopted by the General Assembly of the United Nations (Article 14.1.), which represents the fundamental international document that contains basic standards for the protection of human rights. However, it is only of a declaratory nature.

[16] Protocol relating to the Status of Refugees of 1967 removed a deadline and geographical restrictions from the 1951 Convention.

[17] One of the fundamental principles in international (treaty) law dealing with the protection of refugees is the principle of non-refoulement, which is enshrined, inter alia, in the 1951 Convention relating to the Status of Refugees and establishes that no contracting state shall expel or return ("*refouler*") a refugee, against his or her will, in any manner whatsoever, to a territory where he or she fears persecution (Article 33.1). This principle became an integral part of international customary law.

[18] Asylum is a form of international protection given by a state on its territory based on the principle of non-refoulement and internationally or nationally recognised refugee rights. It is granted to a person who is unable to seek protection in his/her country of citizenship and/or residence in particular for fear of being persecuted for reasons of race, religion,

the concern with security issues, primary through improved functioning of the EU management of external borders are examined.

Since the beginning of 1990s, the flow of persons seeking international protection in the EU has been such that the EU member states have decided to find common solutions to this challenge.[19] The basis for such common approach to the regulation of asylum issues in the EU is the 1951 Convention relating to the Status of Refugees,[20] and in particular its key principle of non-refoulement, which provides that no one may be returned to the country where his/her freedom or security are seriously endangered. A set of commonly agreed principles at the EU level in the field

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nationality, membership of a particular social group or political opinion. An asylum-seeker is someone who has fled his/her home country and filed an application for international protection in order to acquire the refugee status. More often than not, an asylum applicant is a person whose claim for international protection is to be examined through national asylum procedure of a host country. Thus, national asylum systems are to decide which asylum-seekers actually qualify for international protection. Under the 1951 Convention relating to the Status of Refuges, an asylum applicant must be able to demonstrate a well-founded fear of persecution in their country of origin (the country of his nationality or the country of his former habitual residence) for reasons of race, religion, nationality, membership of a particular social group or political opinion. In addition, the applicant must also be able to demonstrate that he/she is unable to obtain any protection or assistance from his/her own national authorities (Article 1). Those judged through proper procedures not to be refugees, nor to be in need of any other form of international protection, can be sent back to their home countries. Therefore, the efficiency of asylum system in question is of key importance. If the asylum system is both fast and fair, then people who know they are not refugees have little incentive to make a claim in the first place, thereby benefitting both the host country and the refugees for whom the system is intended.

[19] The major aims and principles of the common asylum policy were agreed in October 1999 at the European Council in Tampere (Finland) by the heads of state or government. They decided that a common asylum policy should be implemented and a common European asylum system should be established. Most of the elements of the first legislative phase envisaged in the Tampere programme are already in place. In the longer term, the rules should lead to a common asylum procedure and a uniform status for those granted asylum valid throughout the EU. This was confirmed by The Hague programme (adopted in November 2004 by the heads of state or government), which builds on the achievements of the Tampere programme and which sets the agenda for the next five years (by 2010). The Hague programme recognised an important role of practical co-operation between the EU member states and in the frame of external dimension of asylum also between the EU member states and third countries in fostering the necessary spirit of solidarity and responsibility sharing to achieve its goals. Improving quality by virtue of various aspects of practical co-operation (such as improved exchange of information on migration and asylum issues) is in the interest of both the EU member states and asylum-seekers. Better quality decision-making, particularly at first instance, could reduce the proportion of challenges to negative decisions, with resultant cost and time savings. More recently (in December 2009), Member States of the EU agreed to the Stockholm Program, which carves out the immigration and asylum portfolio differently from its predecessors (The Tampere and The Hague programmes) in several ways. First, external border management and visa policy are dealt with separately, though the sections on illegal migration and asylum overlap with the priorities for border management and visa policy. In the Hague Programme, these issues were folded into immigration and asylum as "management of migration flows." Second, the Global Approach to Migration — meaning co-operation with third countries on immigration — has top billing. Third, the program includes some new, specific priorities, such as unaccompanied children. While the Hague Programme emphasized harmonizing migration and asylum policies across the EU member states, the Stockholm Programme makes "practical solutions" a priority. In reality, this means initiatives that promote co-operation between the EU member states. Also, the programme seeks to use soft law in the form of guidelines and stand-alone EU agencies, rather than the hard law envisioned in the Maastricht Treaty. Alongside the shift to practical co-operation, the EU has made more inter-governmental, rather than Community, agreements with the EU member states. For example, the Immigration Pact, which sets out a political vision for future co-operation on European migration, is an agreement between the EU member states that both national governments and the EU implement. In the last few years, the EU member state governments have instigated many of the new ideas in migration, with secondary support from the Commission. Examples include the Eastern Partnership, a new policy approach for mobility and security among six of the Eastern European neighborhood countries, and the goals set out at the regular G6 meetings of the largest EU member states. While a sustainable and manageable system for dealing with irregular border crossings and asylum claims remains the EU's long-term goal, the current focus is on quick fixes and interim measures.

[20] The centrality of the 1951 Convention relating to the Status of Refuges to addressing European, and global, refugee issues for over 50 years now, its purpose of defining who is a refugee, its laying down of a common approach to be taken towards refugees has been the essential foundation of the embryonic Common European Asylum System.

of asylum can provide a clear added value while continuing to safeguard Europe's humanist tradition. That asylum is a European internal problem which has to be tackled at EU level is another concern – in a Europe without borders it made sense to aim for an approximation of conditions for asylum seekers, so that one country would not seem more attractive destination than another, thereby encouraging unwarranted secondary movement and to ensure that wherever an asylum applicant made his or her application in Europe, there was a certainty that he or she would be able to access support, have a fair hearing and not be disadvantaged by a more or less generous interpretation of who was a refugee than if he or she had found themselves in another European country (a member state of the EU).[21]

Illegal arrivals of migrants at the EU southern maritime borders and eastern land borders: just a border management issue?

The responsibility for the control and surveillance of external borders of the EU lies with the EU member states. Continuing illegal arrivals of migrants at the EU maritime and land borders coupled with smuggling of migrants and trafficking in human beings demonstrate very clearly that the EU is still somewhat unmatured to rise to the occasion. The above described events of tragic fate which befell a great number of migrants urgently call for more active co-operation between the EU member states in the integrated management of the EU external borders taking into consideration the principle of solidarity and fair sharing of responsibility between member states of the EU in this regard and for further enhancement of the FRONTEX agency's efficiency so as to cope better with the challenges the EU is facing in this field. These goals can be achieved by taking a series of short- and long-term measures and actions, including sharing and assessing relevant analyses of the present situation. Surely, all such measures for fighting illegal immigration must fully respect human rights of migrants, the protection of persons in need of international protection and the fundamental principle of non-refoulement. Also, the collection, processing and exchange of the information must take place in accordance with relevant EU and national legal norms, especially those on data protection.

At the beginning of 2010 the Council of the European Union published its conclusions on measures for reinforcing the protection and safety of the external borders of the EU member states and combating illegal migration flows (Council conclusions 2010) and called on responsible agencies and institutions of the EU and its member states for their immediate and intensive implementation. First of all, the FRONTEX agency needs to gain more powers and enhance and reinforce its

[21] In 1992 first provisions on asylum were included in the Treaty on European Union (Maastricht Treaty). This treaty regulated asylum among issues that are in common interest of all EU member states, including rules governing the crossing by persons of the external borders of the EU member states and the exercise of controls thereon, immigration policy and policy regarding nationals of third countries, such as conditions of entry and movement by nationals of third countries on the territory of the EU member states, conditions of residence by nationals of third countries on the territory of the EU member states, including family reunion and access to employment, combatting unauthorized immigration, residence and work by nationals of third countries on the territory of member states (Article K.1). By entering into force of the Treaty of Amsterdam in 1999 the Schengen acquis had been incorporated into the legal system of the EU. At the same time, the Treaty of Amsterdam introduced provisions on gradual establishment of a common asylum system. As for secondary legislation of the EU aiming at establishment of a common asylum system, the following directives and regulation ensuring decent standards of living for asylum-seekers in the EU has been adopted: Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers (The Reception Conditions Directive), Council Regulation (EC) No 343/2003 of establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (The Dublin Regulation), Council Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (Qualification Directive) and Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status (The Adoption of the Asylum Procedures Directive).

capacities and capabilities.[22] Since it was established in 2005, FRONTEX has not only progressively increased its powers but also its budget which has increased from € 6.2 million in 2005 to around € 88 million for 2010. The new proposal of the European Commission for a Regulation of the European Parliament and of the Council amending the Frontex Regulation (EC) No. 2007/2004 constitutes sound legal and institutional foundation for further development of the European border agency (FRONTEX), although it raises some questions of a more practical nature (e.g. acquiring technical equipment for external border control, joint operations, pilot projects and return operations, such as aircraft, helicopters, patrol vessels or vehicles etc.).[23] Commission has proposed that the member state of registration or the supplier of technical equipment shall provide the necessary experts and technical crew to operate the technical equipment in a legally sound and safe manner. However, it remains to be seen how this will work in practice. The proposal has yet to become an EU legal instrument. Such proposals now go through the "ordinary legislative procedure" (co-decision) and unanimity at the Council is no longer required but qualified majority.
To combat illegal migrations more effectively, the FRONTEX and EU member states should increase the effectiveness of the implementation of the financial measures targeted on operational activities and exploit all existing instruments, including the mechanism for the creation of Rapid Border Intervention Teams (RABIT) in situations of urgent and exceptional pressure. The EU member states should also ensure that resources made available in the framework of the Central Register of Available Equipment (CRATE) can be used in concrete joint operations when needed. Furthermore, the EU member states should undertake more effective preventive measures in the field of border management and illegal migration, such as improved operational co-operation with third countries of origin and transit in order to improve joint patrolling on land and at sea, upon consent of the EU member states concerned, return, and collection and exchange of relevant information within the applicable legal framework. New European Asylum Support Office (EASO) proposed by the European Commission could play an important role in developing methods to better identify those who are in need of international protection in mixed flows and in co-operation

[22] FRONTEX main task is to co-ordinate the operational co-operation between the EU member states in the field of management of external borders. FRONTEX does not constitute a 'European Border Guard' although creates a co-ordinating command structure, it can issue instructions to national border guard forces. Moreover, FRONTEX provides training for national border guards, including the establishment of common training standards and assists the EU member states in organizing joint return operations.

[23] The new proposal brings some important changes in the regulation of the EU external borders management. For instance, presently the EU member states contribute voluntarily with technical equipment to FRONTEX, however under the Commission proposal the EU member states' contributions would become compulsory. The EU member states would be thus required to contribute to "technical equipment pool". Such contributions would be decided annually. Hence, there would be a compulsory contribution of the minimum levels of necessary technical equipment that the EU member states commit to supply for a given year. If an EU member state commits to supply that minimum number of equipment and fail to provide it, the Commission may take financial sanctions such as not reimbursing part of the expenditure advanced by it. Moreover, the EU member states' contributions of border guards to participate in joint operations and pilot projects would also become compulsory. All EU member states' border guards and other personnel, under the Commission proposal, would be expressly required to fully respect fundamental rights whilst performing their tasks and exercising their powers. In fact, they must receive training in relevant EU and international law, including fundamental rights and access to international protection before their participation in operational activities organised by FRONTEX. Furthermore, FRONTEX would have a leading, co-ordinating role in organising joint return operations of the EU member states. In order to ensure that such operations are carried out in full respect of fundamental rights, FRONTEX will develop a Code of Conduct for the return, by air, of illegal immigrants, present in the territories of the EU member states, which shall apply during all joint return operations. Under the draft Regulation, FRONTEX would be able to launch and finance projects to provide technical assistance to third countries as well as to deploy liaison officers in third countries aiming at contributing to the prevention of and fight against illegal immigration and the return of illegal migrants. The EU member states would be required when concluding bilateral agreements with third countries to include also provisions concerning FRONTEX's competencies.

with FRONTEX where ever possible.[24] Regional protection programmes should be further developed and the dialogue and co-operation on international protection with third countries should be enhanced.

The collection, processing and systematic exchange of relevant information between FRONTEX, other EU Agencies and EU member states need to improve. Joint flights organized and co-financed by FRONTEX for joint return operations at European level should further develop. For FRONTEX it would be commendable to develop an "Erasmus" type pilot training programme for border guards in order to lay the foundation for a European culture of border guards of the EU member states.

As for the European Surveillance System (EUROSUR), the Council of the EU encourages the EU member states to implement the phases and steps laid down for the development of EUROSUR as soon as possible in order to reinforce co-operation and member states' border surveillance. The EU member states should establish or further develop a single national border surveillance system and a single national Coordination Centre. A network of national Coordination Centres, compatible with the FRONTEX Information System should be fully operational on a pilot basis as of 2011, involving as many member states of the southern and eastern external borders as possible. The FRONTEX, EU member states and third countries should provide the Coordination Centres with pre-frontier intelligence information. For further advancement of the EUROSUR it is necessary to strengthen co-operation by neighbouring third countries in border surveillance. To this end, financial and logistic support from the EU and its member states should be made available to the third countries whose co-operation could significantly contribute to controlling illegal migration flows, in order to improve their capacity to manage their own borders. It would be reasonable to consider how the conclusions of the Global Monitoring for Environment and Security (GMES)[25] border surveillance group on common application of surveillance tools, such as satellites, could be implemented in the EU land and sea borders.

Due to the fact that illegal immigration networks and trafficking in human beings remain a serious concern it is necessary to dismantle these networks by virtue of enhanced co-operation between the relevant EU agencies, namely Europol, Eurojust and Frontex, and especially through the systematic exchange of all relevant information between these agencies. The EU member states need to improve the sharing of information concerning the new modus operandi of networks involved in illegal immigration, trafficking in human beings and falsification of documents, as well as the use of existing databases, including False and Authentic Documents Online (FADO), thus promoting early detection of those criminal activities at borders and the exchange of best practices. Those EU member states and neighbouring third countries that have not ratified or acceded to the 2005 Council of Europe Convention on Action against Trafficking in Human Beings should consider their possibilities for accelerated accession or ratification of this legal instrument.

The principle of solidarity lies in the heart of the integrated management of the EU external borders. In this context, the FRONTEX and EU member states concerned should further develop the

[24] In February 2009, the European Commission adopted a proposal for a Regulation to establish a European Asylum Support Office. The proposed Office will be set up in the form of an operational agency, an independent European body. The Commission and the EU member states will be represented on the Management Board, which will be the Office's governing body. The Office will work closely with the authorities responsible for asylum in the EU member states and with the Office of the United Nations High Commissioner for Refugees. The role of the Office will be to coordinate and step up co-operation on asylum between the EU member states, so helping to harmonise different national practices. The Office will help to align existing asylum rules in the EU. It will also support the EU member states in their efforts to implement a more consistent and fairer asylum policy, for example by helping to identify good practices, organising training at European level and improving access to accurate information on countries of origin. It will be responsible for co-ordinating support teams made up of national experts that will be deployed at the request of the EU member states faced with a mass influx of asylum seekers into their territory. It will also provide scientific and technical assistance for the development of asylum policy and legislation.

[25] GMES is a joint initiative of the European Commission and European Space Agency, which aims at achieving an autonomous and operational Earth observation capacity.

European Patrols Network (EPN) in order to generalize bilateral joint maritime patrols, in particular between neighbouring EU member states at the southern and eastern maritime borders, taking into account previous experience gained on joint police patrols, and to ensure the full integration of the EPN in the EUROSUR network. The EU member states are also encouraged to optimise the use of the European External Borders Fund annual programmes for the period 2007-2013 to improve the capabilities of their border guards and the development of EUROSUR. Solidarity with the EU member states facing particular pressures should be promoted through capacity building and practical co-operation in the areas of asylum, migration and border control, building on their own responsibility in these areas. With regard to the introduction of new technology at the EU external borders, there is a need for further co-ordination, integration and rationalisation of the different types of checks and the need to ensure the interoperability of the systems concerned, and to use cost/benefit criteria for any decision on establishing new systems. The networks of immigration liasion officers posted by the EU member states in third countries should be further developed and their co-ordination should be enhanced, co-operating with FRONTEX as necessary.
Last but not least, the efforts for achieving migration policy objectives through enhanced co-operation with relevant third countries of origin and transit need to be intensified. This requires that all parties concerned assume their responsibilities in terms of return and readmission of migrants entering or staying illegally, including those migrants who have entered or tried to enter the EU illegally from their territory. When allocating financial means for this purpose, voluntary return should be kept in focus. Full implementation of the Global Approach in the dialogue on migration with the main countries of origin and transit may cover, on case by case basis, all aspects of migration processes, including also co-operation on and support of border management (by considering possibilities for the creation and development of an integrated surveillance system), international protection effective return and readmission of irregular migrants, and, where appropriate, issues of mobility of persons. Indeed, in doing so, the EU and its member states must promote human rights and the full respect for relevant international obligations. Adequate implementation of already existing bilateral readmission agreements between the EU and third countries and conclusion of such agreements, which make provision for the return of third country nationals, with respective third countries, must become a matter of priority. The constructive resumption of the formal negotiations on an EU/Turkey readmission agreement might serve as a great example of further development of such co-operation. The necessary means to support ehnanced capacity building and infrastructures in relevant third countries need to be identified by the European Commission, so that these countries can control efficiently their external borders and tackle illegal immigration, taking also into consideration the assessments made by FRONTEX.

Conclusion

An improved co-operation between the relevant customs and other border control authorities of the EU member states and third countries is a key element of the integrated border management model. To promote co-operation on the ground, pilot projects at European level could further explore the added value of deepened co-ordination of the activities between these authorities.
The final text of the Stockholm Programme on immigration and asylum left a lot to be desired. There are few new developments, and a sense that the Justice, Liberty and Security arena is approaching the end of its grand scheme for future common policies in this area. However, many thorny issues still need to be properly addressed by policy-makers in the field of Justice, Liberty and Security within their core competence, in particular the following ones: 1.) completing ongoing external border control projects and reconciling these with an equitable and responsible common European asylum policy; 2.) tackling undocumented migration on a broader basis, through the development of common criteria for national regularisation processes; and 3.) developing a strong

and transparent basis for the rights of all third-country nationals in Europe (see also Collett 2009, 9).

First, as explained above, reconciling the frequently conflicting goals of securing the EU external borders while ensuring equitable access for asylum-seekers should become the top priority for the European Commission. While both the Integrated Border Management project and the completion of a Common European Asylum System are mapped out in detail, there is the sense that some of the key policy 'clashes' – not least the interception of migrants at sea – have been put to one side. Rather than clearly determining the parameters of their own responsibility, the EU member states have instead decided to focus on mechanisms to redistribute responsibility, including to third countries through readmission agreements.

Second, the EU must find a way to reduce the apparent gap between EU rhetoric and national action in the area of undocumented migration, not least by finding a common approach to the use of amnesties (regularisations). For several years now, successive political statements – including the Stockholm Programme itself – have emphasised the need to 'exchange information' about planned amnesties, while at the same time collectively objecting to their widespread use. This is an unsustainable policy-approach and one which becomes less credible with every new amnesty process. Instead, finding some common ground for the use of regularisations and limiting the more extreme aspects (such as focusing on particular labour sectors) would ensure a greater match between rhetoric and reality. Returning undocumented migrants to their country of origin or transit countries may be the most desirable option for policy-makers, but it is clearly not feasible in many cases. The resultant de facto acceptance of undocumented migration leaves many in uncertain and difficult circumstances, and does nothing to reassure the public that policy-makers are truly 'in control' of policies.

Finally, the EU should not only make good on the commitment to establish a solid legal basis for the rights of non-EU citizens, as close as possible to the rights of EU citizens, but also begin to consider how this fits together with access to citizenship across Europe. Now would be a good moment to do this, with the establishment of a Commissioner responsible for fundamental rights and the transformation of the EU Charter of Fundamental Rights into a legally binding document under the Lisbon Treaty. Distilling a set of rights for non-EU citizens would not only reconfirm the EU's commitment to equal treatment and non-discrimination principles at a time when extremist political groups are making headlines, but would also send a clear message to third countries that the EU is not a hostile environment for their people. The public image of the EU as a positive actor on the international stage has been damaged to some extent by the external reception of the Returns Directive and the 2008 Immigration Pact, and is in need of repair (Collett 2009, 77-76).

The incentives for partner third countries to co-operate with the EU on immigration matters depends on the EU being able to put more substantial offers on the table beyond visa facilitation and some funding. Offering incentives also in other policy areas may provide clearer rewards. 2010 is a perfect moment to consider this and the need for broad policy coherence in the area of immigration policy. With the advent of the Lisbon Treaty, and a stronger role for the European Parliament, ensuring co-ordination and consideration of migration, asylum and border management policies from all the available perspectives the EU can develop the strong mechanism it needs to deal with the multi-faceted challenges it faces in these fields now and in the future.

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Part 2:

CRITICAL ASSESSMENT OF MIGRATION, ASYLUM, BORDERS' MANAGEMENT AND VISA ISSUES – THE POINT OF VIEW FROM BELARUS, MOLDOVA, RUSSIA AND UKRAINE

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MIGRATION LEGISLATION OF THE REPUBLIC BELARUS AND PERSPECTIVE WAYS OF COOPERATION WITH EU WITHIN THE FRAMEWORK OF THE EUROPEAN PARTNERSHIP

Abstract
Present article provides a brief characterisation of the migration situation in the Republic of Belarus. It provides a general analysis of the development of migration legislation and names state agencies working in the sphere of migration. Statistical analysis is presented in a graphic form; the figures reflect the dynamics of the development of legal relations by periods and by types of migration flows. The article names projects and the main directions of international cooperation of the Republic of Belarus on certain programmes including the European Partnership Programme.

Key words: modern migration flows, migration situation, migrants, migration system in Belarus, external labour migration, foreigners, stateless persons, refugees, refugee status, asylum, deportation, international agreements, international cooperation.

Modern world realises increasingly the importance of international migration and its positive contribution to the development of "receiving" and "supplying" countries. At the same time, for many states receiving considerable numbers of migrants, the question of cooperation and experience exchange, collective counter illegal migration activities and minimization of the pre-conditions for illegal labour are becoming all the more relevant.

1. General characterization of the migration situation in the Republic of Belarus.

The Republic of Belarus neighbours on three EU states (Latvia, Lithuania, Poland) and the Commonwealth of Independent States (Russia and Ukraine). Its location and stable political and economic situation attract migrants to the country from the CIS, the Baltic States and elsewhere as well. Belarus, in consequence is a transit point for legal and illegal migration the EU.
Annually 10-13 thousand foreigners and stateless persons receive permanent residency in Belarus in accordance with defined procedures. Presently, Internal Affairs agencies have a record of 133 277 foreign citizens and 7,799 stateless persons with permanent residency permits (see Table 1).

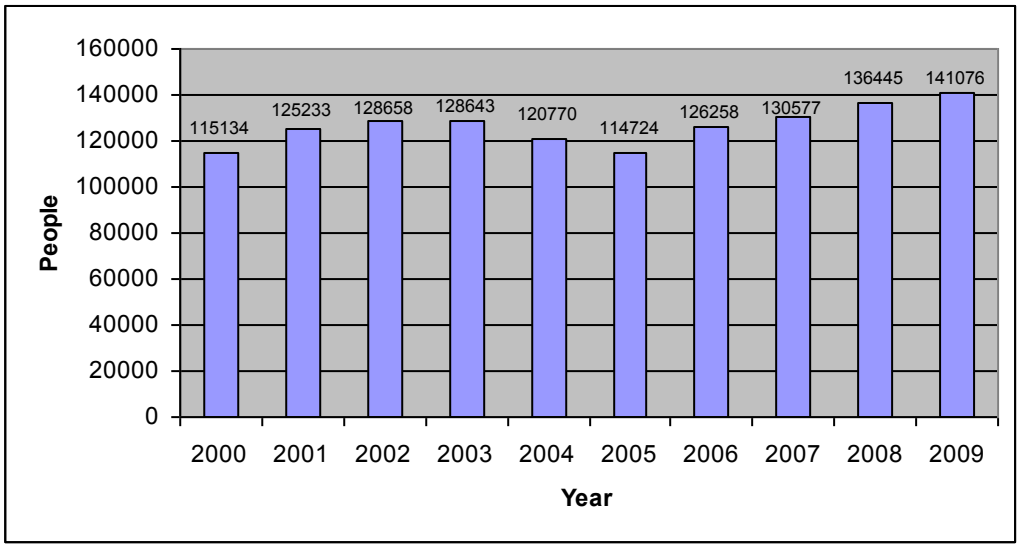

Table 1. The number of foreigners permanently residing in Belarus.

The Republic of Belarus has ***a licensing procedure*** which regulates the employment of foreign labour in Belarus and the employment of Belarusian citizens abroad. Legal entities and individual entrepreneurs involved in these kinds of activity receive special permits (licenses) from the Ministry of Internal Affairs of the Republic of Belarus.

At present, there are 52 license holders with special permission to perform activities related to the employment for Belarusian citizens abroad. 338 licenses were issued to legal entities and private entrepreneurs allowing them to recruit foreign labour to the Republic of Belarus.

The world economic crisis has changed the flows of labour migration in the Republic of Belarus as well as in other countries. Thus, the number of people who went abroad on labour contracts has decreased during the past years. (see Table 2)

7335	***6204***	***4178***
2007	***2008***	***2009***

Table 2. The number of people who travelled abroad on labour contracts

However, the number of foreign citizens and stateless persons coming to work in Belarus has increased (see Table 3)

1496	***24639***	***4835***
2007	***2008***	***2009***

Table 3.The number of foreign citizens and stateless persons who came to work in Belarus

Belarus has a complete system of legal and social protection of people seeking asylum. The legislation on refugees which complies with the international standards and is successfully implemented. During the whole period of implementation of the legislation in the area of forced migration (from 1997 to 2009) more than 3.5 thousand foreigners from 48 countries have applied to relevant agencies for a refugee status or for additional protection. The past three years show an increased trend in the number of foreigners requesting temporary protection (see Table 4)

82	**93**	**160**
2007	**2008**	**2009**

Table 4. Requests for temporary protection from 2007 to 2009.

Of 160 foreigners who requested protection in 2009: comprise of the total number of applicants, the citizens of Afghanistan comprise 50% (see Table 5).

the citizens of Afghanistan	Citizens of Georgia	Ukraine	Iran, Russia, and Pakistan	Other states
50%	11.9%	9.4 %	5% each	13.7%

Table 5. Number of foreigners who requested protection from 2007 to 2009 (by country).

Foreigners granted refugee status exercise all the socio-economic rights and rights to education and healthcare of Belarusian citizens. They also have the right to reunite with their family, receive financial assistance, live in specially organized places, preferences when registering at the place of residence, and the right to judicial defence on equal terms with citizens of the Republic of Belarus.
Foreigners granted additional protection in Belarus have the same rights as foreigners temporarily living in Belarus. Additionally they have the same right to medical care and employment as foreigners permanently residing in Belarus. They also have the right to reunite with their family and to live in specially equipped places.
Underage foreigners who were granted refugee status or additional protection have the same right to education and medical care as underage Belarusian citizens do.
Foreigners not subject to deportation in accordance with the international obligations of the Republic of Belarus have the right to receive permission for temporary residency in Belarus, and all the rights exercised by this category of foreigners.
As of January 1, 2010, 817 foreigners were granted refugee status and two foreigners were granted additional protection. The majority of foreigners granted refugee status in Belarus are citizens of Afghanistan – 577 people (70,6%) .
Georgia – 16,3 %,
Citizens of Tajikistan – 3,9%,
Citizens of Azerbaijan – 3,5%,
Citizens of Ethiopia – 2,8%,
Citizens of Palestine – 1,1%,
Citizens of Iran – 0,9%.
Representatives of six states (Armenia, India, Iraq, Cameroon, Liberia and Rwanda) comprise 0,9% of the total number of foreigners who were granted refugee status.
The creation of favourable conditions for integration into society is an important aspect of work with refugees. Solving problems with housing, providing assistance finding employment, learning the local language and receiving education are the priorities for the successful integration of refugees. Their implementation is also carried out within the framework of international technical assistance. The greatest example of full integration is naturalization. As of March 1, 2010 **110** refugees, more than 13% of their total number, have become citizens of the Republic of Belarus.
As stated, international organizations, the UNHCR foremost, provide significant support resolving the problems of refugees.
Many issues of operational management in the area of migration and refugees were solved due to the technical, consultative and financial support of the UNHCR within the framework of the corresponding projects.
There are temporary accommodation facilities for asylum seekers in Vitebsk (up to 30 people), National Airport Minsk (up to 12 people) and in Gomel (26 people). Several hostels in Minsk, Mogilev and Minsk Oblast were reconstructed and dozens of refugees were placed there. A computer system for the registration of refugees and asylum seekers was created.
In 2009 the Ministry of Internal Affairs of the Republic of Belarus initiated the implementation of two projects of international technical assistance. In the first project *Increasing efficiency of*

working with mixed migration flows at the State Border and internally in Belarus – phase 2" the MIA is an implementing partner organization. In the second project, Integration of refugees in Belarus, Moldova and Ukraine *(phase 1)*, the MIA is an implementing national coordinator organization. Both projects are implemented with the financial assistance of the European Commission and the UNHCR.

Due to the transparency of the Russian-Belarusian border and because of its geographical position between the CIS and the EU, the territory of Belarus is actively used by ***illegal migrants*** coming from Afghanistan, Bangladesh, China, Vietnam, India, Pakistan, Ghana, Egypt, Nigeria, Congo and other countries, as a transit corridor to the West. Migration flows westward are hampered by well guarded border with Poland, Lithuania, Latvia. As a result, more and more illegal migrants remain on the territory of Belarus.

In 2009 law enforcement agencies detained nine groups of illegal migrants on the territory of Belarus, their number totalling 41 people. In 2008 13 groups of 70 illegal migrants were detained, in 2007 - 8 and 53 correspondingly, in 2006 – 26 and 127, in 2005 – 53 groups and 302 people correspondingly (see Table 6).

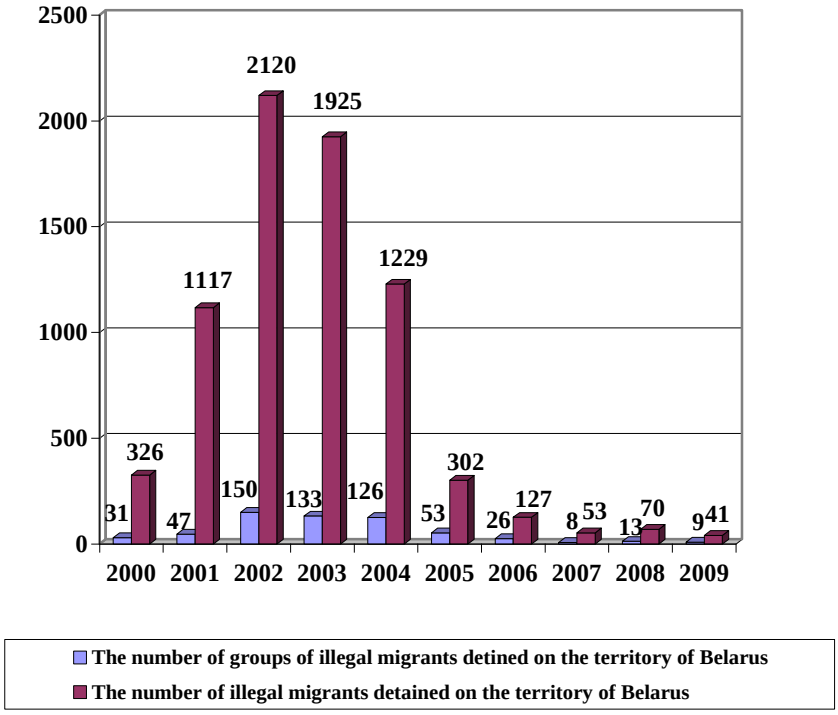

Table 6. The number of detained groups and illegal migrants from 2000 to 2009.

In 2009 the Border Forces detained 211 illegal migrants in transit.

We carried out an analysis which shows that, overall, the illegal flow of migrants consists of young able-bodied people. The most active are those from 18 to 35 years old; they comprise 65% of the total number of this migration type. The age of illegal transit migrants, according to our analysis, ranges from 18 to 50 years old. The number of people, however, under 18 is approximately 4%, from 18 to 20 approximately 24%. The largest group of illegal migrants is people from 25 to 35 years old – 40%. Beyond that age the activity of migrants decreases considerably; the older the people are, the more rarely they are lured into illegal migration flows. It is more difficult for them to change countries and begin unknown and very often unsafe resettlement. The number of transit migrants above 50 is about 3% (see Table 7).

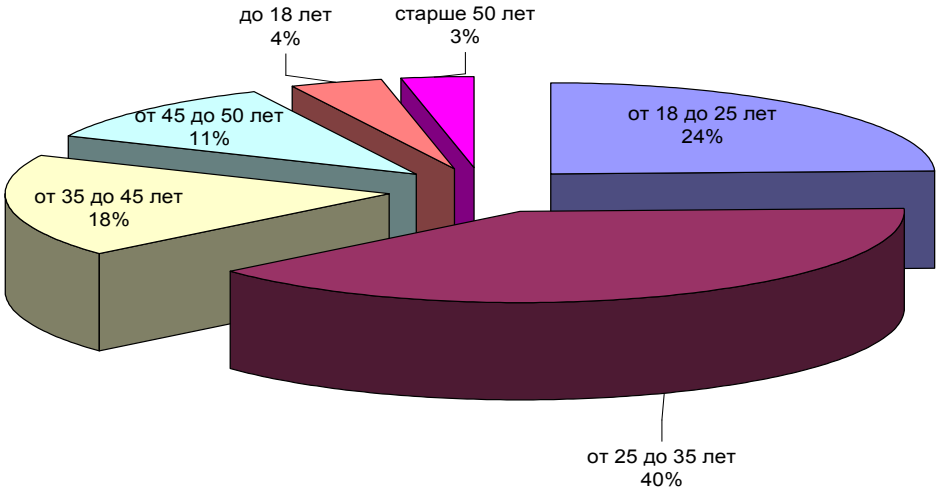

Table 7. Age of illegal migrants

Illegal migrants detained at the border or in the country are deported by the authorities to the source country. The number of annual deportations of illegal migrants is about 2,0–2,3 thousand individuals. The peak of migrants deported from the country, as it is shown in graph 10, was in the years 2002 (2375 people) – 2004 (2324 people). After that, this index decreases. The number of illegal migrants deported under escort also decreased. In 2007 there were 780 such migrants as compared to 1051 in 2002.

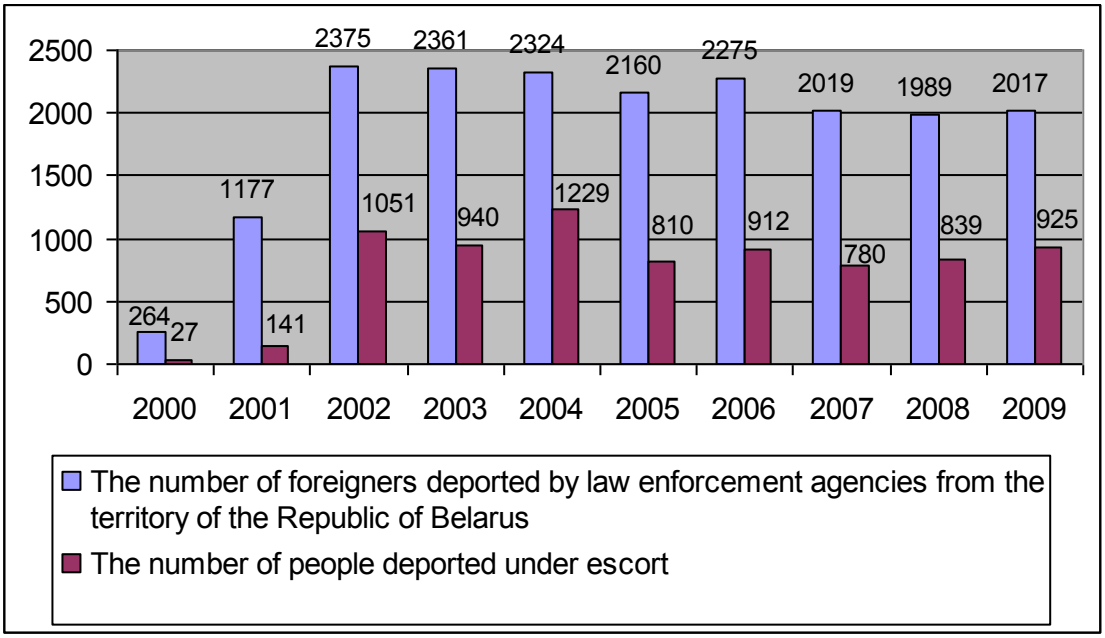

Table 8. Foreigners deported from the territory of the Republic of Belarus

Undoubtedly illegal migration of foreign citizens is an important factor affecting national security and law and order. It should be noted that the percentage of crimes committed by foreign citizens in the Republic of Belarus (with the exception of "migration" crimes), is from 0,9 to 1,3 % of the total committed in the country

We outline the following features of the illegal migration of foreigners:

*1. **Illegal entry into the republic and exiting the country outside of the designated border crossing points.***

Groups of migrants are organised in the source country and then enter the Republic of Belarus either legally or illegally. At present small groups of 3-5 people are generally formed. As a rule, documents and IDs are taken away from the transported people, which, as a result, makes the filtration work and identification of the detained people difficult. Prior to transporting migrants to EU countries a route for border crossing is organised. While organizing the the route accomplices are found among the people residing in the border area. In cooperation with these accomplices the organisers choose the safest border crossings right on the so called "green" border and take into account the area and the guarding regime. Positions at the chosen points of crossing are created in advance. Some organizers of the illegal migration routes marry Belarusian citizens in order to legalize their status on the territory of the Republic of Belarus.

Detained illegal migrants represent middle class and come from Islamic states and states with unstable internal political situations. When interviewed, some of them admit that they took part in military actions and have the experience of military engagement. In the flow of migrants there are also people who committed crimes in their own countries and are fleeing from prosecution by the authorities. At the same time, the assumption about the connection of illegal migration with smuggling arms and illicit traffic of drugs has not been confirmed up to now, according to the Ministry of Internal Affairs.

2. Legal entry to the country and exiting the state with forged documents.

Many migrants from source countries have stable and developed diasporas of illegal migrants in the destination countries (France, the Czech Republic, Germany, Poland, the Netherlands, *etc*.), as well as in transit countries (Ukraine and the Russian Federation). Established criminal groups among the diasporas prepare the illegal crossing of the border with forged documents that includes faultless reproductions of national passport forms of various states and the conveying of the documents to the place where potential illegal migrants are located.

Measures undertaken by law enforcement agencies to eliminate illegal migration routes force criminal groups to search for new, "safer" methods and ways of carrying out this illegal activity. Thus, they use the so called "student" and "tourist" channels, as well as business invitations in order to legalize migrants in Belarus.

During their stay in Belarus the majority of migrants did not register and stayed on the territory of the Republic of Belarus illegally.

In order to transport migrants to the EU countries several methods were used:

- exiting to a foreign EU state on a tourist visa received on the grounds of a petition of a commercial (business) structure with further application for a refugee status;
- exiting with forged EU States documents;
- transit exiting outside of the crossing points through Ukraine.

In Belarus migrants paid up to 8000 USD per person for further transit.

Additionally, foreigners with stolen Schenghen visas make attempts of illegal transit across the state border of the Republic of Belarus to the Republic of Poland. Not long ago Internal Affairs officers of the city of Brest discovered and detained a group of illegal migrants who are citizens of China.

It was found that these foreigners came from the Russian Federation by train and were intending to enter the Republic of Poland without having visas to enter the Republic of Belarus. The passports of these Chinese citizens contained visas to the countries party to the Schenghen Agreement. As these visas were reported to have been stolen in one of the Schenghen States, corresponding changes had been made to the visa numbers in order to allow border crossing.

2. Short description of stage by stage establishment of migration system in Belarus.

After the split of the Soviet Union, the Republic of Belarus began to create its own migration policy. With this aim State Migration Service of the Republic of Belarus was created in July 1992.

The Service started developing the legal basis for the regulation of people seeking asylum in the Republic of Belarus. The main directions developed for the State migration policy are compliance with the accepted standards of international law.

At the same time the Service coordinated work between the Ministry of Foreign Affairs, the Ministry of Justice, the Ministries of Internal Affairs, Healthcare, Education, Social Protection; the Ministry of Statistics and Analysis, Border Forces and State Security agencies; as well as territorial executive and administrative agencies and public associations. It also established relations with relevant agencies in other states and international organizations.

The first statutory wording of the Law of the Republic of Belarus *On the legal status of foreign citizens and stateless persons in the Republic of Belarus*" [1] was passed in 1993. It was subsequently emended due to changes in the migration situation, and amendments and corrections were introduced to the law. On January 4, 2010 President of the Republic of Belarus signed a new law regulating the same group of social relations [2].

The law increases the effectiveness of using migration potential in the best interests of the Republic of Belarus, further improvement of legal regulations of foreign citizens and stateless persons' stay in the Republic and their ability to be entrepreneurs or be involved in any other activity; fighting illegal migration and elimination of gaps and ambiguities revealed in the course of application of the existing legislation.

In 1995 the first statutory wording of the Law of the Republic of Belarus *On refugees* was passed [3]. The law defined the grounds and procedures for granting foreign citizens and stateless persons refugee status in the Republic of Belarus. The law also defined the grounds of withdrawing refugee status, and legal, social guarantees of the rights and interests of foreigners applying for refugee status and recognized refugees.

In 1997 an Inter-Agency Commission was formed under the *aegis* of the Council of Ministers of the Republic of Belarus. The Commission was ensured coordination of the activities of ministries and other national agencies of state governance on the preparation of the drafts of international agreements, programmes of cooperation of the Republic of Belarus with other states and international organizations in the area of migration and also made suggestions regarding joining international agreements, conventions and accords.

In 1998-1999 the Inter-Agency Commission initiated the preparation and coordination with all the interested parties of the documents regulating Belarus' accession to the UN 1951 Refugee Convention and the 1967 Protocol relating to the Status of Refugees [4].

On the suggestion and with the direct participation of the Inter-Agency Commission the first State Migration Programme for 1998-2000 was elaborated. Later the second and the third Programmes were drafted and adopted.

The activities within the framework of the Programme were directed towards:

development and improvement of the legal basis in the sphere of migration and refugees and ensuring cooperation of relevant state agencies and public associations in solving migration issues;

creation of the necessary material and technical financial basis, strengthening the organisational structure for work and implementation of the Law of the Republic of Belarus *About Refugees*;

organisation and implementation of immigration control on the territory of the Republic of Belarus and the prevention and interception of illegal migration;

ensuring reception and temporary placement of persons applying for a refugee status in the Republic of Belarus and also providing assistance with housing for those who were granted refugee status, as well as assistance finding employment and adaptation at the new place of residence;

further development and broadening of cooperation with foreign states and international organizations in adjustment and coordination of work, receiving practical assistance and attracting financial resources to solve migration issues.

In February 1997 the Migration Committee first carried out a procedure recognizing foreigners as refugees. They were the citizens of Afghanistan who had stayed on the territory of the Republic of Belarus for an extended period.

On June 1, 1998 the Law of the Republic of Belarus "About Refugees" came into action in Belarus.

All work in the area of forced migration from 1995 onward has been carried out with the support of the UN High Commissioner for Refugees.

In 2003 the issues of external labour migration and granting refugee status were transferred from the Ministry of Labour and Social Protection of the Republic of Belarus to the newly created agency, the Department for Citizenship and Migration of the Ministry of Internal Affairs of the Republic of Belarus [5].

The Department ensures implementation of the legislation on citizenship and migration; interacts with law enforcement agencies of the Republic of Belarus and other states on the issues of prevention of violation of migration law; organises control over the regime of foreign citizens and stateless persons' stay in the Republic of Belarus; carries out actions aimed at interception of illegal migration; interacts with international organizations on the issues of citizenship and migration in accordance with the defined procedures; participates in drafting legal acts relating to citizenship and migration; acts as a representative of a contractor for carrying our work envisaged by migration programmes, agreements with international organizations and technical and methodological provisions for the work of the Department; performs other functions.

In the structure of the Department there are subdivisions that primarily focus on work with refugees, asylum seekers and other categories of foreigners.

The Department is authorized to:

Take decisions on granting or refusing foreign citizens and stateless persons refugee status,

Suspension, renewal, termination of reviewing applications of foreign citizens and stateless persons granting them refugee status,

Take decisions on extending, withdrawing and renewing a refugee status and also annulling decisions about recognizing foreign citizens and stateless persons as refugees and cancelling such decisions.

Relevant agencies take active measures to counteract illegal migration, particularly by improving the existing legislation.

On July 3, 2009 the Law of the Republic of Belarus *About granting foreign citizens and stateless persons refugee status, additional and temporary protection in the Republic of Belarus* of June 23, 2008 came into force. According to this law, foreigners can be granted not only refugee status but also additional and temporary protection [6].

The new Law primarily instituted additional protection. The central element in the international defence is the right not to be subject to forced return or deportation in situations of threat tolife or freedom. The principle that forbids forced return is stated in the international legislation in the *1951 Refugee Convention* and *1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*; Belarus is a member of these Conventions.

The development of migration processes in the past decade highlighted the problem of receiving and protecting foreigners, who do not comply with the 1951 Refugee Convention but, nevertheless, need international protection for other reasons. These are foreigners who fear torture and capital punishment upon their return to the state of their citizenship or previous common place of residency, and persons fleeing from dangers of military conflicts.

Introduction of the Institute of Additional Protection in the Republic of Belarus allows regulation of the necessary mechanisms of the implementation of the 1984 Convention provisions:

defined the grounds for granting additional protection;
established legal, economic and social guarantees of the protection of rights and legitimate interests of foreigners who were granted such a form of protection;
defined categories of foreigners who are not granted additional protection (excluding provisions).
In compliance with the Law foreigners apply with relevant requests to the Department on Citizenship and Migration of the Ministry of Internal Affairs. If foreigners are detained for illegal border crossing or illegal stay in the Republic of Belarus they have to apply to the Border Force or Internal Affairs agency which detained them. There is a defined procedure of processing the requests of foreigners about granting them refugee status or additional protection in the Republic of Belarus. Its first stage is consideration of the grounds for granting refugee status in compliance with the 1951 Convention. The second stage is considering the grounds for providing additional protection and grounds precluding the deportation of the foreigner to the country of origin or the previous country of residence.
The Administrative Code of the Republic of Belarus specifies the liability of foreign citizens and persons without citizenship for administrative crimes. [7].
In particular, it states that:

- foreigners are liable for entry, residence, transit, entrepreneurship without proper documents (sanctions: warning with deportation or without deportation or fine with deportation or without deportation);
- employers are liable for not taking measures on timely registration of foreigners (sanctions - warning or fine);
- citizens of Belarus are liable for not taking measures on the registration of foreigners and ensuring their timely departure (sanctions - warning or fine);
- citizens of Belarus are liable for providing accommodation or other premises for residence, providing transport or using a foreigner for labour, entrepreneurship or other activity with violations of the prescribed order (sanctions - warning or fine);
- citizens of Belarus are liable for repeated illegal actions (sanctions - fine);

Administrative law envisages exemption of liability for the specified actions for foreigners who applied for a refugee status.
Criminal responsibility is specified in the Criminal Code of the Republic of Belarus for [8]

- illegal crossing of the State border of the Republic of Belarus, including crossing as an organised group (sanctions - from a fine to imprisonment for up to seven years with confiscation of property or without confiscation);
- organisation of illegal migration (sanctions - from detention to imprisonment for up to seven years with confiscation of property or without confiscation);
- violation of the entry ban to the Republic of Belarus (sanctions - from detention to imprisonment for up to three years).

In some cases Criminal legislation also envisages exemption of liability for the above stated actions for foreigners who applied for a refugee status.
The main international standards regulating labour and social rights of persons, including their right to defence are secured by many international agreements. Belarus has ratified 49 conventions of the International Labour Organization including eight fundamental conventions. Out of this number of conventions seven were replaced in connection with adoption of new conventions. Overall, Belarus is one of the leading countries-members of ILO on the number of ratified conventions.
In order to improve legal regulations in the area of ***external labour migration*** a new version of the Law of the Republic of Belarus On *external migration* was drafted. The Law regulates the procedures of job placement of foreigners in the Republic of Belarus. The draft of the legal act clearly defines the range of people subject to this law. The new draft suggests eliminating the procedure of licensing activities connected with attracting foreign labour force to the Republic of

Belarus. Instead, it is planned to introduce a process for the of issuing licenses to employers of foreign working force. The licenses will be necessary only in cases of employment of more than 10 foreign workers. The draft law clearly defines the grounds for refusal to issue or annulment of these permits.

3. International Cooperation

On March 31, 2009 the Governments of the Republic of Belarus and the Republic of Serbia signed an agreement on temporary employment of Belarusian and Serbian citizens. It was done in order to expand international cooperation in the sphere of labour, development and improvement of contractual legal framework of the cooperation between Belarus and Serbia in the area of labour migration and social protection of the working migrants. Internal procedures are now being carried out for the Agreement to come into force.

In June 2009 the Government of the Republic of Belarus signed an Agreement with the Ukrainian Cabinet of Ministers about visa-free travel of citizens. Internal procedures are now being carried out for the Agreement to come into force.

On February 12, 2010 the Governments of the Republic of Belarus and the Republic of Poland signed a Treaty on near-border movement. Presently, internal procedures are being carried out for the international treaty to come into force.

Additionally draft agreements with Latvia and Lithuania about simplified procedures of border crossing in the near-border area are being discussed.

On March 11, 2010 Belarusian-Ukrainian consultation on the draft of the Readmission Agreement between the Government of the Republic of Belarus and the Ukrainian Cabinet of Ministers took place in Kyiv.

There have been organized and held a range of other inter-governmental events on the issues of cooperation in regulating migration processes in Belarus and fighting illegal migration.

We can conclude that in the short term the situation in the area of illegal migration will be characterized by the following:

The trend of migrants' attempts to illegally cross the state border at the crossing points with high quality forged documents will continue;

Individuals from Afro-Asian region will seek all opportunities to legalize their stay on the territory of the Republic of Belarus with the aim of further transit to Western states;

The tactics of illegal border crossing will be constantly changing and becoming more covert.

Only a coordinated approach of all countries to solve these challenging problems along with close cooperation of the relevant agencies, international organisations and interested countries can ensure positive results in the issues concerning the control over migration.

4. Initiatives of the Republic of Belarus within the framework of Eastern Partnership Programme.

Relevant agencies of the Republic of Belarus considered the "Easter Partnership" initiative of the European Union presented during the first session of the Eastern Partnership Multilateral Platform #1 (democracy, good governance and stability) of June 5, 2009 in Brussels (the Kingdom of Belgium).

Within the framework of the European Commission's initiative *Integrated border management* proposed at the session, the Belarusian side made the following suggestions for future cooperation in the short term:

Providing financial assistance to create a temporary detention centre for foreign citizens detained for the violation of entry regulations and stay on the territory of the Republic of Belarus;

Increasing technical capacity of the subdivisions on citizenship and migration of the Internal Affairs agencies of the Republic of Belarus that deal with counteraction to illegal migration;

Counteracting illegal migration on the eastern border of the Republic of Belarus;
Increasing the capacity of Internal Affairs agencies on separation of mixed migration flows in what concerns the development and improvement of the system of referring or sending people seeking asylum who were detained for violating the rules of stay and transit rules to the relevant subdivisions in order to perform a procedure of identifying refugee status.
In concluding this overview of the issues related to migration legislation and the migration situation in the Republic of Belarus, we note that the effectiveness of migration policy in many respects depends on the close cooperation with the authorised agencies of the Russian Federation, the Commonwealth of Independent States and the development of cooperation with the European Union and other interested regional structures and international organizations.

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BELARUS IN THE MIGRATION EXCHANGE WITH THE COUNTRIES OF EU AND EASTERN PARTNERSHIP

Abstract
Types of international migration are considered. Tendencies in the migration movement of the population of the Republic of Belarus are analysed. Data about migration flows of the population between the Republic of Belarus and certain countries of EU and Eastern Partnership are cited. The influence of globalizing and regional socio-political and economic factors on migration processes of the population of the Republic of Belarus are examined. The emphasis is primarily laid on the demographic consequences for the Republic of Belarus.

Key words: *Migration, international migration, non-return migration, labour migration, academic migration, "circular" (seasonal) migration, "shuttle" migration, illegal migration, refugees, emigration, immigration, the Republic of Belarus, the European Union, Eastern Partnership.*

When politicians and journalists lead their conversation towards migration, they highlight the problems of illegal, illicit migration and refugees. However, it is only one of migration flows but not the largest one. International migration includes a few different flows, in which illegal, illicit migration and refugees though being a pressing problem take the smallest part in the world migration movement. Important features of international migration are crossing state boarders and appropriate state control over the movement through them; the extent of openness to the outside world; striving for integration or isolation; labour market policy etc. [Iontsev 1999, 28-47]. Although international migration is inferior to internal migration on its scale, it influences both the life of countries where population emigrates to and from which it immigrates by its huge social economic, political and demographic impact.
Once a Nobel laureate in economics Simon Kuznets (born in Belarus, Pinsk) stated that "while emigration was important for sending countries as a means of decreasing the pressure of population during the periods of transition from pre-industrial to modern standards of growth, immigration was more important for receiving countries and had a visible impact on their economic growth" [Kusnets 1970,
The first flow is "classical" non-return migration associated with a change of residence, citizenship. Return migration is included here when citizens go back to their permanent place of residence, to their motherland. It is believed that annually this number is about 200 million people including 120 million people in developed countries that make up 60% of "classical" non-return migration; and 80 million people in developing countries, or 40% of the migration of this kind. This kind of migration plays a significant role in the life of economically developed countries where every tenth inhabitant is a migrant. Moreover, in some countries (of American and Australian continents) it was exactly the flow that formed new nations.
The second flow is labour migration when citizens of one or another country move to work to another country on legal grounds for a certain time. It is a bit smaller in size – about 60 million

people. Nevertheless, if we include family members who move together with their relatives (labour migrants), and they are at least about 120 million people, labour migration will be of the same size as “classical” non-return migration. It is the most popular migration type in the Post-Soviet Space today. In some countries, labour migration that includes cross-boarder commutation or frontier migration is widespread. The peculiarity of these migration types is that in some time they can become “classical” non-return migration. “Academic” migration is very close to it. It should be noted that they create conditions for the best students and highly qualified specialists in some countries where the flow is directed to, then “academic” migration transforms or replenishes “classical” non-return migration.

The third flow is illegal, illicit migration that identified with migration proper under public opinion at the level of everyday sense, hereby erroneous substitution takes place. This flow is considered to make up 30 million people. Moreover, it is primarily directed to more developed countries. Its certain part can transform into “classical” non-return migration in some time.

The most popular migration (being the fourth flow of international migration) is circular or seasonal migration (approximately 750 million people), including international tourism. These are trips for recreation, visits to major sport events, visits to relatives, participation in scientific and cultural events etc. As a rule, it is a short-term type of migration although in some cases it can be the basis of abovementioned three types of migration.

Finally, the fifth type of migration movement is a flow of about 50 million refugees generated by various disasters of natural, ecological or political origin, especially military conflicts, ethnic strives.

Some migration flows can relate to several types of migration at the same time, for example, "shuttle" migration. On one hand, it is a kind of labour migration as it ensures employment of population, means of livelihood. And at the same time, 'shuttle migration' is a kind of "circular" or seasonal migration, because staying in another country is short-term (sometimes one day long), and the cases of making several trips a day by such migrants were fixed at the Polish-Belarusian border - "shuttle trader" had acquired the necessary goods and transported them to his country.

Such multi-faceted and multi-aspect nature of international migration shows how complex and ambiguous migration processes are, to be treated equally, to the same level. Moreover, in today's world the role of migration increases. Its consequences are of multi-vector nature both economically and politically, and socially. First, let us note their demographic effects that have impact on demographic process both in the countries of entry, and in the countries of departure. These are changes of their ethnic, religious, sex and age structure, labour market situation, its impact on national mentality and many others.

The concern of the European states, where the flows of illegal migration of refugees and labour migration are directed to, is clear. However, these problems are not critical for Belarus though it takes part in the discussion of these issues on the international level. Our country, in fact, becomes the last obstacle for illegal migrants from many parts of CIS countries and even from Asia.

More than 3 thousand people from 46 countries worldwide applied to Belarusian migration authorities to seek asylum in the last 10 years. 802 people of asylum seekers were recognized as refugees. The largest group is refugees from foreign countries, mainly from Afghanistan - 565 people, and Georgia (mainly coming from Abkhazia) - 132 people. Besides 32 people from Tajikistan, 29 people from Azerbaijan, 23 people from Ethiopia, 9 people from Palestine, 5 people from Iran, 2 people from India, and 1 person from Iraq, Cameroon, Liberia, Rwanda and Armenia each were recognized as refugees. Moreover, the Belarusian migration authorities decided upon non-deportation of 80 foreigners to the states where their lives or freedom might be at risk.

Evidently, this group of migrants is ranked insignificant in the course of migration processes in Belarus. Therefore, our attention is drawn to larger-scale migration flows. Above all, the problem of migration is examined with a view to demographic issues, with a view to status and development

prospects of our country. In academic circles of Belarus, migration is regarded as a natural, multi-faceted and sometimes ambiguous socioeconomic phenomenon in contrast to security agencies whose task is to forbid and to prevent.

Over the period of gaining state sovereignty, the structure of migration in Belarus has substantially changed.

Firstly, the scale of international migration has considerably increased. Migration between Belarus and Soviet republics of that time hasn't been not classified as international migration, but after the collapse of the USSR migration between the former Soviet republics has already become international.

Secondly, before the collapse of the Soviet Union Belarus had a negative balance of migration with Soviet republics of that time, but since 1991 Belarus has had a positive balance of migration alongside with all post-Soviet states.

Thirdly, international migration exchange in Belarus has had two stages over the last two decades: the nineties and the years of this decade. In the nineties Belarus primarily had an intensive migration exchange with newly independent states, which composed almost 90% in the overall structure of Belarusian migration.

Belarus has had (and has at present) a positive balance of migration exchange with all near abroad countries including Russia.

Belarus has had (and has at present) a stable negative balance of migration exchange with all far abroad countries including Russia.

However, in the nineties the positive balance of migration with near abroad countries exceeded the negative balance of migration with far abroad countries therefore in general Belarus had a positive migration balance. During this decade, the positive balance of migration has considerably decreased.

As a result, the negative balance of Belarusian migration with far abroad countries has become an important factor that has influenced the fact that today Belarus does not have population growth at the expense of international migration.

Fourthly, during the new decade the share of migration exchange with so-called "far abroad countries" and the European Union countries has considerably increased within the structure of international migration in Belarus.

Fifthly, at the same time Belarus has a negative balance with far abroad countries in the usual understanding of migration, i.e. non-return migration.

Sixthly, the size of classic ("non-return") migration has considerably decreased.

These trends show that Belarusian migration processes of the recent years should not be examined with a group of countries alone, but in the context of overall migration processes. Similarly, the migration processes between Belarus and EU should be considered not in isolation but in the context of socio-political and economic situation and migration trends that have emerged globally. Therefore, it is necessary to take into account all the range of migrations.

For the years 2008-2009, the positive balance of Belarusian external migration made up 42334 people, notably the number of positive balance with CIS countries made up 56042 people, outside CIS, i.e. with the far abroad countries the negative balance made 13708 people. It goes without saying Belarus does not have a negative balance with all far abroad countries. Belarus has a positive balance with many countries (first of all, Asian countries). Nevertheless, it does not exceed the number of the population outflow from Belarus to other countries of far abroad. Of this negative balance, 3351 people went to Israel, 6136 went to the USA and 745 people went to Canada. During this period Belarus has had a negative balance of 8253 people (it is even more than with the USA and Canada) with the leading countries of the European Union that are a part of EU-15 area (there are no data about Belgium, Denmark, Finland, Greece, Ireland, Luxemburg, Portugal and Spain) (see Table 1-3).

Table 1. International migration (on arrival) in the Republic of Belarus for the years 2001-2008 (people) [Statistics of Belarus 2010, 423]

	2001	2002	2003	2004	2005	2006	2007	2008
Arrived in the Republic of Belarus – in total	23355	18939	18146	14642	13031	14124	14155	17413
including:								
from CIS countries	20971	16797	15928	12530	11426	12390	11938	14239
from non-CIS countries	2384	2142	2218	2112	1605	1734	2217	3174
Austria	-	3	3	2	-	1	1	3
Bulgaria	140	83	3	5	4	10	16	18
Germany	47	55	70	102	68	78	86	157
Israel	207	233	361	283	227	271	297	257
Italy	8	8	10	11	11	9	24	31
Canada	6	6	8	13	9	14	9	12
Latvia	299	264	242	213	189	230	243	328
Lithuania	503	407	416	338	297	343	352	396
Netherlands	2	3	3	2	3	5	2	16
Poland	51	39	44	48	28	36	62	306
The United Kingdom	8	4	9	9	3	4	6	12
The United States of America	70	75	48	94	60	90	101	140
Turkey	31	28	38	36	13	32	49	130
France	7	6	9	10	6	7	5	12
Czech Republic	6	6	6	1	5	5	9	10
Sweden	8	2	3	7	3	6	1	5
Estonia	51	50	43	29	31	37	33	39

As for EU-8 countries (there are no data about Hungary, Slovakia and Slovenia in the table) Belarus has a negative balance with Czech Republic and Poland – 324 people in number, but Belarus had a positive balance with Poland in 2008. However, with other countries of EU-8 area (these are Baltic countries) Belarus has had a positive migration balance, 11238 people in number, both in the nineties and in the years of a new decade. Certainly, it is 3.6 times less than it used to be in the nineties when in Belarus migration increase at the expense of Baltic countries was 40320 people.

Table 2. International migration (on departure) in the Republic of Belarus for the years 2001-2008 (people) [Statistics of Belarus 2010, 424]

	2001	2002	2003	2004	2005	2006	2007	2008
Departed from the Republic of Belarus – in total	14270	13378	12986	12510	11082	8498	9497	9268
including:								
from CIS countries	8149	8451	8177	8217	7520	6165	7142	6856
from non-CIS countries	6121	4927	4809	4293	3562	2333	2337	2412
Austria	6	6	24	24	26	18	29	24
Bulgaria	6	6	4	11	4	4	6	6
Germany	1306	1243	1316	1227	808	466	512	538
Israel	1701	1012	631	503	636	366	370	368
Italy	123	162	220	215	26	38	30	33
Canada	125	147	178	134	113	88	60	47
Latvia	49	46	34	32	35	14	30	50
Lithuania	82	82	121	104	143	97	97	139
Netherlands	40	22	28	12	7	28	35	29
Poland	83	81	64	87	89	86	88	111
The United Kingdom	10	17	17	21	11	12	20	19
The United States of America	1318	1117	1301	1075	664	534	434	371
Turkey	12	25	29	15	25	2	40	44
France	16	35	21	16	3	16	24	30
Czech Republic	34	29	25	13	30	34	66	66
Sweden	56	56	63	44	19	22	29	31
Estonia	16	13	16	16	16	14	9	8

As shown above, the most substantial migration increase to Belarus from modern EU countries is associated with the frontier Baltic countries. Undoubtedly, general size of migration turnover between Belarus and Baltic countries can't be compared with the population migration from the Baltic states to Russia. After the collapse of the Soviet Union, the Baltic immigration can be characterized as following: 89.8 thousand people moved from Latvia to Russia, 57.0 thousand people moved from Estonia, 36.0 thousand people came from Lithuania in the years 1992-1999. However, according to relative indices, i.e. migration load per 10 thousand people of Belarusian and Russian population, our country has a higher rate of migration attractiveness for the Baltic region.

Table 3. Balance of international migration in Belarus for the years 2001-2008 (people) [Statistics of Belarus 2010, 425].

	2001	2002	2003	2004	2005	2006	2007	2008
In total	9085	5561	5160	2132	1949	5626	4676	8145
including:								
- CIS countries	12822	8346	7751	4313	3906	6225	4796	7383
- non-CIS countries	-3737	-2785	-2591	-2181	-1957	-599	-120	762
- non-CIS countries from EU-15								
Austria	-6	-3	-21	-22	-26	-17	-28	-21
France	-9	-29	-12	-6	3	-9	-19	-18
Germany	-1259	-1188	-1246	-1125	-740	-388	-426	-381
Italy	-115	-154	-210	-204	-15	-29	-6	-2
The Netherlands	-38	-19	-25	-10	-4	-23	-33	-13
Sweden	-48	-54	-60	-37	-16	-16	-28	-26
Great Britain	-2	-13	-8	-12	-8	-8	-14	-7
- non-CIS countries from EU-8								
Czech Republic	-28	-23	-19	-12	-25	-29	-57	-56
Poland	-32	-42	-20	-39	-61	-50	-26	195
Latvia	250	218	208	181	154	216	213	278
Lithuania	421	325	295	234	154	246	255	257
Estonia	35	37	27	13	15	23	24	31
Besides:								
Israel	-1494	-779	-270	-220	-409	-95	-73	-111
Canada	-119	-141	-170	-121	-104	-74	-51	-35
The USA	-1248	-1042	-1253	-981	-604	-444	-333	-231
Turkey	19	3	9	21	-12	30	9	86
Bulgaria	4	3	-1	-6	-	6	10	12

Comparing to Russia, the performance of Belarusian migration load per 10 thousand people is 5,71 in number with Estonia for the period of 1992-1999, Russia has 3.87 per 10 thousand people. Belarus has almost 3.5 times larger performance of migration load on arrival from Latvia, accordingly, Belarusian performance is 22.53, Russian performance is 6.10 in number.

It should be noted that Latvian migration flow of population is the largest for the Baltic vector according both to absolute and relative indices in Belarusian and Russian regions. Migration load to Belarus from Lithuania (13.24) is 5.4 times as large as the migration load between Russia and this country (2.45). What distinguishes Baltic migratory vector of Belarus and Russia in 1992-1999 was that Estonian migration prevailed in Russia and Lithuanian in Belarus (after Latvian migration flow) [Zlotnikau 2006].

Within "Belarus – Baltic countries" migration, impact on the change of migration movement from Baltic countries to Belarus had the following phenomena: firstly, low specific weight within the population of correspondent republics of titular ethnic group, secondly, highly leveled ethnic structure of population of Soviet Republics with Slavic routes, and thirdly, the highest specific weight of Belarusian people in the population of the Baltic states in comparison with other non-Slavic republics. The last factor is the consequence of many socioeconomic processes and, mostly,

of the fact that an important direction of inter-republican migration of that time was resettlement of ethnic Russians and Belarusians to Baltic States both in the pre-revolutionary and Soviet times.
Moreover, Belarus boarders on Lithuania and Latvia. Some of the territory of contemporary Lithuania and Latvia was a part of Belarusian provinces in the pre-revolutionary times and they had a high specific weight of Belarusians. Alongside with the collapse of the USSR strained the problems in the regions where the atmosphere of national and political tense appeared. As a result, the flow of economic migrants decreased, migration caused by socio-political, international, ecological motives increased.
Such relative indices as migration load (per 10 thousand people) and effectiveness of migration (ratio of the number of arrivals to departures) of the population between Belarus and the Baltic countries indicate that the Baltic countries play a dominant role in the migration turnover with Belarus.
Thus, the coefficient of inter-regional effectiveness of population of the Republic of Belarus with the Baltic countries in the years 1991-2002 (this period is taken as a basis for our analysis, because after the year 2002 the value of migration exchange between Belarus and the group of EU countries has substantially reduced) was the highest rate in comparison with other major regions of the former Soviet Union – 6.51 in number, in other words 651 people arrived from the Baltic countries per 100 people who left for these countries from Belarus. It is almost 4 times higher than Belarusian-Russian or Belarusian-Ukrainian rate; and it is above the indicator observed in the Commonwealth of Independent States and Baltic States as a whole. The rate of migration load is even higher. The analysis of migration trends on the basis of migration load index, i.e. the number of migrants per 10 thousand people of the country from where (or where to) population migrates, reveals that this figure was the highest – 69.4 in number, in Baltic countries during the years 1991-2002 [Zlotnikau 2006].
Of all Baltic countries, the lowest coefficient of interstate migration effectiveness is observed Lithuania, this figure was 3.63 there in the years 1990-2008. Since 1991, the increase in migration from Lithuania to Belarus has begun, as a result, the migration effectiveness made up 3.88 in the years 1991-2008. As for migration of population between Belarus and Latvia the coefficient of migration effectiveness was 9.58 for the years 1991-2008; the coefficient between Belarus and Estonia was 10.47. They are the highest rates of interstate effectiveness between Belarus and Newly Independent Post-Soviet States; and for these countries, the given rates of interstate effectiveness are the lowest in comparison with other Post-Soviet states respectively.
Only two regions of the Republic of Belarus (Vitebsk and Grodno region) boarder on certain Baltic countries, which is reflected in more intensive migratory movement of the population of these regions and the Baltic countries they boarder on. Since 1995, the highest rate of migration exchange has gone to Vitebsk region – 3735 people in number within the migration exchange between the regions of the Republic of Belarus and the Baltic countries; the lowest one is in Mogilev region (886 people). This is primarily due to the fact that Vitebsk region boarders on Lithuania and Latvia, and has had the closest economic and social ties with their neighbors for a long time. Northern provinces of Vitebsk region being close to major centres of Lithuania and Latvia and far from their regional centre ran to Lithuania and Latvia rather than to Vitebsk under the conditions of a single economic, political and demographic space. As for Vitebsk region, the highest specific rate of total regional population inflow (69.0 %) from the Baltic countries falls to the share of Latvia. The share of Vitebsk region in Latvian population inflow to the Republic of Belarus made up 38.9 % .
Because of migratory and other demographic processes, the number of all nations of those countries (the neighbours) that Belarus boarders on, significantly decreased the population of the Republic of Belarus.
The following data indicate the extent of national decrease: the number of Ukrainians decreased by 18.5 %, Lithuanians – by 14.0 %, Latvians – by 15.8 % and Russians – by 14.9 %. Of the nations of

neighbouring countries, the smallest decrease of ethnic number goes to Poles, their number reduced by 5.3 % in the census period of the years 1989-1999. Some extremely nationalistic Belarusian historians think that they are not Poles but newly Catholic Belarusians.
The program "Eastern Partnership" of the European Union is aimed at six countries - Azerbaijan, Armenia, Belarus, Georgia, Moldova and Ukraine. Belarus has a positive migration balance with all the countries of Eastern Partnership.
Of these countries, Belarus has the highest increase due to migration (non-return migration) with Ukraine (see Table 4); it makes up more than 90 % of growth at the expense of Eastern Partnership.
In general, 15 % of migration growth in Belarus at the expense of CIS countries goes to the Ukraine. The number of migrants from Belarus to Moldova is large in comparison with the number of population of the country [Hurs 2001; Zlotnikau 2006].

Table 4: Balance of international migration between Belarus, CIS countries and Eastern Partnership during the years 2001-2008 (people) [Collection of statistics 2009, 425]

	2001	2002	2003	2004	2005	2006	2007	2008
CIS in total	12822	8346	7751	4313	3906	6225	4796	7383
Including the countries:	5541		34374					
- Azerbaijan	107		15	26	12	15	16	23
- Armenia	92		13	20	11	13	24	11
- Georgia	120		15	15	13	17	18	42
- Moldova	179		43	31	36	26	25	18
- Ukraine	5043		1048	952	811	703	706	823

As far as the latest migration tendencies are concerned, there is an alarming fact of violations in the elasticity of the age structure of migrants: young population mainly leaves Belarus, especially young female population. As a result of international migration exchange of the years
While the negative balance among male population of this age group is small (minus 33 people), the negative balance among the female population of this age group (25-29 years) is minus 493 people. During the years 2006-2008, Belarus has had a negative migration balance (minus 169 people in number) in the age group of 30-34. But there was a positive balance in the group above working age (60 years old and more) – 6665 people and more than one third of the whole migration growth (36,1%). This is precisely the population of the most active demo-reproducing age group that go to the countries of far abroad, especially to the countries of the European Union. Because of this tendency, firstly, demographic potential of Belarus decreases, secondly, able-bodied population gets more labour loaded. Thus, the abovementioned tendencies of demographic elasticity cannot be taken as positive for Belarus. This tendency is probably an effect of employment problems and the issues of remuneration of labour in the Republic of Belarus.
New geopolitical and globalizing realities have influenced another kind of migration processes between frontier areas of Belarus and neighbouring newly independent states, i.e. commutation, and labour migration as the labour market tendencies show. Reduction in industrial production that resulted in the decrease of the number of people employed at production and construction, and customs, passport, currency problems have changed the content and direction of labour migration. Today trade and intermediary employment is prevailing within labour and frontier migration.
Speaking about external labour migration in Belarus, it should be noted that certain progress has been achieved since the mid 90's, since 1994 to be more precise, when the registration of working migrants started. It should be observed that official labour migration data (on the basis of officially concluded work agreements and contracts) do not reflect the real situation within this migration

process. According to these data, labour emigration in Belarus is a little larger than 18 thousand people, labour immigration is 4.9 thousand people (see Table 5). However, these are only officially employed working migrants who represent less than 2 present of Belarusian migration-prone citizens.

We have calculated that working migrants in Belarus make up 800-850 thousand people including the following: Russian sector – 500-550 thousand people, Western sector – about 300 thousand people. It means that a considerable proportion of working migrants statistically remain "in the shade", although the given level of labour migration in Belarus is recognized by personnel offices, financiers, and members of the top brass.

Table 5: External labour migration of the population of the Republic of Belarus for the years 2006-2008 (people)

	2006	2007	2008
Working migrants departed	4502	7335	6204
Working migrants arrived	922	1496	2463
Labour migration balance	-3580	-5839	-3741

There was a regular population census in October 2009 but we do not have synthetic data about ethnic and migrant composition of the country yet. But we have general information about population size indicating that the population of the Republic of Belarus has decreased by 565 thousand people over a period between two population censuses (1999 and 2009) [Collection of statistics 2009, p. 13, 9, 62]. Moreover, 530 thousand people are the share of natural loss and 35 thousand are the share to migration outflow.

According to statistics, Belarus has had a positive migration balance for the whole inter-census period; the 2009 population census states a negative migration balance. This fact begs the question: what has happened. It is interesting that the population size differed in 178.7 thousand people comparing to the beginning of 2009, which is caused by labour migration, in our opinion. Labour migration is just a sore point for Belarus.

The World Bank experts conducted labour migration research with a view to money transfers in the countries of Eastern Europe and the former Soviet Union as of the year 2000 and estimated Belarusian labour migration (it is considered illegal by these specialists) at the rate of 50-150 thousand people. In the judgment of the World Bank experts, its share is 11.68 % of the total size of Belarusian migrants, i.e. every ninth migrant in Western Europe is considered as a working migrant [Ali Mansoor and Bryce Quillin 2009, 61].

Investigation of the age structure of migrant workers who have gone abroad shows predominance of young people aged up to 24 years old. The average age of entering foreign workers is 36-37. The gender composition of labour migration in the Republic of Belarus is characterized by male predominance (about 90% in the structure of workers entering the country and more than two-thirds of outgoing migration flows).

Analysis of the means of livelihood of the Belarusian labour migrants before going abroad shows that a significant portion of travelers, decide to migrate having paid job although it is related to a risk of losing stable earnings. This indicates dissatisfaction with the level of revenues in the home country and desire to increase wealth through labour migration and differentiation of wages between countries [Ali Mansoor and Bryce Quillin 2009].

Imperfection of educational market in Belarus is also reflected in the formation of labour migration flows. Namely, the disparities between the structure and quality of training and the needs of the economic system determine the fact that the average percentage of employment of university graduates is 54.9%, of graduates of secondary special institutions - 38,1%.

Consequently, according to summarizing statistical information of the Headquarters of Statistics of Gomel Region, 96-97 % of working migrants being dependent before going abroad were young people up to 24 years old, mainly educated and unemployed specialists and students who didn't get a scholarship.

Thus, the imbalance between training specialists and the needs of the national economy promotes the outgoing flow of labour migration, reducing the return on government investments in education and in fact subsidizing the economic development of host countries.

In the years 2006-2008, there was observed an outflow of highly qualified specialists in construction and production outside the region, as well as operators, machinery drivers, fitters.

In this case internal labour market suffers too, since the largest number of vacancies is for working careers. However, the average wage for these jobs is very low, which causes their constant "vacant" status.

Therefore, domestic jobs can hardly compete with those abroad, and a comparison of "price" characteristics of labour of the same complexity and level of proficiency in Belarus and abroad raises labour mobility, even despite attendant physical and psychological costs.

There is significant differentiation of wages in Belarus, a key determinant of the formation of relevant labour resources flows, in comparison with the majority of foreign countries. The high demand for labour in the construction industry in conjunction with the wages in Russia is 1.4 times larger than Belarusian builders' wages, predetermines their outflow to the Russian Federation, mainly to Moscow and Moscow region, where wage differences are even greater.

The existence of a unified labour market removes restrictions on the movement of labour, community of mentality, lack of linguistic and cultural barriers, facilitates access of Belarusian citizens to the Russian labour market, and forms labour migration flows precisely in this direction, rather than in more developed countries, where wage differentiation is even more evident.

In recent years, the scales of periodic migration, i.e. tourist migration, have changed in Belarus too. In general, an increase in the number of inhabitants of other countries, who visited Belarus on tourist visas - and above all from the area of the EU countries is observed (see Table 6). However, in recent years, the number of foreign tourists who have visited Belarus decreased by almost 45% probably through the global financial crisis. The number of tourists from Germany, Italy, Belgium and the Netherlands reduced most of all.

The fact of reducing the scale of "circular" migration with neighbouring countries (Poland, Lithuania and Latvia) through tourism is the most worrying.

The growth of the number of tourists from Great Britain alone is observed.

Table 6: The number of foreign tourists having visited the Republic of Belarus (people) [Collection of statistics 2009, 263-264]

	1995	2000	2003	2004	2005	2006	2007	2008
Number of tourists having visited Belarus – in total	16896	60224	64289	67517	90811	89524	105410	91587
including:								
- foreign countries	12518	48050	56600	54505	61980	62790	66523	38715
- CIS countries	4351	12174	7689	13012	28231	26734	38887	52872
Austria	119	534	593	723	508	387	345	586
Belgium	159	197	322	497	495	303	1830	239
Germany	1675	5669	7067	8542	7402	9973	7826	3027
Denmark	55	132	535	529	307	280	516	164
Spain	100	122	392	573	509	630	687	372
Italy	1356	1463	4225	4533	5090	4910	4183	2672
Cyprus	204	1101	2602	1179	940	956	1202	206
Latvia	7	6364	7665	4978	7409	8156	3855	1425
Lithuania	12	1949	7458	5317	8249	12481	9309	2600
The Netherlands	251	427	1347	954	868	611	971	386
Norway	70	77	153	222	1632	286	358	302
Poland	91	13464	10287	5563	2983	3329	3337	2832
United Kingdom	4603	6197	3282	5222	8208	3092	4413	7674
France	208	387	486	759	1176	1037	1154	1257
Switzerland	20	103	364	352	447	466	293	480
Sweden	55	380	415	1093	727	553	745	594
Estonia	11	953	727	840	732	1647	4288	1166

At the same time, we can observe the reduction of Belarusians going abroad through tourist migration. Thus, the largest scale of Belarusian seasonal ("circular") migration on tourist visas was in 2000 – 1289034 people in number. This number reduced to 380349 people in 2008. (See Table 7), (or 3,4 times). The growth of tourist migration is observed to Greece, Spain and Italy alone. For most Belarusians visiting Poland was associated with "shuttle" business during the last decade of the XX century and the first years of the current decade. Thus, while the number of Belarusians' trips to Poland went beyond one million in 2000, this rate was a bit more than 7 thousand people in 2008; the number is 150 times as small (!). As for visits to Lithuania, this rate reduced by 6 times; as for Latvia, by more than 5 times. New political situation in the countries that became the EU members is a barrier for normal migratory relationships through "circular" migration.

Table 7: The number of Belarusian tourists going abroad (people) [Collection of statistics 2009, p. 263, 265]

	1995	2000	2003	2004	2005	2006	2007	2008

The number of Belarusian tourists going abroad – in total	625898	1289034	1108237	514593	572398	525430	516796	380349
including:								
- to foreign countries	570899	1181570	837199	208126	268043	278271	283680	212974
- to CIS countries	54999	107464	271038	306467	304355	247159	233111	167375
Austria	22	499	852	856	1038	461	353	402
Bulgaria	5938	10953	10098	10378	13832	19812	22636	19665
Hungary	4671	7385	2995	2415	2797	2279	1680	1412
Germany	3172	7816	2712	1762	2687	1877	1361	1071
Greece	1036	852	1441	317	491	1139	1456	1940
Egypt	238	2523	6112	9002	16580	16725	24791	44282
Spain	763	4746	3712	3559	2933	3470	3886	3534
Italy	170	3268	2523	1645	3684	4623	5677	6725
Cyprus	479	1603	957	588	949	1224	1360	1137
China	299	244	13	10	87	311	846	709
Latvia	37	814	852	1201	1251	3210	5982	1127
Lithuania	8687	11966	21893	19206	34670	49357	53375	8491
The Netherlands	779	748	504	222	194	601	497	544
UAE (United Arab Emirates)	1009	331	425	517	1230	792	1152	1694
Poland	534610	1092763	733186	97367	106347	87130	65240	7197
Romania	-	459	1763	5336	11223	14801	13833	7562
Serbia and Montenegro	-	232	1001	1626	2614	4105	5097	3625
Slovakia	683	1911	2448	1837	2148	2324	2015	1248
United Kingdom	48	674	1256	1628	1373	1265	861	747
Tunis	28	86	438	947	2220	1993	2278	2041
Turkey	4260	7555	15711	23689	32329	35126	43393	74730
Thailand	91	270	323	402	386	785	919	1083
France	380	2937	7810	6066	5263	4449	4520	6027
Croatia	-	2115	485	596	923	396	276	974
Czech Republic	3169	17514	15868	15310	18604	16419	17584	11108

- Recently, we could observe the refraction of the decrease trend in international migratory exchange within migratory movement in Belarus (primarily as a result of reducing the number of people arrived in the area for permanent residence);

- Migration relations within the CIS and the Baltic countries, and especially with Russia traditionally dominate, which is due to the lack of administrative obstacles to free movement of manpower resources, creation of institutional preconditions, including the legislative regulations ensuring equality of migrants and local population;
- The majority of migrations seeking for permanent residence in the Republic of Belarus resettle to their relatives; the structure of migration is changing along the lines of the proportion increase of those people who have resettled for education and employment from non-CIS countries, and of the proportion decrease of migrants having returned to their previous places of residence;
- The proportion of labour migration on the basis of officially concluded labour agreements and contracts is small, the number of people going to work abroad traditionally predominates over the inflow of migrant workers to the country;
- Belarusian population at the age below 30 years (mostly men) take the most active part in the process of labour migration, which is to some extent due to having an imbalance between training young professionals and the needs of the economy. It produces the problems of youth employment in the regional market;
- A considerable part of migrant workers traveling abroad have paid work, which indirectly reflects the weak international competition of "price" labour characteristics of the same complexity and proficiency level, and indicates the lack of effectiveness of migration exchange for the region's economy through departures of actually employed workers and non-inclusion of unemployed in labour migration (officially registered ones);
- Despite greater differentiation of wages in the Republic of Belarus and the countries of Western Europe and the U.S., the flow of labour migrants from Belarus is directed to Russia, which is, on the one hand, due to the lack of restrictions on free movement of manpower resources, common culture, mentality and language between Russia and Belarus, and on the other hand due to a selective policy of European states in respect of foreign workers, and inadequate infrastructure of employment assistance for Belarusian citizens in these countries.

Thus, the migration situation in the Republic of Belarus at the turn of the XX-XXI century is characterized by a significant increase in mass migration, which is characterized by the domination of people arrived, and by a positive balance of migration for the country as a whole in comparison with the migration of last decades.

The highest peak of the migratory movement was in the early nineties (until 1993), and subsequently there has been a constant downward trend in the migration turnover.

Extruding factors came to the place of attracting ones, indicating the forced nature of migration flows in contrast to previously prevailing free movement of population. Resettlement of Slavic people (primarily ethnic Belarusians) as well as people having close family ties with Belarus prevails in the process of migration exchange with the former Soviet republics. It characterizes the movement of people from former Soviet republics as a national kind of outcome.

Migration exchange between Belarus and Russia takes the largest share of migration process within migration movement, and Belarus acts as a host country.

Under contemporary demographic situation in Belarus migration processes, though having a relevant legal basis adequate to international law, there is a question put forward of working out policies aimed at stimulation of population inflow to Belarus.

The purpose of migration policy in Belarus should be focused on receiving a positive migration balance of migration that would exceed the rate of the natural population loss.

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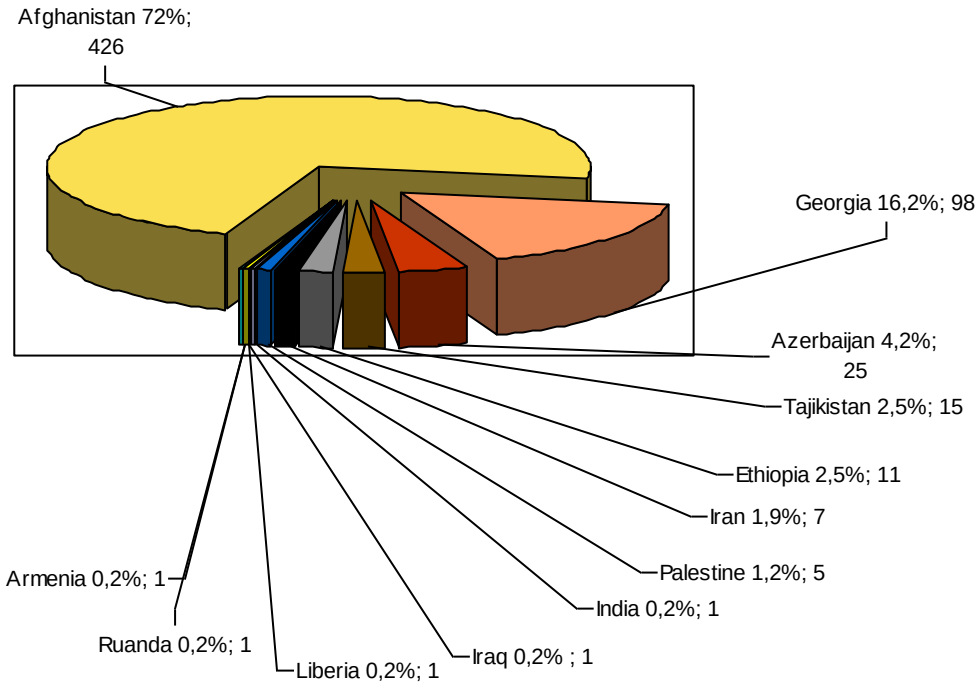
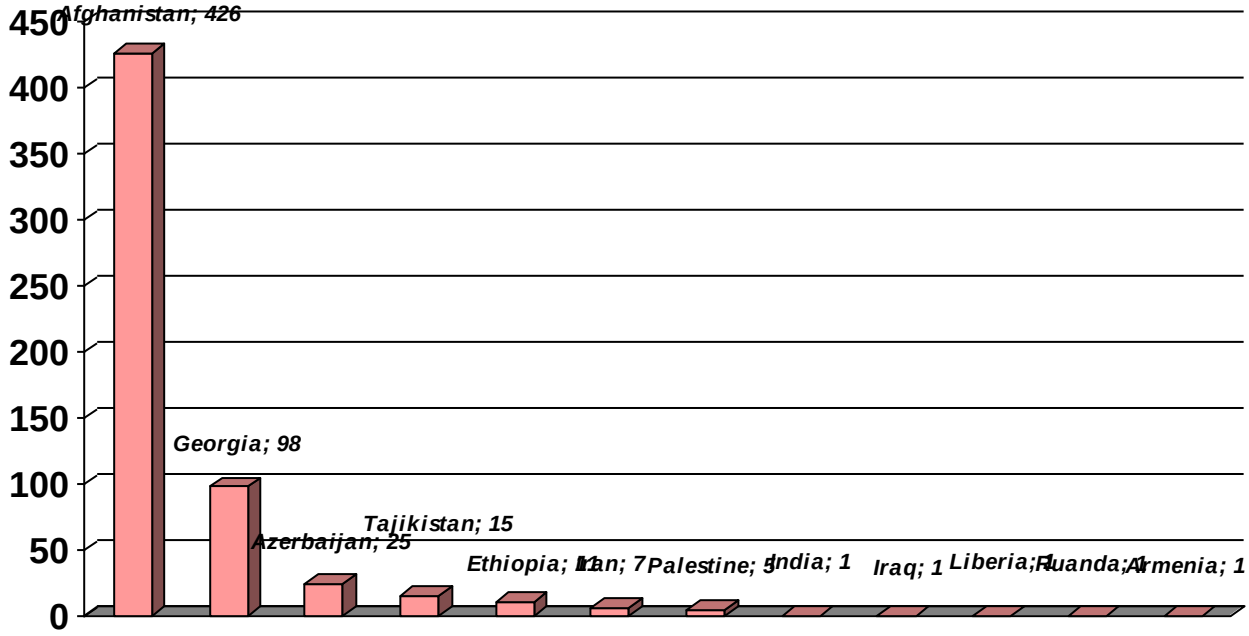
APPLICATION OF LEGISLATION OF THE REPUBLIC OF BELARUS ON REFUGEES AND THE MAIN LINES OF ITS DEVELOPMENT

The procedure for acquisition of refugee status in Belarus has been applied since 1997. About 3,500 of foreigners from 45 countries have addressed the territorial administrative bodies for Citizenship and Migration over this period. On January 1, 2010 817 people from 13 countries have been recognized as refugees in Belarus.
At present, there are 592 refugees living in the Republic. For the last year 32 foreigners with a refugee status have acquired citizenship of the Republic of Belarus.
There is a whole system of legal and social protection of asylum seekers and refugees working in Belarus at the moment. Our country has a fully formed migration legislation conforming to international standards.

Percentage of foreigners recognized as refugees by countries of origin:



Proportion of foreigners recognized as refugees by country of origin:



Main regulatory documents of the Republic of Belarus concerning relations in the field of forced migration are:

THE UNITED NATIONS CONVENTION July 28, 1951 relating to the Status of Refugees (Came into force on April 22, 1954, in the Republic of Belarus – on November 21, 2001) [1, c.45].

LAW OF THE REPUBLIC OF BELARUS of June 23, 2008 N 354-W on Granting refugee status, additional and temporary protection in Belarus to foreign citizens and stateless persons.

The procedure for granting refugee status, additional and temporary protection in the Republic of Belarus to foreign citizens and stateless persons includes several steps:

- A petition.
- Accounting and distribution.
- Consideration of petitions in the territorial divisions of Citizenship and Migration Board and the preparation of the corresponding conclusion.

Consideration of the petitions by the Office for Citizenship and Migration (OCM) of the Ministry of Internal Affairs of the Republic of Belarus and their adjudication. Dispute on the decision by a foreigner on the application in case of disagreement with it [2, c.345].

- Departure from the Republic of Belarus of a foreign citizen who has been refused the refugee status, additional or temporary protection and have no other legal grounds for staying in the Republic of Belarus.

Let’s have a closer look at some of them.

ACCEPTANCE OF THE PETITION

In accordance with art. 27 of the Law of the Republic of Belarus "On granting refugee status, additional and temporary protection in Belarus to foreign citizens and stateless persons" the foreigner, willing to apply for refugee status or additional protection in the Republic of Belarus, as well as his family members, aged eighteen years, must personally or through an authorized

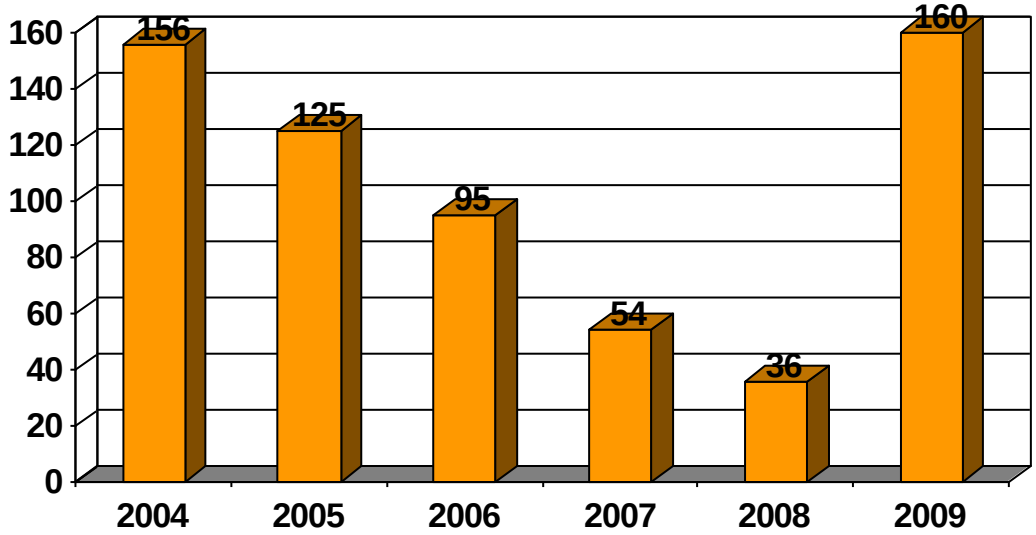
representative apply for protection. Such petitions are accepted by Border Guards representatives, in case of detention upon illegal crossing of state boarders of the Republic of Belarus or attempt to do that; by representatives of an Office of Internal Affairs (OIA), in case of detention for illegal stay on the territory of the Republic of Belarus, and by Citizenship and Migration Office staff members, in case of legal stay on the territory of the Republic of Belarus [2, c.234].

Upon application of a detained foreigner representatives of the Offices of Internal Affairs and the Border Guards should provide them with information on their legal status, on the existing procedure on granting the refugee status, additional and temporary protection in the Republic of Belarus, inform about the way the petitions are handled. After that they should immediately provide contact with the territorial administration for Citizenship and Migration and the UN HCR Office in Belarus [1, c.67].

Upon detention of a foreigner there is an investigation organized in the course of which they clarify the reasons and circumstances of the illegal crossing of the state borders of the Republic of Belarus or illegal stay in the Republic of Belarus. The results of the investigation are attached to the petition, and documents and materials confiscated from a foreigner.

The number of the petitions tends to decrease, which corresponds to the worldwide trends in this sphere. Thus, from the year 2004 till 2008, there have been taken up for consideration 151, 118, 89, 54, 36, respectively, and only last year there was a rise. The reason was that a new Law "on granting refugee status, additional or temporary protection in the Republic of Belarus" came into force, which allowed the foreigners whose petitions were rejected to apply again:

The following chart provides information on the number of petitions submitted to the competent authorities of the Republic of Belarus. Since the procedure for granting refugee status came into existence the Offices for Citizenship and Migration have made positive decisions on 85% of the submitted petitions. Offices of Internal Affairs and Border Guard subdivisions have acquired almost the same number of petitions [2, c.236]. On this chart one can see downward trend in the petitions acquired by OIA, which means a decrease in the number of foreigners illegally staying in the Republic of Belarus.



CONSIDERATION OF A PETITION

One of the most important steps in the consideration of a petition is the identification procedure of a foreigner applying for protection.

This procedure is obligatory and is held with relation to a foreigner applying for protection who doesn't have a document for traveling abroad, or submitted forged or false documents.

The procedure is performed by the Office for Citizenship and Migration within the period that doesn't exceed one month from the date the foreigner has addressed to the relevant public authority of the Republic of Belarus with a petition for protection.

Identification of the individual if he\she is unaccompanied under aged foreigner who applies for protection is carried out in the obligatory presence of a representative of a guardianship and a tutorship. For the period of identification the unaccompanied under aged foreigner may be located in reception centers for juveniles.

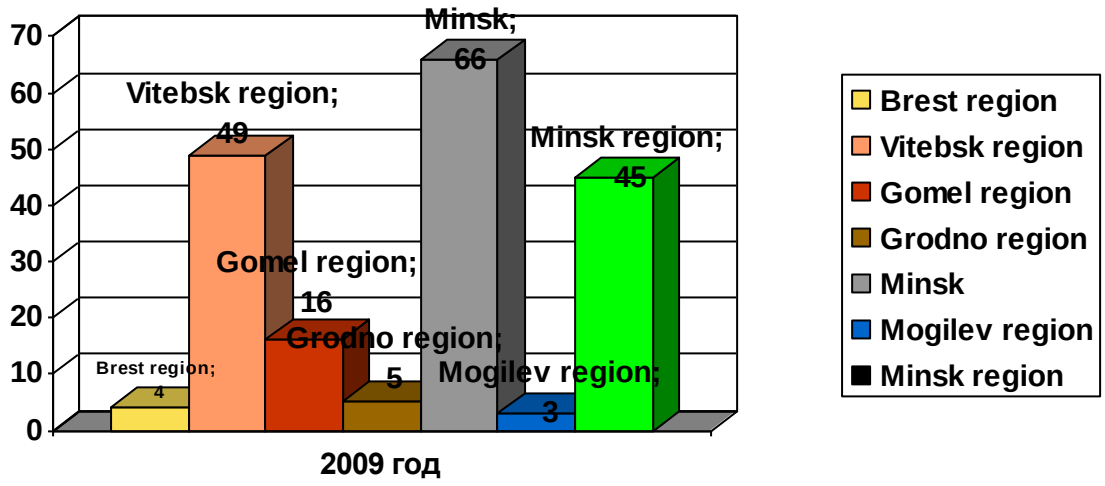
In case of any doubts, concerning the age of the under aged foreigner who applies for protection and has no documents to prove his age, or has submitted forged or false documents confirming his age, Office for Citizenship and Migration sends the foreigner upon his consent (for unaccompanied under aged foreign) or upon consent of his legal representative for medico-legal examination to determine the age of the under aged foreigner. The period for identification of the under aged foreigner, sent to a medico-legal examination is prolonged for a period necessary to conduct this examination.

In case the unaccompanied under aged foreigner or his\her legal representative refuses that under aged foreigner undergoes medico-legal examination in order to determine his\her his application for protection is regarded as an application for protection of the adult foreigner.

The Office for Citizenship and Migration who redistributes the foreigners applying for protection, in accordance with the distribution quota for registration petitions, which are annually established by the Ministry of Internal Affairs of the Republic of Belarus for subdivisions on citizenship and migration [2, c.123].

The greatest number of the foreigners redistributed according to the quota is located in Vitebsk. It is connected with the location of the temporary residence place for refugees.

At present there exist centers for temporary locations of refugees in Gomel, and there are plans to build them in Brest.



Registration of the petition takes place after checking a foreigner on an automated basis AU "Refugees" for his re-referrals, record-cards are filled in, and personal interview is held.
Interviewing is one of the most important key steps in the procedure. The accepted decision on the petition largely depends on how well it was held.

While preparing for the interview, the official should:

- look through the petition of a foreigner, to compare already existing data and make appropriate an additional list of questions if necessary;
- carefully examine the information on the native country of the applicant, if necessary, request additional information. Information about the country must contain facts about its political and administrative structure, the observance of fundamental human rights, basic historical and geographical data, socio-economic characteristics, data on culture and religion of the country, the category of persons for whom there is a risk of persecution;
- prepare a place for the interview, to remove heavy and dangerous objects that would guarantee the safety of the staff and provide for the possibility of calling for assistance.

The interview is held in a room without unauthorized persons. If the applicant does not speak Belarusian or Russian language, and the staff members holding the interview, do not speak the language, understandable to the applicant, the interpreter may be invited [5, c.24].
During the interview the applicant should answer the questions in such a way that the answers are not ambiguous.
After the interview the foreigner is given a warrant for the mandatory fingerprint registration (since 14 years) and compulsory medical examination (for all), and the temporary certificate of registration of his\her petition (since 16 years).
Consideration of the petition is carried out in two stages.
In the first stage the petition is considered in the territorial subdivisions on Citizenship and Migration. Where the purpose of his\her arrival to the Republic of Belarus is defined, the facts presented are checked, the searches for evidence that prove the information given by a foreigner are held. If necessary, there may be the document control in order to reveal its authenticity as well as the reliability of the information given. The information about the country or former habitual residence of the foreigner is studied [3, c.203]. The appropriate queries are prepared and sent to the Office for Citizenship and Migration, or to the special organizations (institutions) of the Republic of Belarus in order to confirm the information and facts provided by the applicant, and for more information about him\her. If necessary, the witnesses can be invited, in order to confirm the facts stated in the application.
At this stage, before granting the refugee status, additional and temporary protection in the Republic of Belarus there should be a weighty reason for it.
Thus, in accordance with art. 18 of the Law of the Republic of Belarus the refugee status is granted to a foreign citizen within the territory of the Republic of Belarus who can not or unwilling under such circumstances as to become a victim of persecution in the country of one's citizenship based on race, religion, nationality, ethnic origin, membership of a particular social group or political opinion, to enjoy the protection of the country of citizenship or a stateless person within the territory of the Republic of Belarus, and who is unable or unwilling to return to the country of former habitual residence according to the circumstances mentioned above [4, c.78].
The refugee status is granted to a foreigner for a period of time during which he\she is still a citizen of his\her country.
In accordance with art. 21 of the Law mentioned, extra protection is given to a foreign citizen within the territory of the Republic of Belarus, who has no reason for being granted refugee status, but there are well-grounded concerns to face a threat of the death penalty, torture and other cruel or inhuman treatment or life hazard as a result of violence in international or non-international war conflict, and who is unable or unwilling, to take advantage of the opportunity for protection of the

country or a stateless person within the territory of the Republic of Belarus who has no reasons to be recognized as a refugee, but there still exist the above mentioned concerns and in case when a person is unable or unwilling to return to his\her own country. Additional protection is granted to a foreigner for a period of one year. In case the reasons for extra protection haven't changed, this protection can be extended for the period of one year.

In accordance with art. 24 of the Law in Belarus, temporary protection can be given to a group of foreigners, their cases can't be treated separately due to their mass arrival and hence the necessity to solve the question of their admission and stay in the Republic of Belarus for reasons foreseen for granting the refugee status or extra protection [3, c.145].

The period for granting the temporary protection is determined by the Council of Ministers of the Republic of Belarus, but cannot exceed one year.

By the end of the inspection the analyses of the given documents and other materials as well as information received from the organizations (institutions) of the Republic of Belarus is held. The resolution is done after the petition has been considered, and the suggestions for the further consideration in the Office are made.

All the materials relating to the case with the resolution are sent to the Office for Citizenship and Migration to carry out further procedures for recognizing refugee status.

The second stage of the consideration of the petition for protection takes place in the Office for Citizenship and Migration. At this stage the requirements of art. 3 on the Restrictive power of the Law are checked, in this way they check the reasons on which the refugee status, additional and temporary protection in the Republic of Belarus cannot be granted to foreigners. These reasons are the following:

- There are objective reasons to suspect that foreigners have committed a crime against peace, military crime or crime against humanity, as defined in the international regulatory documents adopted to take the measures concerning such crimes;
- There are objective reasons to suspect that they have committed a serious non-political crime not on the territory of the Republic of Belarus before crossing the border of the Republic;
- There are objective reasons to suspect that they are guilty of dids contradicting the aims and principles of the United Nations [1, c.33];
- The competent authorities of their State of permanent residence, which is not a country of their nationality, recognize the rights and obligations relating to the citizenship of that State;
- Take advantage of protection provided by the the United Nations authorities or agencies, except for the United Nations Office of the High Commissioner for Refugees.

Having considered the petition for protection the Office for Citizenship and Migration can take one of the following decisions:

- to suspend consideration of the petition for protection;
- to stop consideration of the petition for protection;
- to grant the refugee status;
- to refuse to grant refugee status and additional protection;
- to annul the decision on suspension of consideration of the petition for protection;
- to annul the decision on ceasing of consideration of the petition for protection

In the resolution there is also indicated the procedure of notification for the foreigner of the taken decision concerning him, the procedure of registration of a foreigner who has been granted the refugee status or extra protection.

Time for decision on the petition is limited by 6 months. In exceptional circumstances, consideration may be extended to a year.

In order to avoid abuse of the procedure of recognition as a refugee there is a concept in the Law such as "safe country", they define the criteria for unreasonable petitions, and petitions that have the

nature of the abuse, they reduce time for consideration of the petition using expedited procedure for granting the refugee status, as well as the deadlines for appealing the refusal of the refugee status, the consideration of the loss, refusal, cancellation of refugee status and the departure of persons who have received the appropriate refusal [5, c.221].
A petition for protection that is manifestly unreasonable, or has the nature of abuse, may be considered on an expedited basis. Time for consideration of such requests is one month.
Except this, the Law sets out the grounds and procedures for detention, loss, cancellation of refugee status and extra protection, and establishes the legal, economic and social guarantees for the protection of rights and lawful interests of foreign citizens and stateless persons who are granted the refugee status, additional or temporary protection.
Also, the Law clarifies the concept of family members of foreigners and the mechanism of family reunification, the duties of foreigners applying for refugee status, the grounds for suspension and termination of consideration of these petitions.
Thus, the existing legislation for protection of the rights of foreign citizens and stateless asylum seekers fully corresponds to the United Nations Convention of 1951 concerning the refugee status [1, c.34].

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INTERNATIONAL COOPERATION OF STATES IN COMBATING HUMAN TRAFFICKING – THE CASE OF BELARUS

Abstract
The author examines the activities of the Republic of Belarus at the international level, especially within the United Nations main bodies – the UN General Assembly, the UN Economic and Social Council and its functional commission. The article analyzes the participation of the Republic of Belarus in codification of international criminal law standards with regard to the example of the norms regulating the states' cooperation on human trafficking. It considers a number of international legal acts aimed at enhancing elaboration and codification of international criminal law standards in the relevant sphere.

Key words: human trafficking, women traffic, transnational organized crime, international cooperation of states, international organizations, the United Nations, the UN General Assembly, the UN Economic and Social Council, conventions, resolutions, Belarus efforts in combating human trafficking

Human trafficking as a complicated and many-sided social phenomenon touches upon various aspects. It is a form of modern slavery, transnational organized crime, prostitution, illegal migration, forced labour, health care, violence and sexism which commits a blatant violation of human rights- a great value of any modern society. War on human trafficking, traffic in women and children in particular is a first-priority issue on the agenda of the international community.
International cooperation on combating this phenomenon has reached a new level for the past decade as different mechanisms of cooperation between states, international and non-governmental organizations have been worked out.
This article analyses the participation of the Republic of Belarus in codification of international criminal law standards with regard to the example of the norms regulating the states' cooperation on human trafficking. It introduces a number of the country's activities in codification of international criminal law standards the relevant sphere.
At present Belarusian scientists have published a lot of scientific publications to study such a complex social phenomenon as human trafficking.
So, a legal analysis of the norms of the criminal code of the Republic of Belarus has been carried out by V.V. Marchuk [1,2], N.I. Retneva [3], V. Laevsky [4], the criminalistic aspect of crimes in the given sphere is covered by M.P. Shrub [5], the social aspect is dealt with by L.V. Yakusheva [6]. The publications by I.L. Petrik, L.N.Kalinkovich [7] are devoted to the study of international legal acts, O.I. Bahur and V.A Ananich [8] give consideration to the state-legal policy of the Republic of Belarus, and yet a lot of other questions are in need of theoretical interpretation and justification.
The human trafficking problem is burning for the Republic of Belarus, it is considered as the country of origin. Annually thousands of Belarusian citizens leave the country for obtaining education, work or seeking for better life in foreign countries. It worth saying that national

legislation is developed enough to counteract the relevant issue. The Criminal Code of the Republic of Belarus envisages criminal responsibility for offences in the field of human trafficking (art. 181) and other crimes closely related to this criminal activity. The national legislation require the companies that work in the field recruitment of citizens for employment abroad, marriage agencies to register and obtain license for such activity. Currently the law on counteraction human trafficking is in the process of elaboration.

The Republic of Belarus has ratified most of international agreements aimed at counteraction to human trafficking and elimination of the reasons facilitating the spread of this dangerous social phenomenon. The following international agreements are of special importance and in our point of view they can be classified into a number of subject- and task-oriented groups.

The first group of agreements includes documents directed at a waging struggle against human trafficking as well as transnational organized crime such as the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of December 2, 1949 [9], the UN Convention against Transnational Organized Crime of November 15, 2000 [10], including the clauses of substantive law and law of criminal procedure, supplemented by the Protocol against the Smuggling of Migrants by Land, Sea and Air [11], the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children [12].

The second group is related to the implementation of international cooperation on prevention of crime notably with proceedings in the sphere of criminal procedure which can be associated with joint cooperation with competent government bodies on investigation of crimes, collecting elements of proof, institution of criminal proceedings against offenders, implementation of justice and protection of victims and witnesses. In fact human trafficking is a challenge to law-enforcement agencies, courts, international institutions and non-governmental organizations. The process of waging a struggle against this crime cannot be carried out only in the framework of joint cooperation of governmental and non-governmental organizations at the national level, it should assume an international scale.

The third group consists of acts intended for the elimination of causes facilitating the thriving of human trafficking such as the UN Convention on the Elimination of All Forms of Discrimination Against Women of 1979 [13] and a great ballast of international legal tools in the sphere of human rights protection.

The fourth group focuses attention on a special approach to the status of children in international law especially if it concerns child trafficking as in the UN Convention on the Rights of the Child of 1989 [14], Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of May, 25, 2000 [15], Convention on the civil Aspects of International Child Abduction of October 25, 1980 [16].

The fifth group aims at elimination of forced labour including ILO Convention concerning Forced or Compulsory Labour No.29 of June 28, 1930 [17], ILO Convention concerning the Abolition of Forced Labour No. 105 of June 25, 1957 [18], ILO Convention concerning the Prohibition and immediate action for the elimination of the worst forms of child labour No. 182 of June 17, 1999 [19].

The sixth group addresses the problem of slavery and encompasses Convention to suppress the slave trade and the slavery of 25 September, 1926 [20], Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery September 7, 1956 [21].

1.1. The activity of the Republic of Belarus in codification of international criminal law standards to eliminate human trafficking

On December 9, 1998 the UN General Assembly adopted resolution 53/111 on Transnational Organized Crime [22], which established an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration, as appropriate, of international instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants, including by sea. Belarus in its turn took part in the development of the UN Convention against transnational organized crime of the year 2000 which was augmented by a number of reports; it made a range of proposals on international cooperation with the aim of forfeiture, victims' and witnesses' protection [23], extradition, mutual legal assistance, joint investigations [24], rehabilitation of victims [25].

Later, the initiative of the President of Belarus A.G. Lukashenko on waging a struggle against human trafficking presented at the UN summit in 2005 became a new impulse for the activities of the Republic of Belarus in the sphere. It was this fact that specified the active stance of Belarusian delegations in the main authorized UN bodies. In this regard Belarusian officials made a number of significant proposals at the UN General Assembly. «At the sixtieth session of the General Assembly the Belarusian delegation made a statement about the creation of global partnership against slavery and human trafficking in the XXI century under the aegis of the UNO in order to join forces of all parties interested in waging a struggle against modern slavery [Sychev 2007, 41].

To bring this idea into life Belarus took part in the development of a whole range of the UN General Assembly resolutions such as:

Resolution 61/144 (2006) "Trafficking in women and girls" [27], advocating the adoption of all possible preventive measures to eliminate demand for sex-tourism especially involving children, calling upon governments to eliminate the demand for trafficked women and girls for all forms of exploitation, to take appropriate measures to address the factors that increase vulnerability to being trafficked such as poverty, gender inequality, to criminalize all forms of trafficking in persons, recognizing its increasing occurrence for purposes of sexual exploitation and sex tourism, and to condemn and penalize all those offenders involved, urging governments to ensure that victims of trafficking are not penalized for being trafficked and that they do not suffer from revictimization, to raise public awareness of the issue of trafficking in persons, particularly in women and girls, to provide comprehensive programmes for the physical, psychological and social recovery of victims of trafficking, including job training, legal assistance, language courses and health care, to intensify collaboration with non-governmental organizations to develop and implement gender- and agesensitive programmes for effective counselling, training and reintegration into society of victims of trafficking;

Resolution 61/180 (2006) "Improving the coordination of efforts against trafficking in persons" [28] that invites UN Member-States to foster a global partnership against trafficking in persons and other contemporary forms of slavery, with a view to eliminating all contemporary forms of slavery and trafficking in persons and protecting and assisting their victims, to develop UN strategy or action plan in human trafficking prevention, prosecution of traffickers, protection and rendering assistance to victims of trafficking, to give necessary guidelines and provide training and adequate resources to law enforcement bodies and other relevant authorities to combat trafficking in persons, to care for the rights and needs of the victims and to consider establishing coordination and cooperation mechanisms at the national and international levels on extradition, mutual legal assistance, to improve and promote the collection, compilation and dissemination of statistics and

indicators on trafficking in persons, to initiate and develop working-level contacts among countries of origin, transit and destination, especially among police, prosecutors and social authorities;
Resolution 63/194 (2008) "Improving the coordination of efforts against trafficking in persons" [29] that recognized the need to continue fostering a global partnership against trafficking in persons and other contemporary forms of slavery, also the importance of comparable data disaggregated by types of trafficking in persons, sex and age, as well as of strengthening national capacity for the gathering, analysing and reporting of such data, *invited* all member states to accelerate the consideration of the advisability of a global plan of action on preventing trafficking in persons, prosecuting traffickers and protecting and assisting victims of trafficking, which would achieve the full and effective coordination of efforts against trafficking in persons of states, organizations, machineries, treaty bodies and all other partners within and outside the United Nations system, including civil society.

Belarus initiated and took an active part in the following campaigns:

a) Organization of international conferences. In particular on March 5, 2007 in New York at the UN headquarters an international conference "Trafficking in women and girls: we are solving the problem by joint efforts" was held under the guidelines of Belarusian and Philippine UN agencies, UN Office on drugs and crime and International Non-governmental Organization "Vital Voices". The conference was organized as part of the thematic informal debate of the General Assembly on gender equality and empowerment of women and coincided with the fifty-first session of the Commission on the Status of Women, which focused its attention on discrimination and violence against the girl child. Participants emphasized that anti-trafficking methods should be gender sensitive, also agreed that child trafficking and commercial sexual exploitation places children in harmful situations and violates fundamental human rights. It was highlighted that special programmes for children are in need, that it is extremely important to build protective environment for children, provide them with proper education and protect them from violence, exploitation and discrimination, including elaboration of educational courses on human trafficking in school programmes. It was stressed that common activities of all partners are vital, including international organizations, civil society, NGOs, mass media and the private sector. Participants developed the following new initiatives to combat human trafficking for sexual exploitation in the travel sector and on the Internet: (a) travel agencies sign a code against human trafficking and agree to introduce policies against sexual exploitation; (b) a virtual global task force consisting of the relevant law enforcement departments to prevent the use by sex offenders of the Internet for the sexual abuse of children [30].

b) Organization of thematic debate and interactive dialogues. The UN General Assembly Thematic Debate on Human Trafficking was held on June 3, 2008, which dealt with issues concerning enhancing multilateral cooperation in the field of preventing trafficking in persons, cross-border cooperation in protecting victims of trafficking in persons and prosecuting traffickers. As a result the participants recommended working out a Global Action plan which was in fact a global counteraction mechanism with regard to human trafficking. The plan of activities will define the exact measures for each of the state to adopt in order to eliminate the conditions which make people unprotected when they face human trafficking as well as warnings and preventive punishment of such a crime and implementation of victims' protection and assistance to all the partners.

On May 13, 2009 Belarus and a number of other countries initiated another Interactive Thematic Dialogue of the UN General Assembly on human trafficking: "Taking collective action to end human trafficking", in the course of which the representatives of the Republic of Belarus suggested that a two-level coordination system should be organized. According to this system the UN General

Assembly will be responsible for conceptual coordination and the Inter-Agency coordination group against trafficking in persons under the aegis of the UN Office on drugs and crime will take charge of practical expert cooperation [31].

On 18 – 24 of March, 2009 the UN Special Rapporteur on trafficking in persons, especially women and children of the UN Human Rights Council went on a visit to the Republic of Belarus. Having appreciated the republic's anti-human trafficking efforts the Special Rapporteur on trafficking in persons suggested strengthening the measures to reintegrate and rehabilitate the victims of human trafficking, establishing an independent institution and opening a post of a national UN Special Rapporteur on coordinating the activities aimed at combating the problem of human trafficking as well as a Special United Nations Fund to pay compensations to the victims of human trafficking [32].

On February 24, 2010 on the initiative of Belarus in the UNO in the framework of elaboration of a global plan of action against trafficking in persons a Group of Friends against human Trafficking was founded which united such countries as Bahrain, Bangladesh, Belarus, Bolivia, Ecuador, Egypt, India, Kazakhstan, Kyrgyzstan, Nicaragua, Nigeria, the Philippines, Qatar, the Russian Federation, Tajikistan, Turkmenistan, the United Arab Emirates, Uzbekistan and Venezuela [33]. The Group of Friends is an informal, voluntary and open-ended union of UN Member States created to intensify international activities on combating human trafficking with the aim of comprehensive conceptualization of the existing international system of documents and mechanisms in the given sphere, systematic and constant control of the activities of the UN system and other international organizations with regard to this crime, identification and elimination of drawbacks in regulatory and institutional mechanisms of international cooperation on combating this problem.

As the UN main body under the UN Charter, 1945 [34] aimed at giving recommendations to encourage and observe human rights and preparing draft conventions to the General Assembly within the scope of its competence the UN Economic and Social Council (ECOSOC) possesses rule-making и control functions in the sphere of combating the problem of human trafficking (art. 62). On the initiative of the Republic of Belarus the ECOSOC resolution 2008/33 "Strengthening coordination of the United Nations and other efforts in fighting trafficking in persons" [35] was adopted, which called upon governments and relevant actors from the international community to take into account the age, gender and special needs of victims of trafficking in persons in providing assistance to them, to address the economic and social factors that breed and encourage trafficking in persons as well as to provide for the physical, psychological and social recovery of victims of trafficking in persons through appropriate housing, legal, medical, psychological and material assistance, employment, educational and training opportunities, reiterated the invitation to UN member States to consider the advisability of establishing a United Nations strategy or plan of action on preventing trafficking in persons, prosecuting traffickers and protecting and assisting victims of trafficking.

It is important to refer to the activities of one of the ECOSOC functional commissions, the UN Commission on Crime Prevention and Criminal Justice. The representatives of the Republic of Belarus took an active part in elaboration of its resolutions and decisions, in particular:

- resolution 16/2 «Effective crime prevention and criminal justice responses to combat sexual exploitation of children» (2007) [36], which urged states to ensure that national legislation defines a "child" as a person under 18 years of age, for the purposes of child sexual exploitation offences; to effectively criminalize, prosecute and punish all aspects of sexual exploitation of children; to combat recidivism by promoting appropriate forms of treatment and follow-up for offenders; to extradite persons under their jurisdiction for child sexual exploitation crimes and child sex tourism, committed in other countries; to raise awareness of the child sexual exploitation problem especially through training among criminal justice officials and others; to prevent and make efforts to eliminate the use of mass media and information technologies, including the

Internet, in facilitation or commitment of child sexual exploitation offences; to strengthen the capacity of law enforcement authorities worldwide to combat sexual exploitation of children; to handle effectively and expeditiously requests for mutual legal assistance relating to crimes involving sexual exploitation of children;

- resolution 17/1 «Efforts in the fight against trafficking in persons» (2008) [37], which encouraged states to continue strengthening their national policies and their cooperation with the United Nations system to combat human trafficking;

- decision 17/1 «Strengthening crime prevention and criminal justice responses to violence against women and girls» (2008) [37], which strongly condemned all acts of violence against women and girls, women migrants and women migrant workers, whether those acts are perpetrated by the State, private persons or non-State actors, called for the elimination of all forms of gender-based violence in the family or within the general community, stressed that violence against women means any act of gender-based violence that likely or results in, physical, sexual or psychological harm or suffering to women, including the threat of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.

Taking in to account the above-stated facts the Republic of Belarus makes a significant contribution to the development of the institutional mechanism of international cooperation on fighting human trafficking by means of taking an active part in initiating resolutions and organizing various thematic dialogues on preventing human trafficking within the UN framework.

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INTERNATIONAL MIGRATION IN MOLDOVA: RISKS AND OPPORTUNITIES

Abstract: This paper analyses the situation of international migration in Republic of Moldova, in the context of the processes of the development of the labor market. International migration is a phenomenon that is expanding in virtually all the countries and is determined primarily by phenomena and processes related to the transition to the post-industrial society taking place around the world. This phenomenon should be seen as an objective phenomenon that is determined by a whole range of internal and external factors.
In terms of the current geography of international labor migration from the Republic of Moldova, there is no specific vector to this territorial mobility.
Key words: international migration, labor market, globalization

One of the most important phenomena that define the current situation on the Moldovan labor market is international labor migration. Over the last few years, this phenomenon has grown on a massive scale, becoming, along the way, one of the most widely discussed and analyzed phenomena by the media, academia and decision-makers in the country.
Moldovan official statistics estimate the extent of this phenomenon differently. Thus, Labor Force Survey for 2009 has recorded around 295,000 people who left the country in search of work, or 17.4% of older inactive people of working age[1]. Other data, National Bureau of Statistics - Labor Force Migration Study - indicates the level of 318 000 persons in second quarter of 2008[2]. Other, less official data on the scale of international labor migration range between 500 thousand and 1 million persons.
In analyzing population who left the country in search of work, is quite relevant and its distribution by age, gender and educational level. Thus in 2008 most people left were aged between 25-34 years and 35-44 years, 27.7% - 25.7% respectively. The numbers of people who left the country is dominate by men - 65.1%. Regarding the distribution of traveling persons by training levels, most of the gone people have high school and secondary education, 27.5% - 27.5% of the total of migrants, respectively. This was caused by the involvement of people usually in unskilled activities that do not require huge investments in human capital and better integration into the abroad labor markets. Also, can be noted that migration of persons in search of work from rural areas is much more intense than from urban areas, being in 2008 - 70.1% of the total number of migrants. (Table 1).

[1] http://www.statistica.md/newsview.php?l=ro&idc=168&id=2933
[2] http://www.statistica.md/public/files/publicatii_electronice/migratia/Migratia_FM.pdf

Table 1: Economically inactive population aged 15 years and over working or looking for a job abroad by age group, sex, level of education and area, year 2008

Thousand persons

	Total	**15-24 years**	**25-34 years**	**35-44 years**	**45-54 years**	**55-64 years**
Total (thousand persons)	309,7	75,9	85,8	79,6	60,1	8,4
Urban	97,1	17,7	26,1	27,9	21,7	3,7
rural	212,6	58,1	59,8	51,7	38,4	4,6
Men	201,5	55,3	59,6	47,0	34,4	5,2
Women	108,3	20,6	26,2	32,6	25,7	3,2
Higher education	29,4	5,0	10,0	5,7	6,8	1,9
Secondary specialized Education	38,4	3,3	8,0	13,4	11,9	1,7
Secondary professional Education	89,1	14,3	20,1	30,3	21,7	2,7-
Secondary school Education	85,1	22,2	25,0	21,4	15,0	1,5
Gymnasium education	66,1	30,0	22,5	8,6	4,6	0,0
Primary or no education	1,7	0	0,0	0,0	0,0	0,0

Source: National Bureau of de Statistics

Generally, international migration is a phenomenon that is expanding in virtually all the countries, regardless of the latter's degree of development, and is determined primarily by phenomena and processes related to the transition to the post-industrial society taking place around the world, such as globalization, scientific and technological progress, the new economic order, etc. Currently, the number of migrant workers around the world is close to 200 million people and growing. Therefore, this phenomenon should be seen as an objective phenomenon that is determined by a whole range of internal and external factors. Aware of the imminent expansion of migration, the governments of a number of countries, international bodies, academia and civil society are trying to develop various efficient concepts, theories, methodologies and policies to explain, measure and study this phenomenon in as comprehensive a manner as possible, as well as to implement solutions with a view to avoiding the negative implications of this phenomenon.

Thus, Peter Stalker of the IOM office in Geneva notes that of the millions of people who travel every year as tourists, business people, or as part of governmental agreements, five groups of actual migrants can be defined, and namely[3]:

- **Colonists** – people who settle in a country other than the one they were born in, to work and live there on a permanent basis.

[3] http://pstalker.com/migration/mg_how_1.htm

- **People leaving on an employment contract** – are those who migrate for a limited period of time. This category of migrant includes unskilled or low-skilled workers. It also includes seasonal workers, usually employed in agriculture, the tourism industry, etc.
- **Specialists** – people with a high degree of professional training who are trained in one country, while another country enjoys the results of that qualification. University staff and students can be included in this category.
- **Illegal migrants** – people who enter a country illegally or whose visa for that country has expired.
- **Asylum-seekers and refugees** – people who leave their countries to escape certain dangers.

All these types of migrants are characteristic features of international labor migration from the Republic of Moldova. A difficulty, as far as research is concerned, is determining both the intensity of each type of migration, and the causes that generate each of these migration types.

Although the phenomenon of international labor migration is considered a new one for Moldova, this statement is only partially true. During the era of centralized economy, the Republic of Moldova, as part of the Soviet Union, was characterized by a quite intense internal labor migration. Of the 15 soviet republics, the Republic of Moldova had the highest population density, while the economic structure was built primarily around agriculture. As a result, Moldova had an excess of labor force, which was being absorbed through national employment services, as well as by the "great socialist construction projects". Many migrant persons found work outside the republic, particularly in the northern regions of the country, in order to gain a more prestigious professional career, or a higher income. Labor migration within the Soviet Union was also determined by young people travelling for education purposes, or being conscripted into the Soviet Army outside the republic, some of whom settled in the areas where they studied or did their military service.

With the collapse of the USSR, internal migration turned into the external kind, changing its intensity and motives along the way. The emergence of borders between the republics did not limit the flows of migrant workers headed eastwards. On the contrary, they became more intense, being determined primarily by higher incomes and employment opportunities that lacked at home. The type of migration also changed. It turned from permanent into mostly temporary or seasonal. Although migration for permanent settlement still continues.

In terms of the current geography of international labor migration from the Republic of Moldova, there is no specific vector to this territorial mobility. People who leave the country in search of work are headed both westwards and eastwards. A crucial factor that facilitates and stimulates labor migration towards eastern regions, as opposed to western ones, is the migrant workers' knowledge of the language, psychology and local traditions. At the same time, Moldova's declaration of independence and liberalization of the society have determined the opening of borders with European countries. The facilitation of possibilities to travel to European countries led to the diversification of the labor migration geography, redirecting the vector of labor migration from the Republic of Moldova increasingly towards the west. Thus, according to a study performed by the State Migration Department,, of the 309,900 thousand people estimated by the study to have left the country in search of work, around 2500 are in Greece, 55 400, respectively, in Italy, 191 100 - Russia, 7900 - in Turkey, 5600 - in Portugal, 10 500 - in Ukraine (Table 2).

Table 2: Economically inactive population aged of 15 years and over, working or searching a job abroad, by destination country and sex year 2008
thousand persons

Destination country	Total	Men	Women
Greece	2,5	0	1,5
Israel	8,0	0	6,6
Italy	55,4	17,2	38,2
Portugal	5,6	4,4	0
Romania	2,1	0	0
Russia	191,1	147,5	43,6
Turkey	7,9	1,6	6,2
Ukraine	10,9	8,4	2,5
Other countries	26,3	19,0	7,3
Total	309,7	201,5	108,3

Source: National Bureau of de Statistics

Generally, contemporary international migration can be defined as a pendulum movement of the labor force between the country of residence (origin) and the country of employment (destination).The first is characterized by a lower degree of economic development, a higher share of young people and people of working age in the population total, the lack of opportunities to employ the labor force nationally, the lack of investment efforts and, consequently, of job creation. Therefore, the necessary and sufficient condition for migration to take place is the existence in a country of a quantity of "available" labor force, economic operators in another country who need labor, and the latter must be willing to travel to the location of those jobs.
These conditions are present in the Republic of Moldova. Over the 15 years of transition, the labor potential fell insignificantly, while the excess of labor has grown substantially as a result of mass lay-offs as result of the privatization process and economic crisis
The outlook for the national economy being able to absorb this excess of labor supply is not very likely. Despite this, the official unemployment rate varied around the 2% - an extremely low level for an economy in crisis. Even the 7.3% real rate of unemployment registered in 2009 does not correlate with the extent of the economic decline in the country generated by the global financial crisis. Therefore, a large share of the laid off labor, which is not registered with the employment centers, are earning a living either in the shadow economy, or by leaving the country in search of work.
The emigration of labor can take place even among people who have jobs in the country, the main economic cause of emigration being the difference between salary levels. The low salary levels in industrially underdeveloped countries determine some of the workers to immigrate to developed countries, where salaries are lower than the average salary for local workers, but higher than in their countries of origin. The economic crisis in the Republic of Moldova has caused a dramatic reduction in real wages, so much so that they are the smallest in Europe. Low wages and the lack of an outlook for their growth are also a major cause of growing international labor migration from the country. Consequently, it is not unemployment that is determining the scale of international labor migration from the Republic of Moldova, but the lack of employment opportunities that would provide workers with a decent living.
Generally, the current evolution of labor market processes is believed to be the determining factor of the international labor migration phenomenon in Moldova. Analyzing the Moldovan labor market development in recent years, can be noted a continuous reduction of the main occupational

indicators. Indeed, Labor Force Survey conducted by National Bureau of Statistics showing a reduction in the number of economically active population, the occupied population and the number unemployed. From 2001 to 2008 the number of economically active population fell from 1,616,800 to 1,302,800 persons and the number of employed and employees has been reduced respectively from 899.1 to 1499.0 thousand and 1.251 million to 850,600 people. Also can be noted that last year - in 2008 - both employment and number of employees have registered significant increases, which, unfortunately, didn't reflect the general trends in the Moldovan labor market in recent years. Thus, the tendency of reduction of main indicators of labor market persists in 2009.
It should be noted that the decrease of employment indicators reduce unemployment. The number of unemployed persons calculated in accordance with ILO methodology was reduced from 2001 to 2008 from 117 700 to 51 700 people, while the number of registered unemployed persons at employment offices at the end of the year was reduced from 27 600 to 23,200 people (Table 3).

Table 3: Basic labor market indicators – Republic of Moldova – 2001-2008
thousand persons

Indicators	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**
Total Population	3635,1	3627,8	3618,3	3607,4	3600,4	3589,9	3581,1	3567,5
Economically active population	1616,7	1615,0	1473,6	1432,5	1422,3	1357,2	1313,9	1302,8
Employed population	1499,0	1505,1	1356,5	1316,1	1318,7	1257,2	1247,2	1251
Employees	899,2	891,8	868,2	841,0	830,8	842,7	831,9	850.6
Share of employment in agriculture, hunting, forestry in total employment%	51,0	49,6	43,0	43,6	40,7	33,6	32,8	31,1
Unemployed persons according to ILO	117,7	109,9	117,1	116,5	103,7	99,9	66,7	51,7
unemployed registered with employment offices at the end of the year	27,7	24,0	19,7	21,0	21,7	25,1	18,9	23.2
Inactive Population	2022,9	2016,5	2149,5	2180,3	1963,7	2228	2263	2272
Persons declared as departed abroad for employment or in search of work	172,0	231,3	291,0	345,3	394,5	310,1	335,6	309,7
Participation rate, %	57,9	57,2	51,6	49,7	49,0	46,3	44,8	44,3
Employment rate, %	53,7	53,3	47,5	45,7	45,4	42,9	42,5	42,5
Unemployment rate according to ILO %	7,3	6,8	7,9	8,1	7,3	7,4	5,1	4,0
Registered unemployment rate %	2,2	2,1	2,0	2,0	2,0	1,9	1,4	1,8
Jobs created create, thousand	25,4	28,0	37,9	36,0	27,3	37,2	87,1	65,1

Source: National Bureau of de Statistics. Labor Force Survey
* The 2006 and 2007 years indicators can't be direct compared with those of precedent years

With the reduction in the economically active population, a continuous growth of the inactive population is being observed, most of whom are of working age, recording in 2008 the level of

2.272 million people. Labor Force Survey shows that the inactive population aged of 15 years and over in 2008 constituted 55.7% of the total population of the same age. Inactive population growth causes an increase in the ratio of economic dependency and, consequently, can cause serious problems in the country's social protection system. In 2008 the ratio of economic dependency was 18570/00. The highest values were recorded for females (19870/00), and for people from rural areas - 20330/00. Generally, contemporary labor market developments in the Republic of Moldova are defined by:

- **an excess of labor supply**, determined by a high population density compared to neighboring regions. This excess labor supply, which has been observed in the country for some time, inevitably leads to an inefficient use of labor. In this respect, any reduction in the level of employment against the background of macroeconomic growth inevitably leads to an increased efficiency of labor utilization, of social labor productivity and, as a result, to wage increases;
- **occupational structure** – traditionally, a large share of the working population of Moldova is engaged in agriculture (in 2005 the share of people employed in agriculture was around 40%), a sector that cannot support a rapid growth of labor productivity and, as a result, an increase in real incomes of the active population, while another significant share of the labor force (25.1% in 2005) is employed in the public sector, where wages are subject to the limited possibilities of the state budget;
- **imperfect functionality of the labor market** – currently, industrial relations in the country are taking place in a labor market under development. This market includes both elements and mechanisms inherited from the socialist economy, and new elements, specific for a modern market economy. This situation is causing a number of imbalances, which result on the one hand in increased unemployment and the degradation of the social protection system on the labor market, and on the other hand – in the inefficient utilization of the labor, coupled with falling labor productivity, resulting in a substantial fall in the employees' real wages. It is for this reason that a large share of the working-age population is not present on the Moldovan labor market, the main cause being low wages, as well as occasional arrears in payment. These persons prefer either migration abroad in search of a better paying job, or irregular work, which can also ensure a higher income than official jobs. Therefore, the imperfect functionality of the labor market is determined by the process of its formation. The formation of the country's labor market is a difficult and long-term process, one of the most difficult problems in this context being, on the one hand the adaptation of labor to new market conditions, changing the workers' attitude towards employment, for a modern labor market requires the participants to show a behavior specific for a competitive environment, based, first of all, on individual responsibility, a behavior that will inevitably lead to increased labor productivity and quality. On the other hand, the development of the labor market requires a restructuring of management, of company directors, who continue to use old management methods, including on the country's labor market. In other words, it all comes down to the emergence of supply and demand on the Moldovan labor market.

Other factors that stimulate the growth of international labor migration form the Republic of Moldova are demographic and cultural. Indeed, falling birth rates and the ageing of the population in a number of European countries, as well as in Russia, are causing a deficit of labor force, which is usually covered by workers coming from virtually all countries. In this context, Moldovan migrant workers are more acceptable to the destination countries, compared to ones coming from countries in Africa and Asia, primarily due to some minimum differences in culture, religion, language, behavior, values, etc. In addition, the degree of professional training and wage demands are quite acceptable for potential employers in these countries.

International labor migration as an objective phenomenon has both a positive and negative impact on the development of Moldova's labor potential.

In the conditions of a deep economic crisis with minimal employment opportunities, low incomes and a non-existent outlook for overcoming this situation, international labor migration emerges as a crucial solution for the problems of ensuring a decent living for a large share of the country's population. The money coming into the country as a result of external migration raises substantially the welfare of a significant part of the population. At the same time, by increasing consumption, it stimulates the growth of aggregate demand, providing favorable conditions for economic growth. However, the money coming into the country in the form of hard currency partially compensates the deficit in the balance of payments, thus contributing to the national currency's stability. According to some estimates, during 2008 about 1.6 billion US dollars were transferred to the country through official and unofficial channels.. In other words, the negative balance of foreign trade, which is growing continuously, is compensated by the export of labor, which can also be considered as a value similar to consumption goods or investment.

Another beneficial effect of external labor migration from Moldova is the education factor. One of the most difficult problems the country is facing in the conditions of transition is changing the economic behavior of the population, and its adjustment to new requirements, specific for a market economy. External migration contributes directly to the adjustment of the labor force to new economic conditions. People who work abroad, particularly in European countries, not only increase their welfare, but also gain new work skills and work relations specific for the conditions of a market economy, which, when applied at home, contribute to the strengthening of market relations and the shortening of the transition period.

The economic and social role of external migration is also beneficial for the "receiving" countries. This is mainly the satisfaction of additional labor demand in certain sectors of the receiving country's economy, where, due to the specific structure of production, the deficit is particularly high. These sectors are: construction and public works, catering, household services, etc., i.e. the sectors that require a large number of unskilled workers. The fact that the number of local workers employed in the above sectors is falling, while the number of migrant workers is increasing, shows that the latter are employed primarily in the sectors that the local population is shunning. A process of international division of labor is taking place as a result of economic globalization.

Among the most important negative effects of current international labor migration from Moldova are:

- extremely rapid migration of highly qualified specialists;
- growth of clandestine migration.

The international migration of highly skilled labor – a current feature of labor migration known as "brain drain" – is clearly causing the loss of intellectual capital in the countries of origin. Thus, a study carried out by Labor Force Survey showed that most people migrated from the Republic of Moldova have higher or post-secondary education (27.5% and 27.5% respectively of of the total of migrants). These people, having failed to apply their qualifications in the country for lack of attractive jobs, are leaving permanently or temporarily abroad. It is worth noting that the best are leaving. In addition to them, a high proportion of the country's young people who study in Romania, Russia, as well as in other western countries, subsequently stay on to live and work in those countries. Thus, the Republic of Moldova is gradually becoming a supplier of skilled labor for other countries to its own detriment.

In these conditions, the degradation of the country's human potential is evident, and is being caused by other phenomena, such as corruption in education, the promotion of mediocrities, lack of quality standards in the training of professional cadres, etc.

Whenever skilled workers cannot fully fulfill themselves at home and the country's economy cannot find an adequate use for them with an appropriate pay, this "loss of human capital" can be

justified. Human capital, like physical capital, depreciates, needing continuous amortization investments. In the case of labor resources, these investments take the form of various activities related to continuous training, education, and not least, the use of those workers in their respective fields of expertise. If labor is not utilized, it loses its qualification. Therefore, skilled labor emigration can also be seen as a factor maintaining its potential.

The brain drain phenomenon is becoming quite widespread in the country, being stimulated by the young people's state of mind, who no longer see their future in the Republic of Moldova. This lack of patriotism on the part of young people is not being caused just by the economic crisis in the country, but also by frequent political crises, by the authorities' indifferent attitude towards this issue, as the latter come to power primarily to solve their own personal problems, and not those of the society. The degradation of the human potential is causing imbalances that are particularly grave and damaging to the current transition, economic recovery and the country's future, therefore the authorities should not ignore the brain drain problem. The lack of measures on the part of the state with regard to the brain drain will substantially reduce the chances of overcoming the crisis.

A negative aspect of labor migration that is specific to Moldova is the de-qualification of the labor force. Usually, most people who emigrate in search of work, and who have a high degree of professional training, are employed in seasonal unskilled work. These people, after performing this kind of work for longer periods of time, lose their qualification. These kinds of cases are widespread among teachers, doctors, engineers, researchers and other professional categories that require significant investments in their training. The neglect of this phenomenon by decision-makers may lead to an intellectual crisis, which will take a much longer time to overcome, than economic recovery.

A worrying aspect related to international labor migration is the growth of illegal migration. Most people who go abroad in search of work usually leave illegally on tourist visas. By taking up employment, these people add to the dual labor market of the receiving country, thus stimulating the development of the shadow sector in these countries, sometimes of the criminal sector as well, which is usually related to trafficking in human beings. Clandestine migration is not just a problem for the receiving countries, but for our authorities too, which have the duty to protect their citizens not just at home, but abroad as well. In addition to the expansion of the shadow sector, clandestine migration also generates certain tensions on the labor market, as migrant workers, by agreeing to work for wages below the market rates, a taking the jobs of local workers. Social risks, as well as ones related to the loss of working capacity, assumed by illegal migrants are very high, while their avoidance is often uncertain. Generally speaking, for purposes of explaining the causes of international labor migration, the latter can be viewed from two points: from the standpoint of the individual (individual approach), and from the point of view of migrants seen as a social category (structural approach).

The individual approach treats each migrant as an individual with a rational behavior, who evaluates possible employment opportunities at home and abroad, and chooses the optimal combination – wage levels, taxes, employment perspectives and professional fulfillment, transportation costs, etc. This is the "human capital" approach, as every decision made by the individual to emigrate can be seen as an investment in human capital. In taking that decision, the individual compares, on the one hand, the costs, both material and moral, that he is incurring over a short period of time (the size of the investment) in the process of migration, and on the other hand – the earnings he might gain as a result of that migration over a longer period of time (wage differences, increased welfare, moral satisfaction, professional achievement, etc.).

Investment costs associated with migration include both travel-related costs (visa for the country the individual is leaving for, travel expenses, stresses associated with the movement, etc.), and "foregone income", i.e. the amount of money the individual would have earned from the initial job over the period of transition from the job in his country of origin to the job in the receiving country.

The net advantage represents the difference between the earnings, both material and moral, from the current job in the country of origin, and future earnings from the job in the receiving country. Note that in the process of comparing future earnings with current costs, the present value of future earnings is calculated using the discounting method. It is for this reason that a decision in favor of labor migration will be taken only if the difference between current earnings and future ones, as well as the departure period, are quite large (chart 1).

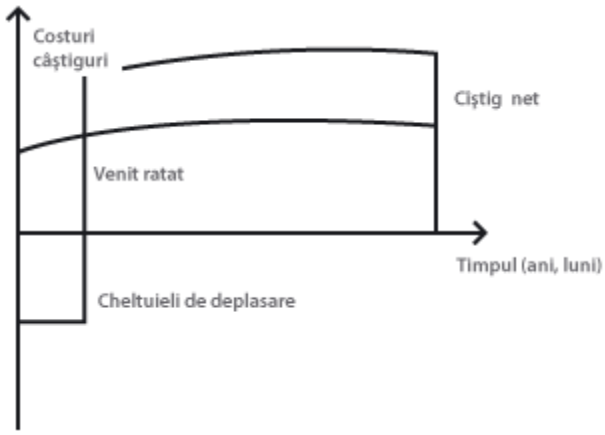

Chart 1: The migration decision seen through the "human capital theory"

The structural approach sees the migrants' fait as being ultimately determined by the circumstances they are facing. People migrate within the framework of certain social, economic and political structures that affect their lives. The structural explanation includes the population that is constrained in terms of certain freedoms for example, or lacking jobs.

One of the most relevant examples of the fusion between the two approaches can be illustrated using network migration – whereby previous migrants help the ones who follow them search and find jobs. These networks often start form an individual choice. When the individual is successful, this encourages migration. Similar examples can be observed in virtually all of the country's communities, which "specialize" in certain countries. Whenever a person, more courageous and ambitious, has been successful in finding a job abroad, they are accompanied by people from the native village on subsequent departures.

Thus, we can say that international labor migration is neither a positive phenomenon, nor a negative one. It is a natural phenomenon, determined by the process of economic globalization, which is taking on ever greater proportions of late. The phenomenon of international labor migration is becoming increasingly widespread. Virtually every country with a market economy is facing this phenomenon. Many of them have benefited from it many years later. For example, most foreign investment in China is currently being made by the Chinese Diaspora, which had emigrated many years ago.

Therefore, the issue of international labor migration should be the focus of current labor employment policy. International labor migration should be neither stopped, nor encouraged. It should be managed efficiently, so as to minimize possible risks, and utilize human potential as efficiently as possible, and continuously develop it.

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FORMS OF ILLEGAL MIGRATION: MECHANISMS AND CONSEQUENCES

1. Introduction

Migration is one of the basic demographic phenomena of the contemporary age. The migration phenomenon got to a large scale in the republic of Moldova as well as in other countries. Dealing with present conditions of migration and economic globalization, Moldovan migrants are more and more trained in the international flows. Generally speaking, the international migration, as well as the regional (European) one represents a phenomenon reflecting capital movements. That is the reason for the disadvantages of the migrants' area of origin. The economically steady zones are capital masters that polarize migration. This is the main fact to be realized when new establishment areas appear for the migrants coming from developed regions to developing regions or states, as Asia, Near East or even the north of Africa.
Migrants, as part of the emigrational process, are receptive and feel the socio-economical changes, even for a short period of time. Moldovan migrants got actively framed in the international flows, especially after the state independence was obtained and the borders became transparent. Whatever the existent barriers are, the migrants get used rather quickly to the severe requirements of their displacements. The limits and proportion of the illegal migration serve as proofs, while the authorities proved to be incapable to control and manage the illegal migration.

2. Moldavians' Migration and global economic crisis.

There were ideas according to which the Republic of Moldova would never be affected by the global economic crisis. Those groundless affirmations had no credibility at the socio-economical organizational level. Such ideas were launched during the period of 1996, when the national currency suffered a big depreciation reported to the international reference currency.
Moldavians' migration in report to the global economic crisis and possible estimations of returning home treated by mass-media remain just to be estimated but not possible as tendency and reality. Migrants acknowledge perfectly their opportunities and the difference between the national conditions and the ones from the host country.

First, in spite of the fact that there is a risk of having no place to work, most of the migrants rely on the socio-economical stability in the EU states. This is a fact that would hardly make any of the migrants think to return home, even if their wages could be reduced. More than that, the fact that our migrants would definitely accept low paid jobs in comparison with native workers from developed countries stresses and minimizes the little chance for return.
Not to remain unnoticed is the fact that the request for services provided by our fellow countrymen will remain at a high level even in the period of crisis, which makes Moldovan migrants to continue

their stay in those countries. As long as the remuneration for qualified work in their native country will continue to be ten times lower than it is abroad migrants' home return is almost impossible.
Migrants admit the fact that their return home and finding of a new job is a big risk, much bigger than to remain in the conditions which they have already got used to. Especially there where the employer offers food and accommodation, the migrant will not feel the pay rise for accommodation (available for those who do household work and/or take care of old people, or even those who work in building domain
A recent survey on the Migration and Remittances from December, 18th 2008 of IMO confirms the fact that Moldovan migrants will not return home, even if their present wages become 20 – 30 % lower (starting from 1500 to 1000 euro or from 800 to 500 euro). Even in such conditions the migrants appreciates the fact that there are more opportunities in comparison to the ones in their native country. And those who will return home will not have real chances to obtain a bigger salary than the average one.

Secondly, there is such an idea that migrants send money home helping in these way those who remained home to survive. These are undoubtedly true, but let us see the reverse part of the process. Migration offered us the chance to support the economical crisis in the transitional period just for a short time. According to the studies made on this topic, migrants send money home during the first five years of their emigrational period of living, then they remain reserved and try to arrange their lives and reunify their families. What would be the difference between possessing an apartment in the centre of Chisinau and one in the suburbs of Milan? And what are the opportunities for the migrants and their children?!
The idea that money arrive in the country is a utopist one. This is because the majority of migrants as well as their relatives prefer goods of import and this makes us be out of the financial capital earned so hard. Accepting more goods of quality we lose financial capital. More, most of the migrants are simply shocked by the report population incomes – prices. And their affirmations become more convincing when speaking about prime necessity goods.

Thirdly, migrants possessing a capital remain reserved not willing to invest in the national areas and this is evidently seen by the developing rhythm as well as by the lack of stable conditions for such an adventure.
Of course the government created new jobs, but it cannot be denied that in the same time many places of work have been closed. More than that, many jobs do not offer at least an average salary level. The places of work do not seem to be quite attractive as well.
Only those who work in ISC can come home, and still partially, because the salaries in the Russian Federation are bigger than in the Republic of Moldova. The crisis will determine employers to retain salaries (a widely spread form in the ISC within Moldovan migrants), or the first symptoms of big buildings closure in Russia are being felt, still considering the fact that it is a seasonal effect. To be noted that oil and gas price reduction on the world market will worsen the Russian financial situation. This will inevitably pass on Moldovan working migrants.
The population of Moldova, especially from the northern regions and from villages makes use of seasonal advantage to migrate to ISC states, where Russia is on the top of the attractiveness list. The ISC migrants are attested to be of the highest poverty level having a temporary stay in the host country. Migrants' return from the EU and ISC (Russia) is real, but only conditioned by the health or family problems or an unsuccessful migration. This constitutes only 10 -15 % out of the total demographical estimations.
It is necessary and even dangerous if immigration is not kept under control. Researches denote that capital arrivals are parallel to immigration favoring, which has long-term effects of political, social and economical depth. On the excessive emigration background the emigrational process is almost unfelt during the modern period. There is no positive economic effect when stating the fact that there are capital arrivals together with foreign workers employment on the national territory.

Illegal migration is a term proper for the contemporary period; it is a notion that is to be mentioned in terms of its large proportions. This type of migration is a well-studied phenomenon that not only Moldova, but many other countries confront with. It appeared recently, some 8-10 years ago. This term appeared initially being known as clandestine migration that resulted from the emigrational politics and big income differences among people. To be an illegal migrant means to be the person that came to another country making use of fraudulent, illegal ways; person that did not receive any legal formal residence grant or that has already expired. If the term of the residence permission expires, its owner is to be considered illegal immigrant.
The notion „illegal" means the presence of a migrant out of state laws framework, the person being considered as delinquent. Thus, illegal migrants can be considered those people who have their visa expired, people with no right to work or with no identity documents. The notion ‚clandestine migration' is being used when meaning that a migrant has arrived in a country without appealing to legal control customs services.
Illegal migration represents actually a „chain reaction" – information about work opportunities and arrival there is being found out from friends or relatives who work already abroad. As a result thousands of emigrants got a work to other countries. This „chain" emigrational character is especially felt and stressed out in villages where every departure or arrival of a resident is being known. Someone's arrival can mean the consequent departure of some more villagers. More, the illegal migration achieved a high organizational level not only in the native countries, but in the host countries as well. As a rule, all the illegal migrants communicate between themselves during week-ends. At noon they meet each other in big cities' parks. There the person who is to leave the country sells his place of work to another fresh migrant. This is the easiest way to find a job in the conditions of illegal migration and it is an opinion exchange between illegal migrants. In this way they also can find or change their accommodation, then as a rule they start some protection measures to be undertaken in order to legalize their future stay in the host country.

3. Stages of illegal migration.
Usually the illegal migration has a temporary goal to be achieved, but in practice it has been proven that it passes into long-term migration and finally turns to be for good. And this is realized together with the legalization of the residence in that country. Achievement of final migration is realized in three stages:

- first illegal migration – considered to be the most difficult implying psychological problems of adaptation to new social, economical conditions, communications barriers, having the goal to earn money for the existence and return home.
- second illegal migration brings into the migrants' consciousness a big level of psychological discomfort when returning home, thus the chance of a final emigration is starting to be considered.
- Third illegal migration starts together with the search for a legal permission for residence.

Even if it may seem exaggerated, the statistic data from villages' mayors confirm the figures. Thus, in Carpineni has been announced that 1500 of its inhabitants work in Italy. If initially the illegal migration dealt with just one member of a family, then at present it implies all the family. 2000 people together with their family members left Corjeuți village. 2000 legal residents of Gura-Galbenă village, which has a population of 7800 inhabitants, are considered illegal migrants abroad. Out of them 80% work in Israel, others are in Portugal, Italy, Cyprus. Obviously these figures constitute the working population of 20 – 45 years old. Out of 5033 inhabitants in Scoreni village 1500 activate illegally abroad. The villagers view their rural living to be almost absurd, being

somehow forced to migrate and fight for the living, they lost their interest already for things that happen within the country, and they became passive observers.
Illegal migration became more intense especially in the southern areas. Approximately 1000 inhabitants left from such big villages as Congaz, Tomai. In the year 2000 there were 6000 people who emigrated illegally from Comrat, most of them being women. Nowadays there is no person who does not have at least one relative living and working abroad. The economic crisis banishes rural citizens out of the country, and the general attitude towards those who left is a positive one.
Thus, by means of illegal migration the value of other territories is being emphasized, while the proper territories remain braked. In the same time the values acquired after illegal migration do not certify the price and efforts implied by this category of people. The rural has changed through illegal migration. According to primary sources from every rural area 50-100 people from every location activate abroad. In some villages there are more than half of its inhabitants left. A big part of those remained home do not even hide the fact that they want to get rid of poverty having the strong intention to leave abroad as well. The majority of the population is still naive thinking that they would reach their goal by migration. Most of the young people have the feeling that migrating people have better chances in comparison to those who remained home; they do not see the risk to which migrants are exposed: health or even life endangering.
Leaving abroad is seen as the only escape. The possibilities to earn much money, to find a better job and travel around the world are just some of the advantages considered by the young generation. Still, they are proper especially for men, whereas women might consider the possibility of forming a family in the host country. That is why if men view a possibility for their return home in order to make a business, then women are rarely thinking of return, may be just 3-4 from 10.
Women might return home only if their migration did not succeed or it failed. As a rule these are the women who endured the consequences of trafficking or of a moral-psychological maltreatment or economic failure. The problem of this category of population returning home is supported by the whole family as well as by the whole society. Illegal migration is a real problem not only for the citizen, but for the whole society and it is reflected in the attitude of European countries towards our republic.

4. Illegal migration directions

Illegal migration presents a directed character and it considers:

− ***EEC states***, especially Italy, where more than 200 thousand of our citizens work. There are 7 thousand of people working in Portugal; in this way Moldova being on the third place after the Ukraine and Brazil what concerns migrants' country of origin. Still, migration within EEC states is being alleviated. Here are some data: in 2000 there were repatriated about 400 people from Germany, 317 people from Greece, 232 people from Italy, 44 people from ex-Yugoslavia. Population trafficking reached a mass character where people uninformed about trafficking danger become victims. Annually on average 200 women dead bodies are brought only from Turkey, the only cause of death being rendered as car traffic accidents. Only in the years 2000-2001 there died 124 people on the territories of Europe: Italy, Greece, Portugal, and Russia. The director of the American Program for fight against women trafficking saved 165 girls from being trafficked just in a year. Every year with the support of the World Organization for Migration (WOM) over 300 people were returned home.

− ***Balkan states***, states of ex-Yugoslavia, Albania, Turkey. Balkan states are on the top of illegal migration list, as they attract 6500 people every year. Most of the people have been arrested in Turkey and repatriated to Moldova; only in 2000 almost 6610 people were repatriated. In these countries illegal migration is well-organized with the help of smuggling ring.

− ***ISC states*** - (Russia), the wave of illegal emigration to ISC states reached vast proportions. According to "Logoss Press" (1999 N 35) dates, only in the regions round Moscow there are 200 thousand people working in different domains in rural and urban locations. Taking into account a local newspaper article, 80% of the working class of "ZIL" car factory in Moscow is formed of Moldavians, most of them coming from rural northern villages from Bălți, Soroca, Edineț. They accept the lowest wages. Illegal migration in ISC covers the whole territory of Moldova.

Illegal migration issues are not only of numerical, but of geo-demographical order as well. It implies especially women. There are more than 34 phantom companies, which employ people to work illegally abroad. Women of 15-30 years old constitute their target so-called employees. Other local data confirmed that annually over 10 thousand girls have been recruited from rural areas.

What concerns the Republic of Moldova, its geographical location and its special relations formed with Romania after 1989, this allowed its rural population to benefit somehow from all the exit possibilities going to Europe. Of course the same possibilities were used buy traffickers as well. They organized traveling to Shengen areas without obtaining a visa, which was certified in local newspapers. Lack of information in rural areas, unemployment, poor wages, thousands of young people without a job and the reduced possibility to get it, improper education – these are just a few of the problems that impose especially young women to accept going to work abroad, most of the time times this being done illegally.

5. Illegal migration demo space aspect.

Illegal migration affected especially the population after the country gained its independence. It is a form of migration that proved to be very intense in a country with a high level of poverty in conditions of economic crisis and restructuring, transition from planned economy to market economy. The country, being on the step of its affirmation on the international level, was absolutely unprepared to keep under control this difficult form of migration that undertook characteristics of mass migration.

The census demonstrated the fact that there is a very intense population number reduction. This appeared not only because of lack of information coming from the right bank of Nistru River, but because of last hour evolution of demographic processes.

According to the Census data the population declared as gone to work abroad constitutes 7,7 % of the total population, that is 259, 5 thousand people. I still consider that these figures do not reflect the real number of the population that left. Data presented by the international organizations serve as arguments. They confirm that a much bigger number of people work abroad.

Based on this data for the first in the country we can accomplish scientific approaches on the territorial ongoing legitimating of illegal migration. This kind of migration covers territories of the whole country including rural and urban backgrounds. It is more specific for the rural population, being explained by the population domination in number in comparison to the urban inhabitants; the share is within the young people who inherited the lack of inputs in a period of economic transition. Another reason is that the rural population lives in very disadvantageous socio-economical conditions. See annex N1.

Scientists and academic people preoccupied with illegal migration are quite reserved in illegal migration problems. They consider that census data are often underestimated, the real figure being 3-4 times bigger. What I want actually to mention is that these data are just general and preliminary, most of the scientists waiting for true data to continue a deep scientific study.

Illegal migration divergences are visible as it is impossible to know for sure if a person works illegally in the western or eastern part (Russia) and for how long he/she has been on that territory. There are divergences in the concept of illegal migration, as a person can easily become from an

illegal resident into a legal one and vice versa. The authorities cannot determine the true dimensions of this phenomenon as many people who had gone abroad illegally legalized their stay after a while. What I want to stress out is that their economical activity still remains to be illegal for bigger periods of time.
The real figure denoting people working abroad constitutes thousands of people for every administrative territorial unit.
We want to stress out that unlawfulness is being preferred among the young population. Unfortunately the census does not reveal the place of origin for those who work abroad illegally, which is important for the scientific case study.
According to the preliminary data the average of the people gone abroad constitutes 7, 66% of the total population. Based in the data presented in the table we can determine the territorial differences between the administrative units. The average is represented at a national level in the country, but the territorial analysis reflects the whole process through the socio-economical and socio-demographical factors. Cimişlia district represents the leader administrative unit concerning the population working abroad - 12, 54%, while the minimum share is found in Chişinău. 8 administrative units out of 35 from the republic of Moldova (that is 25 % of all the administrative units) exceed with 10 % out of the total number of the population present on the territory. 11 a units exceed the country average and constitute from 7,67 to 9,99 %, that is 31 % of the total number of administrative units. 16 administrative units present the migrant population share below the country average.
The basic lawfulness if illegal migration certifies the fact that the population from the suburbs of the national territory is predominantly predisposed to unlawfulness. There is a set of reason for this preference. The basic factor is of economic order – lack of job.
There is another principle being on the stage of its formation according to which the share of the population from the suburbs of country's big urban units is lower. Such northern districts as Râşcani, Edineţ, Donduşeni also represent a reduced share. An explanation for this phenomenon could be the high density of the population concentrated in the central and southern regions, thus the reduced possibilities of finding a job. (See annex 2)

6. Illegal migrant population demographic structure

Illegality represents a priority for the young population. Because of information lack we cannot make a deep analysis based in true data depending on the age of the population. According to the census data we can confirm that illegality is predominant among male population of the republic of Moldova. Still females have the priority, especially in the states of the Western part, Europe, whereas in the eastern part, (Russia) men detain the priority. Calaraşi şi Dubăsari are the only exception from this rule, as there females already form 60% out of the total population (See annex 3).
From the data presented in the table we can deduce the numerical predominance of the population working illegally abroad. 89,4 % of people out of the total number of the working class, or 9 out of 10 have a strictly determined aim to fulfill the economic activity. The country average is overcome by 26 administrative units out of 35. The biggest share of the people gone to work abroad is expressed by the mostly disadvantaged district units like Calaraşi, Ştefan-Vodă, Şoldăneşti, Drochia. The smallest share is specific for the population of Chisinau.
The second crisis declared by the people is expressed by studies. A remark is needed to be stated here. The majority of those gone abroad left the country officially with legal documents available for the period of studies, this being reflected by the empowered authorities of the country. It is important to be mentioned that information duplication censor cannot be avoided here.

The country average of the people gone abroad to studies constitutes 6,3%. Dubasari district is the leader in this sense exceeding 16%, and Chişinău with 12,5.
As a conclusion to the facts mentioned above it is important to say that these data confirm for the first time the presence of a mass phenomenon among the population of the country. It is obvious the presence of the strictly determined aim of illegal migrants together with the economical activity. According to these declarations we can surely appreciate that unlawfulness is a form of migration of the population with perfect demographical characteristics that have been deduced, assumed multiple times by the specialists and later confirmed by the census itself.

7. Case study of the illegal migration

In order to appreciate the family migration phenomenon in the Republic of Moldova, as well as to see the stages of illegal migration, we have undertaken a study in two schools from Chişinău, and a rural locality from Moldova. Realizing this study we set as objects the following:

- Confirming the presence of the emigrational phenomenon among families, stages of migration, where initially one of the parents migrate, being then followed by the other parent and the whole family;
- To follow the dynamics of children migration who follow their parents in order to appreciate the right dimensions of this type of migration, identifying and having in sight the peak of this phenomenon;
- Correlation of the official statistics with the results of the proper study;

State	Numbar of the childrens												
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
1. Italia	1	1	1	3	6	12	16	13	10	14	28	26	132
2. România	1	2	3	1	7	3	1	4	1	1	4	1	29
3. Rusia	1	1	4	5	5	2	3	5		4		1	31
4. Ucraina		1		1				3		1			6
5. Grecia	1	1								1			3
6. Portugalia		1			3	1	1	2	1	2	3		15
7. Spania		1				1	2				1	1	6
8. Germania	1				2	1		1				1	6
9. Franţa	1									1	2	1	5
10. Irlanda										3			3
11. Canada		1		2		1		2		6	7	4	22
12. Slovenia										1			1
13. Turcia			1			1					2		4
14. Suedia												1	1
15. Armenia						2							2
16. Lituania							2						2
17. SUA		1	1		1		4		2			2	11
18. Austria									2				2
19. Olanda								1					1
20. Estonia	1												1
21. Cehia												1	1
22. Macedonia												1	1
23. Cipru									1				1
24. Finlanda					1								1
Nu s-a fixat destinaţia	5	3			3		6	4	5		4		30
Total	12	13	10	12	28	24	33	35	22	34	51	40	325

- Confirming the presence of certain types of migration affirmed recently in the republic of Moldova and mainly: chain migration, primary and secondary migration, lead migration, circular migration etc.;
- Development of some conclusions and recommendations based on the study results.

The research results obtained in two high schools „Mihail Sadoveanu" and „Ştefan cel Mare" from Chisinau generalized in table nr. 1 allowed us to draw some conclusions:

Table 1: Destination of children's migration from „Mihail Sadoveanu" and „Ştefan cel Mare" high schools in Chişinău

Source: Mobility evidence of children from „Mihail Sadoveanu" and „Ştefan cel Mare" high schools in Chişinău

- Children migration together with their parents in the last 10 years got larger, which proved our guesses that after 3-5 years of being legally or semi legally abroad, parents will tend to reunite their families; thus the migration tends to be for good;

During the analyzed period 17, 2 % and 20,5 % of the children studying at each of the researched high school migrated in 2009; that is 1,7% and 2,1% per year;

- Parents together with their children migrated to 24 states. Most of the families prefer countries having big Moldovan Diasporas: Italy, the Russian Federation, Romania, Canada etc.;
- In comparison to the last years when there was a tendency of migration to ISC states, at present the migration vector is being directed to West (especially to states of Latin origin, where our fellows integrate much quicker), both at the levels of the workforce and family. There are cases of migration to some countries considered for us to be exotic, migration in this case being just occasional. What concerns the emigrational process from Pituşca village from Călăraşi district, the situation seems to be quite typical for rural territories. Every 5th villager works abroad; 4,1 % of the total number of families migrated, even though the majority of them remain to be registered in the village (fig. 1)

The current evidence of the population shows us that only 11,8 % out of the total number of villagers is gone to work abroad; the census data reveal a proportion that is even smaller of only 4,8%. The realized study emphasized additional 7, 1% of the population left from the village, which denotes the very approximate evidence realized by the authorities. In our opinion this data dropping should be omitted, as the social, economical and regional politics cannot render the expected effects without a precise database. The biggest part of the population works abroad in Italy (47, 89 %), the Russian Federation (16, 7%), Portugal (7,04%) and Romania (4,63%).

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THE MOLDAVIAN LABOUR MIGRANTS ABROAD: RETURNING AND REINTEGRATION PROBLEMS (ON THE EXAMPLE OF ITALY)

Research methodology

Within the project «European Commission Aeneas Programme BrainNet-working Project» in October, 2008 – February, 2009 we have been conducted qualitative sociological research on problems of labor migration of the Moldavian population in the countries of the European Union. In Italy we've asked 54 respondents (41 woman and 13 men). Among interrogated were widely presented inhabitants of the city and countryside, representatives of various age, education, which are legally / illegally, long / short-term in the reception country. Among respondents are available both operating labor migrants, and the former migrants who come back to Moldova last two years and have found in business, political activity.

In interview took part Moldavian participants of the project, teachers and professors of political science of the Moldavian State University and Master students of mass-media Center of Free Independent University of Moldova. Interviewing was held in Republic Moldova and Italy. Qualitative sociological research included also interviewing of experts on problems of the Moldavian labor migration. During field research we had been carried out interview with 12 experts. From them 8 – live in Republic Moldova, 3 - in Italy. As experts, representatives of Moldavian state structures involved to some extent in carrying out migratory policy of Republic Moldova have been chosen. Among experts there were representatives of a civil society: church representatives, academic community, trade unions, the Moldavian national-cultural societies etc.

The purpose of the conducted research was finding out the attitude of Moldavian labor migrants to returning and reintegration problems in Republic Moldova, definition of principal causes and factors interfering these processes.

Why Italy?

Italy is of special interest for the Moldavian labor migrants. It is the country - "dream" for the Moldavian population, dreaming to leave on earnings abroad. On number of the Moldavian labor migrants it concedes only Russia.

First, it is the country of the European Union, in which standard of living and sizes of a salary considerably above, than in Republic Moldova. Besides, owing to development of tourism, agriculture and services, in Italy there are quite good possibilities for employment of labor migrants. Italy along with Portugal, Spain, Greece is included into group of the Mediterranean countries with a high share of informal sector of economy. Modern Italy is the country making and in many respects made transition to postindustrial economy and social development. In it the labor occupied on leaving and the maintenance of children, sick and aged people is widely claimed.

R.29. «The choice of Italy as the country of labor migration wasn't casual. I already said that there my mum lives and works. As well as my other relatives. I knew that the country is included into EU, very developed. Earnings much bigger than in Moldova. There are more workplaces».

Secondly, the Italian language is included into group of Romance languages. It facilitates for the Moldavians who's language is included also into this group, mastering process by the Italian

language. In our opinion, the Italian language is closest to the Moldavian (Romanian) language. As practice of mastering language by the Moldavian citizens in Spain, Italy, Portugal shows, for example, unlike Ukrainians and Russians, Moldavians much easier master host country language, without visiting special linguistic courses.
Therefore, when in the middle ‘ 90th years of the XX-th century the first Moldavian labor migrants began to master Italy, in the conditions of migration in full uncertainty, without possessing the adjusted and functioning migratory networks, it was the essential factor.
The expert 7: «the Moldavians working in Italy, in this respect consult very well, due to the fact that Italian language is language of Romance group, it is very similar to the Romanian language. It is doubtless plus for Moldavians. If to study language independently, using the textbook or the dictionary language studying can proceed two months. If to come into contact to local population and to communicate in the street or at work process of mastering language will be much shorter, about one month ».
Thirdly, the Italian choice of the Moldavian labor migrants has been caused to no small degree dur to such circumstance as: Italy is one of the closest countries of the European Union in the respect of distance. Distance to Rome is almost equal to distance to Moscow. Moreover, movement to Italy was carried out basically on two transport corridors: Balkanian and Romania-Hungary-Austrian. ‘90th years of the XX-th century were gold time for reception of tourist visas in Europe. Process of formation of the national states on the Balkans, the post-Yugoslavian space didn't interfere with legal and illegal migratory processes to Italy. Besides, the visa-free regime with Romania created additional favorable possibilities for successful realization of migratory plans, movements on the Balkan corridor.
Fourthly, Italy is the country with old migratory traditions and high level of emigration of the population in other countries. Owing to it in consciousness of Italians the tolerant relation to migrants has strongly taken roots. Owing to specificity of a migratory situation, a situation on a labor market and dominating tolerant public opinion in the country, the Italian authorities carried out liberal immigration policy. Though last years, under the influence of huge flow of immigrants to Italy and uncivilized behavior of a part from them, first of all citizens of Romania, the government began to toughen the migratory policy, to strengthen it restrictive character.
Fifthly, in the beginning of XXI-st century in Italy there was branched out a migratory network presented by relatives, friends, fellows villager of visitors on earnings of the Moldavian labor migrants which assisted in job search, promoted processes of social adaptation and integration into the Spanish society. It promoted increase of value of Italy in quality "attractor" of Moldavian labor migrants.

Moldavians in Italy: a socially-demographic portrait
Mass labor migration of the Moldavian population to Italy originates in the end ’ 90th years XX centuries. The reasons of it are covered in an economic crisis of 1998-1999, a high rate of unemployment and poverty of the population (in 1999 80,9 % of the population in small cities, 76,9 % in villages and 50,4 % in big cities lived below the poverty line).
It was promoted also that by2001 citizens of Romania had an opportunity visa-free movement within the limits of the European Union. The Moldavian citizens, using the facilitated procedure of reception of the Romanian citizenship concerning natives of Bessarabia and Bukovina, quickly began to make out citizenship of Romania.
Let's note as well acceptance by Italy in 2002 of the law of Bossi-Fini which has resolved migratory amnesty and has begun mass legalization of labor migrants.

Table 1: Dynamics of number of legal Moldavian labor migrants in Italy (2001-2007, according to Caritas)

year	***total***	***% women***
2001	4.356	...
2002	6.861	71,9
2003	36.361	71,0
2004	37.971	69,0
2005	47.632	66,0
2006	55.803	65,1
2007	68.591	66,4

According to the Ministry of Internal Affairs of Italy for January, 1st, 2008, 72.399 Moldavian citizenship residence permit, from which more than 70 percent (70,2 %) women. For December, 31st, 2009 official permissions (legalization) to residing at Italy had 109 thousand Moldavian citizens (for comparison: for December, 31st, 2008 – 88.717 persons, for December, 31st, 2007 – 68.591 persons).

We believe that the aggregate number of the Moldavian labor migrants in Italy is more. Children till 14 years, aren't considered among legal migrants because they are brought in resolving documents of the parents who have received the legal status of stay in Italy. It is necessary to consider also that the certain part of Moldavians possesses a dual citizenship (Moldo-Romanian and Moldo-Bulgarian), has legally arrived, live and work in Italy under the Romanian or Bulgarian passports of the countries of the European Union. Besides, we will underline that the considerable part of the Moldavian labor migrants are in Italy illegally. From here, by expert estimations, the aggregate number of the Moldavian labor migrants makes 100-130 thousand persons.

The expert 5: «According to the official data of the Italian government in territory of Italy legally is 132 thousand Moldavian citizens. This figure has been named by the Minister of Foreign Affairs of Italy Massimo d'Alema during his visit to Chisinau in January of this year. The embassy operates with other figure. Under our data the number of the Moldavian citizens who are in Italy makes about 200 thousand persons. Italy takes the second place on number of the Moldavian migrants, diasporas. The majority of them have arrived to the country illegally. We are grateful to the government of Italy that the number of the Moldavian citizens to which manages to be legalized in this country from year to year grows. If in 2006 it has been given 5 thousand workplaces for the Moldavian citizens, under the decree Flussi-2007 of year their share has grown to 6.500. On these workplaces have presented statements of 38 thousand Moldavians. Thus, we leave to our statistical data – 132 thousand plus others of 38 thousand ».

Women make all 2/3 of legalized Moldavian labor migrants. It testifies that process of reunion of families yet hasn't had wide development among the Moldavian migrants in Italy. While in other ethnic groups of migrants there is a gradual normalization of demographic structure: women make 50,4 % of all migrants.

Comparing territorial placing of the Moldavian labor migrants and migrants from other ethnic groups, it is possible to draw a conclusion that Moldavians in Italy are placed more non-uniformly: in the northeast - 51,5 % (others – 26,9 %), in the northwest – 23,6 % (35,6 %), in the center – 21 % (25,0 %), in the south – 3,6 % (8,9 %), on islands – 0,4 % (3,6 %). Among the most attractive areas are allocated Emilija-Romanja (18,7 %), Lombardy (14,2 %), Latium (10,6 %), Piedmont (8,2 %) Venice (28,3 %).

The diagram 1: Territorial placing of the Moldavian legal labor migrants in Italy.

Among the Italian citizens the number of Moldavians is a little. During 2003-2007 the Italian citizenship was received by 879 persons. The major part(878 persons have received by a marriage: Moldavians(women) have married the Italian(men). Examples of a marriage of the Moldavian citizen(man) with the Italian(woman) has not been fixed). At the same time during the conducted research we have faced such case.

R.39. «There was one friend who married the Italian. So throughout a year people from different social services came to him with check. Wishing to be convinced that marriage is not fictitious. Checked how many tooth-brushes in a bathroom, whether there are joint photos, whether the bedroom is common and so on. There were talks concerning, whether they are going to get children, whether everything is normal, whether they are going to get divorced. In general fictitious marriages in the country are extended. There is even a private price – the Italian takes from ten thousand euro till how they will bargain ».

One citizen of Moldova has obtained the Italian citizenship owing to naturalization. The difference of this channel of reception of the Italian citizenship speaks aboutis necessity to live legally 10 years in Italy.

Data about births of children among the Moldavian migrants allows to understand a condition of integration processes more deeply. According to the data of the Ministry of Internal Affairs of Italy

in 2001-2006 the birth of 2.043 children at which parents are citizens of Republic Moldova has been registered.

Table 2: Dynamics of birth of children who's parents are citizens of Republic Moldova (2001-2006)

year	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*total*
Nr. of children	55	69	135	467	603	714	2.043

It is necessary to underline that it doesn't mean at all that these children born in the territory of Italy, are citizens of Italy on a birth. The Italian law on citizenship (item 1, the law №91/1992) starts with «a blood principle» (jus sanguinis). The citizen of Italy on a birth is only that person who's at least one of parents is the citizen of Italy. The person born on Italian territory, obtains the Italian citizenship if lived in the country legally, without interruption, and within a year on reaching majority declares the desire to obtain the Italian citizenship (item 2, the law №91/1992).
In 2007-2008 educational year in education system of Italy 12.564 Moldavians are fixed. Thus growth of pupils in relation to 2006-2007 has made 21,0 %.
In 2007-2008 educational year in preschool institutions – there were 9,0 % of Moldavians; at elementary school – 29,7 %; at high school – 27,1 %; at the higher school – 34,2 %. Comparison with similar indicators on a category of all migrants in Italy testifies that the great number of the Moldavian pupils isn't born in Italy, and has arrived as a result of reunion of families.
Most of Moldavian students study at universities of Padua and Rome (University "Sapienza"). The most attractive are economy faculties; medicine and surgery.
In 2007 from 64.526 Moldavian legal labor migrants worked without interruption 252 days, 51.149 persons are women - 2/3 of legal occupied . The Moldavian labor migrants are occupied in sphere of services (especially, house services and care about sick and aged) – 2/3, in the industry and building – 22,1 %, in fishery and agriculture – 5,2 %. Haven't specified sphere of employment of 6,9 %.
The salary at the Moldavian labor migrants both men, and women is much lower, than the salary of average on labor migrants. This results from the fact that a salary in sphere of services on 50 % lower, than in other sectors (the data on 2004).
The expert 6: «the Monthly salary: according to L'IMPS information (national institute of a social prediction) from 650-1000 euros monthly for women and 1000-1500 euros for men».
Some, insignificant part of Moldavians is fixed in business sphere. If in 1998 2 individual enterprises of the Moldavian citizens in Italy in the middle of their 2008 has been fixed 1493 (96,1 % after 2002 have been noted only; 40 % - last 2 years). The great number of the Moldavian businessmen is concentrated in building – 70,2 % (on all labor migrants – 39,1 %) and trade – 8,2 % (on all labor migrants – 35,0 %). It testifies that formation of the Moldavian business goes by same means, as well as at other ethnic groups of labor migrants. However, with certain delay. Recently the Moldavian citizens start to "study" quickly. According to the newspaper «La Republica. Metropoli» (2009, on June, 7th, c.8) for December, 31st, 2008 in Italy it has been registered 2.245 enterprises created by the Moldavian citizens. For comparison by citizens of Ukraine for this period 2.213 enterprises have been registered.
The Moldavian labor migrants carry out the big remittances to the families in Moldova.

Table 3: Dynamics of remittances of the Moldavian labor migrants from Italy in Republic Moldova in 1995-2007.

year	***Thousand euro***
1995	2
1996	4
1997	14
1998	87
1999	313
2000	710
2001	2.302
2002	1.552
2003	970
2004	29.792
2005	46.063
2006	53.684
2007	54.567

Non-uniformity of remittances from the basic zones of a concentration of the Moldavian labor migrants is thus observed. Moreover, it is clearly visible that there is a reduction of remittances from regions where legal labor migrants decide to remain on a permanent residence, have transported there the families from Moldova.

Table 4: A share of remittances of the Moldavian labor migrants in a cut of the basic zones of placing in Italy.

Geographical zone of Italy	***Share of the Moldavian legal labor migrants***	***Share of remittances***
West	23,5%	25,4%
Centre	21,0%	23,6%
North-East	51,5%	30,2%
South	4,0%	17,8%

In the conditions of present crisis their number decreases a little.
R.7. «For today the situation has improved. The agiotage has ceased. Many who lived illegally, have received residence permit. In a word, the situation has improved, but in the conditions of crisis, I think, many will remain without workplaces».

The departure reasons.
Profound interviews to labor migrants testify that the major factors causing departure of the Moldavian population abroad in job searches, are the social and economic reasons. Thus as the dominating reason is a heavy financial position of a family, absence of work and a workplace, earnings, sufficient for normal existence / residing, necessity of the decision of the various social problems connected with a food, residing, treatment, training of children at school, higher educational institutions, acquisition of apartment or house construction, purchase of the car and the goods of long-term using.
Each history told by the respondent, is individual and unique. And all together they are similar and typical for modern Moldova, life of its population. In labor migration people see a unique input, possibility to change the life to the best.

R.26. «I worked at school as the teacher of physical culture, received 400 lei in a month. My husband had a company, and we were well off. But the black strip has gone to us. The company of the husband was ruined, the husband began drinking every day, 400 lei were not enough. I began to borrow money at relatives because didn't suffice even on bread from my salary, because all money were gone on utilities. It is very terrible to remember this moment of life: the husband every day with a bottle in hands, children who ask money for textbooks, writing-books, handles. Relatives who ask to return the money. Yes, it was a nightmare. There were not other variants besides to go on earnings to Europe ».

R.23. «I can not tell that I didn't have a work. After the termination of university I worked as the teacher, then the librarian. It was stable, but, to a regret, low-paid work. The received salary couldn't cover all requirements of my family: payment of utilities, purchase of all necessary for a household etc»

At the same time, last years the quantity of labor migrants which had work in Republic Moldova grows, possessed normal habitation, received quite good (to the Moldavian measures) a salary allowing their family not to live in misery. These people became labor migrants not so much for the reason that they have nothing to eat and there is no place to work. As the defining reason the desire to receive higher salary has acted, to have more than they have at home for the same work. In a such way to solve available material problems or to improve existing financial position.

It testifies that the Moldavian labor becomes more and more "whimsical". In the conditions of globalization it starts to think not only categories of the country, own labor market and a salary, and starts to compare a social and economic situation, parameters and standard of living at home and abroad. It makes a choice in favor of more favorable work, more comprehensible and human working conditions and life, more human relation to the person, the worker and the citizen in the reception country.

R.5. «When I lived with parents, as well as now with the family, there was always a good financial position. But as well as any person, I wanted more, more for the children. To tell the truth, this circumstance has defined, finally, our finding here. At the moment of departure I didn't feel big financial problems. But considering that we – a young family, have and we continue to have the big expectations from life, all it has defined our decision on departure abroad».

R.8. «The idea to go abroad come to me as an improvisation. Friends have informed that they go abroad. I decided to go though I had a good work in Chisinau».

As practice of sociological polls among labor migrants shows there is also a third least numerous category of citizens which join labor migration owing to other reasons. For them earnings, increase of the financial position or financial position of their family isn't obviously important, essential, necessary. For the simple reason they have it.

More often it is young men from well provided families. For them a primary factor pushing them in migration is the aspiration to check up in labor activity abroad, to be along with everything, to look at the world and at the same time to earn. Or to solve other problems connected with study, playing sports; aspiration to be near to the family; desire to replace conditions to forget about the endured family tragedies and dramas; to be independent from parents.

R.17. «I was full of hopes of the light future and cloudless life in Italy, dreamed of sports career. At the moment of my departure the reason of the material plan didn't play a leading role in a choice of a way of labor migration. On departure to Italy I have told that the moment of sports career was important»

R.46. «Both my parents have higher education, they always had a good place of work. I, as well as at my wife, had one purpose – to be independent from parents who have opposed when have learned that we leave on earnings abroad, moreover illegal.

Till we were in the country we didn't feel material difficulties. But it occurred not because we could provide to ourselves. The essence was that we as a young family, felt complete support and help

from parents. We wanted to become independent, to have the apartment bought on our own money. The greatest impulse to departure, was, if it is possible to say so, that we have got to a period when there was a fashion on departure».
In today's Moldavian labor migration expansion is a spectrum of reasons which force people to go abroad in search of a better lot.

Homecoming.
Homecoming of labor migrants is the serious problem exciting both representatives of the countries of reception, and representatives of the countries of departure, the countries - of "donors". In our opinion, finding-out a position of labor migrants concerning homecoming assumes taking into account a few moments.
First, the relation to migration. Numerous conversations and interview to migrants including Italy, have shown that nobody has regretted that has left on earnings abroad. However, position should include positive, and negative moments which were introduced in destinies of people by labor migration.
What was the positive given by labor migration?
Migration has given to people material well-being, self-trust, self-affirmation and self-esteem, knowledge of language, a new know-how, the sociopolitical, cultural and communication horizon has extended. People notice that they had a confidence not only of concrete tomorrow, but also of the future as to real prospect of life. Their possibilities as a whole have extended. At the same time, migrants notice, as a positive that labor migration, fall of their status is a provisional measure caused by necessity of the decision of existing material problems.
R.39. « I do not regret that I came in Italy at all. Anyway it is a good experience. I've learned language, watched the country, earned money in family».
R.33. «What Italy gave me, a trip on earnings? I became more adult, more purposeful. The outlook, aspiration to make much has changed. There were requirements to myselve and the big lath to reach, I have a lot of purposes and ideas. In addition to work and money which you receive, you receive self-affirmation, form as a person, an adult»
R.39. «Since I returned home, I became is more active and more initiative. It is desirable to be arranged well and to earn good, in order not to go anywhere any more»
The expert 7: «Influence of process of migration of labor has complex character and has political, economic and social consequences both positive, and negative. Among positive economic benefits are marked employment, high salaries, possibility to support financially families, formation of new skills, acquisition of new knowledge, experience. At the same time speaking about socially-psychological effects of migration of labor in the reception country it is necessary to name integration, adaptation and tolerance from the surrounding population. Integration of labor migrants into new and unknown space of the country of reception is complex and difficult process which demands time and covers various aspects: demographic, socially-psychological, ethno-cultural, religious. It is difficult process of adaptation ».
What the labor migrant has lost as a result of a trip abroad ?
Dialogue with family. Alienation, rupture of family-related communications, sometimes divorce became a reality. The available trade and qualification, the social status has been lost. But, on the other hand, this social status in the conditions of poverty existing in Moldova would be kept, there would be only formal fiction? It is impossible to disagree with respondents that as a result of migration they lose communication with the native land, come off the Moldavian state, don't know its laws, forget the rights and duties etc.
R.16. «My finding abroad on earnings influenced my relations with family very much. I would like to keep old relations, but the distance pushes close people away from me.
... I have lost the most precious thing for me – dialogue with children ».

The expert 7: «the victim which is brought by Moldavians, working abroad, living without family and adorable people , it is perceived by labor migrants as the black stain remaining during rest of their life».

Secondly, migration has given new vision of the world, has helped to see better the country, to learn it, to compare with other countries, the reception country.

What amazes labor migrants at their homecoming, at repeated socialization? They notice that our girls are more beautiful, and put on in a better way. And our meal is more tasty ("everyone with his own taste"). Mark patience and energy of the people which want to overcome difficulties and problems. However they see also another. Huge and not hidden stratification of the Moldavian society on rich and poor. Low salaries and the high prices, dirty entrances and bad roads, quality of work of transport and service sphere, bureaucratism and corruption, a cult of money and a profit. Comparing human rights in Italy and Moldova, people mark real (the reception country) and formal (the exit country) character of the rights. People start to feel the feebleness and powerlessness in the homeland, where they the citizens, and visitors, labor migrants. They do a conclusion about correctness of an migratory choice and departure abroad.

R.16. «When I come to my country I'm amazed by persistence and extreme efforts, which are applied by our people to survive».

R.34. «When I come home I was amazed by our youth which has been often beautifully dressed, especially elegance, beauty and symmetry of girls»

R.52. «After returning the meal (ours – amazes better!). Terrifies a dirt, transport, roads».

R.33. «That especially surprises, when you come to Moldova it is not a well-groomed city, the mentality of people, frightens the reference of people with each other.... You get used to that life and facing misunderstanding, with absence of those possibilities here, feel helpless».

R.29. «That amazes, when come to stay for a while home, is a poverty of our country. Very often I think of that if I haven't left in time the country my family would exist in the similar image».

R.35. «Due to the trip abroad I have seen a true life, that I couldn't imagine earlier.. When I come home, on my native land I was surprised most of all with very bad roads and the European prices to such poor country. Sometimes I went to shop and I was afraid to buy something, it seemed to me that it is more expensive, than abroad... In our country if you want to correct any document or something to solve in legal structures for this purpose it is necessary to have big money. Today in Moldova it is more difficult, than was earlier. Today money orders all».

Thirdly, the desire to return to Moldova, here to live and work. Unfortunately, the great number of respondents doesn't wish to come back to Moldova to a permanent residence. And they give reasons quite rationally. However, it is impossible to tell that people, even those who declare the desire to remain on the PERMANENT RESIDENCE in Italy, wouldn't like to return. However, they cause the possible choice variety of serious motions in the homeland. It is represented that in this approach there is nothing strange, shocking. Patriotism is a two-way traffic as from the state, the government, and from the citizen, in this case the labor migrant who is abroad.

R.52. «The Problems has partially solved, I will continue to go abroad however. At home you will not solve any problems, earnings continue to remain very low».

R.46. «Each time I go home with high hopes and even invested the certain sums. And when my daughter have to go to school, I want to come back home, be engaged in agro-tourism and agriculture. However, each time I reject, whether it will be it my biggest error in life».

R.4. Whether «I Want to come back home to Moldova? I can not tell. Earlier unequivocally will say yes. Now would start to consider in an opposite way. It is possible to come to Moldova on holiday.

I don't think that such position says about me that I'm not the patriot of Moldova. I think it should be mutual movement ».

R.53. «To live in Moldova we won't return. We will come only to stay for a while, because this good life in Italy has got very difficultly to us. And to change it for our Moldavian validity at

present we don't have either forces, nor desire. I am glad that during the heavy moment of life I have made a right step and have left. I am not sorry about what I had done. And now I understand that I have made the best decision I could».

The expert 4: «Speaking about returning of the Moldavian labor migrants home, to Moldova it is necessary to answer a question - whether the reasons which push out the Moldavian citizens in labor migration are eliminated? Unfortunately, it doesn't occur. Yes there is a certain growth in the country, in social sphere. But all should be considered it in a context of modern processes of globalization when the person not simply searches and finds work, but searches for work well paid.

... We much and well speak about again created workplaces. Today it is said that at us free are about 100.000 workplaces. But for some reason we forget... This workplace will be unoccupied if it cheaply costs. It will be occupied when it will give, should give to the person necessary quantity of money resources for worthy life. This moment should consider and foreign investors when they come to us with desire to open the business. If they offer the salary in 2-3 thousand lei, about they won't find workers on the enterprises.

At the same time I will notice that the state should spend thought more over and competitive policy in the field of migration, returns of the citizens home, their reintegration to the Moldavian society. I will result such example. Only 4 labor migrants (and we have interrogated respondents from 1537 households from 116 settlements of Republic Moldova) have managed to realize successfully the business in Moldova on the basis of earned abroad, in labor migration, money.

It testifies that people, first, don't know the country in which they come back. Secondly, they don't know legal system in the field of business. Thirdly, they don't know how to do business (they don't have skills). Fourthly, the state policy of support and stimulation of business, its initiation doesn't meet in Moldova to real requirements of people. If it doesn't goat all, it means not only they are guilty, but game rules, that are existing are wrong, and inefficiency of the mechanism of support of small and average business are guilty also ».

Fourthly, labor migrants aren't indifferent to destiny of Moldova. Even saying that they won't return, they stipulate other variants, causing their certain requirements to the Moldavian authorities, stating councils and recommendations to the government.

R.37. «I consider that the state should take up the issue of migration. It should give to the citizens advise. In particular to young generation for possibility of self-realization, at least for the maintenance».

R.25. «The government of our country should not prevent people to work, not to put it sticks to a wheel with heavy taxes. They should, if can, make something for people. If can't make anything - then let study something at other countries».

R.6. «I do not know what to advise concrete to the authorities, unless that they at last became care about people, and here it is necessary to come back home, that there wasn't worse, than abroad».

R.16. «To the Moldavian authorities I would recommend to maintain economic relations with the European countries, and I hope that our return will become possible when there will be a present European integration».

R.54. «I don't regret that I left on earnings to Italy. I do not regret that have obtained the Romanian citizenship. With the Moldavian citizenship as though I got and worked in this country? I think that our authorities should consider it and to try to achieve that in the European Union Moldavians used the same possibilities for a three-monthly trip as well as Romanians, Bulgarians, Poles, Czechs.

Then also infringements will be less. And respect for host country and for local population. And rules of life and stay in the country will observe more and better. After all the person in the basic weight will become legislative. It is not necessary to lay down it in such conditions that it became the criminal and the infringer. And it from the power, the government depends. It should think and understand the power should solve the situation »

The expert 6: «For improvement of life of Moldavians in Italy. In my opinion, it is necessary to establish stronger cooperation between citizens, embassy in Italy and the Republic Moldova government, in respect of advancement of initiatives on informing on social and economic development in Moldova and about the Moldavian communities abroad.
In this plan the newspaper edition as appendices to the Romanian newspaper which is very active in Italy, having received for this purpose its consent could be the first step. Thus, it will be possible to inform is easier to consciousness of our fellow citizens social and economic changes in our country. It will promote their approach to the governmental structures of Republic Moldova.
Besides, necessity of creation of association of the Moldavian citizens, with participation of representatives of the government of Republic Moldova on an individual basis is felt. The association shouldn't have for an object a parcel of the Moldavian citizens for work abroad. It should assist and support by that who are already in Italy, and that who wants to return to Moldova ».
Fifthly, recommendations to potential migrants.
R.46. «I have recommended to beginning migrants to respect the country to which they go, to study language and to behave in a civilized way».
R.15. «What I would advise to those who want to go for work abroad? They have to think good before they go abroad. »
R.4. «I want to advise to people who gather abroad for earnings to do it all legally. So you feel more freely. There are less problems, troubles, risk. And respect for you from local residents. Legally, you have started up. You are not as a thief who has secretly made the way in another's house».
R.9. To fasten morally, to keep physically, to trust in itself, not to despond and the purposes to reach! I would recommend to compatriots that they aspired to the purposes and didn't stop on reached, and also in due course all the same came back home, to Moldova ».
R.34. «Would advise to those who are at home, in Moldova and want to go on earnings abroad, not to do it because the separated family in 2-3 years breaks up...who wants to go abroad I have advised to remain in Moldova, to be learned, if it is possible».
R.17. «My advice is that, children, time you have gone abroad, be ready that you will spend a long period of time in separation from your family, so be prepared. Create a mail box, create a profile on social sites, such as« schoolmates "and" in contact », the blessing the Internet is everywhere».

Instead of the conclusion:
Migration – a surprising thing. In it destinies of the states and separate people refract time. It is time "ball" in individual, human measurement. Someone managed to solve all problems. To Someone – partially. Someone hasn't managed, has lost, has lost everything, paying under the Hamburg account.
It is impossible to remain indifferent, reading these sincere both unartful opinions and representations of labor migrants. They cause dual feeling: each time also you rejoice for these people who have managed to break and make itself in other, often unfriendly conditions, for their will, talent; also you are afflicted, feeling with them some part of their suffering, torture, stress, hope and self-confidence, loss.
Conclusions we will not do. It was made by migrants, saying what is better abroad, or at home. At the same time they want home, to Moldova, but are afraid very much and very many things which are connected with bureaucracy and corruption, complexities of departure on earnings abroad, inefficient economic and social reforms, complexities of development and functioning of the Moldavian small and average business.
We believe and hope that the government, the authorities of Moldova will draw necessary conclusions from told by labor migrants. It is represented that in the course of comprehension of

importance of each citizen for the country and the country for each citizen, in understanding and their aspiration to move towards each other to search optimum, very necessary both to the country and its people the decision there is also our small contribution.

R.46 «In the end I want to tell that the fact that someone is engaged in us at home, someone is interested in our situation, even if it remains at statistics level … I do not know why, but I have answered your questions with pleasure. I am assured that this long enough period of mass migration will remain in history»

Respondents:

The respondent №1. The woman, 25 years, incomplete secondary education, in Italy 5 years.
The respondent №2. The woman, 29 years, higher education, in Italy 7 years.
The respondent №3. The woman, 50 years, higher education, in Italy 13 years.
The respondent №4. The woman, 33 years, higher education, in Italy 2 years.
The respondent №5. The woman, 30 years, secondary education, in Italy 7 years.
The respondent №6. The woman, 23 years, secondary education, in Italy 3 years.
The respondent №7. The man, 25 years, average vocational education, in Italy 4 years.
The respondent №8. The woman, 30 years, average vocational education, in Italy 3 years.
The respondent №9. The woman, 26 years, secondary education, in Italy 7 years.
The respondent №10. The woman, 28 years, average vocational education, in Italy 2 years.
The respondent №11. The man, 39 years, secondary education, in Italy 5 years.
The respondent №12. The woman, 34 years, secondary education, in Italy 11 years.
The respondent №13. The woman, 27 years, higher education, in Italy 4 years.
The respondent №14. The woman, 40 years, higher education, in Italy 2 years.
The respondent №15. The woman, 37 years, average vocational education, in Italy 4 years.
The respondent №16. The woman, 48 years, higher education, in Italy 4 years.
The respondent №17. The man, 24 years, secondary education, in Italy 2 years.
The respondent №18. The man, 36 years, secondary education, in Italy 13 years.
The respondent №19. The woman, 68 years, formation, in Italy 7 years.
The respondent №20. The woman, 40 years, higher education, in Italy 2 years.
The respondent №21. The woman, 26 years, higher education, in Italy 5 years.
The respondent №22. The woman, 28 years, average vocational education, in Italy 4 years.
The respondent №23. The woman, 35 years, higher education, in Italy 6 years.
The respondent №24. The woman, 35 years, higher education, in Italy 4 years.
The respondent №25. The woman, 38 years, higher education, in Italy 6 years.
The respondent №26. The woman, 42 years, higher education, in Italy 5 years.
The respondent №27. The woman, 48 years, average vocational education, in Italy 6 years.
The respondent №28. The woman, 38 years, average vocational education, in Italy 4 years.
The respondent №29. The woman, 23 years, secondary education, in Italy 3 years
The respondent №30. The woman, 27 years, average vocational education, in Italy 2 years.
The respondent №31. The woman, 36 years, average vocational education, in Italy 5 years.
The respondent №32. The woman, 45 years, higher education, in Italy 4 years.
The respondent №33. The woman, 24 years, higher education, in Italy 2 years.
The respondent №34. The woman, 23 years, secondary education, in Italy 5 years.
The respondent №35. The woman, 21 year, secondary education, in Italy 3 years.
The respondent №36. The woman, 24 years, secondary education, in Italy 5 years.
The respondent №37. The woman, 25 years, secondary education, in Italy 5 years.
The respondent №38. The woman, 50 years, higher education, in Italy 8 years.
The respondent №39. The man, 42 years, secondary education, in Italy 2 years.
The respondent №40. The woman, 42 years, higher education, in Italy 7 years.

The respondent №41. The woman, 32 years, higher education, in Italy 7 years.
The respondent №42. The woman, 47 years, average vocational education, in Italy 4 years.
The respondent №43. The man, 26 years, secondary education, in Italy 3 years.
The respondent №44. The man, 43 years, secondary education, in Italy 5 years.
The respondent №45. The woman, 47 years, higher education, in Italy 8 years.
The respondent №46. The man, 29 years, higher education, in Italy 7 years.
The respondent №47. The woman, 39 years, average vocational education, in Italy 8 years.
The respondent №48. The woman, 45 years, secondary education, in Italy 6 years.
The respondent №49. The man, 45 years, secondary education, in Italy 7 years.
The respondent №50. The man, 30 years, secondary education, in Italy 3 years.
The respondent №51. The woman, 47 years, average vocational education, in Italy 12 years.
The respondent №52. The man, 32 years, higher education, in Italy 6 years.
The respondent №53. The man, 50 years, secondary education, in Italy 6 years.
The respondent №54. The man, 27 years, higher education, in Italy 5 years

Experts
The expert №2 – Sergey Sainchuk, the Ministry of Economics and trade of Republic of Moldova, the Deputy Minister
The expert №3 – Natalia Vladichesku, sociological firm CBS AXA, the sociologist
The expert №4 – Eudzhen Hristev, the Center of the social and economic analysis CASE, the independent expert
The expert №5 – George Rusnak, the ambassador of Republic Moldova in the Italian Republic
The expert №6 – Natalia Mopapy, socio-cultural association "Doina" (Rome, Italy)
The expert №7 – Mariana Ketrushka, the Moldavian state university, the master of political sciences, lives in Italy
The expert №8 – Vladimir, the Metropolitan of Chisinau and Moldova, Russian Orthodox Church (the Moscow patriarchy)
The expert №9 – Alexander Grebincha, Free independent university of Moldova, the professor
The expert №10 – Olga Goncharov, National bureau of interethnic relations of Republic Moldova, the general director
The expert №11 – Tatyana Levandovsky, National bureau of interethnic relations of Republic Moldova, diaspora management, the chief

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THE QUEST FOR TALENT: EU POLICIES TOWARDS THE "BRAIN DRAIN" PHENOMENON

Abstract
Generally speaking, brain drain phenomena in Europe fall into two distinct trends. The first is an outflow of highly-qualified scientists from Western Europe mostly to the United States. The second is a migration of skilled workers from Eastern and Southeastern Europe into Western Europe, often made easy by the new EU membership. Despite all the efforts to stimulate the mobility of the higher qualified labor force within the EU, the amount of migration of the highly skilled is low and it increases only slowly. As the result, the EU lacks the magnetic power to attract high skilled foreign scientists and to become leading centre of research intensive (service) production. Without them Europe will not be able to maintain the same standards of living to which it is accustomed. A new vision and new tools are indispensable for reversing this trend.

Key words
Brain drain, brain circulation, highly skilled elite, return policies, development

General trends of highly skilled migration in Europe: does Europe have enough magnetic power to attract highly skilled migrants?

Perhaps the oldest question in economics is why some countries are rich while others are poor. Economic theory has emphasized that differences in the educational levels of the population are an important part of the answer (Carrington and Detragiache 1999). Here the migration of the qualified people that could contribute to the economic growth of the host countries plays an important role. As Lee Kuan Yew, the Singapore's elder statesman, rightly put it, trained talent is the yeast that transforms a society and makes its rise (Wooldridge 2006, 10). Starting with the papers by *Paul Romer* (1986, 1987, 1990) or *Robert Lucas* (1988) the immigration of skilled migrants has been evaluated as stimulating the dynamics of economic growth (Wooldridge 2006, 14), and the contribution of foreign skilled workers to economic growth and achievement in host countries, in particular to research, innovation and entrepreneurship, is increasingly recognized – witness, for instance, the number of foreign-born US Nobel Prize winners or creators of global high tech companies, such as Intel or eBay, and other successful start-ups (Brain Drain). The spreading of this phenomenon was noticed as early as the 1960s (Carrington and Detragiache 1999), when a mass and permanent emigration of highly skilled people (researchers, scientists, and even graduate students) took place (Vedran 2004, 76), prompting Britain's Royal Society to coin the term '*brain drain*' (Chu 2004, 3). What the talent elite everywhere has in common is that more mobile than the rest. Two economists, Frédéric Docquier and Hillel Rapoport, estimate that average emigration rates worldwide are 0,9 % for the low-skilled, 1,6 % for the medium skilled and 5,5 % for the high-skilled (Wooldridge 2006, 12).

Generally speaking, brain drain phenomena in Europe fall into two distinct trends. The first is an outflow of highly-qualified scientists from Western Europe mostly to the United States (Brain Drain). The 'export' of education services (by an 'import' of foreign students) has become a money machine for the US. Every year foreign students contribute over $7bn to the US economy (Straubhaar 2000, 8). In 2000, for example, the U.S. spent €287 billion on research and development, €121 billion more than the EU. No wonder the US has 78% more high-tech patents per capita than Europe, which is especially weak in the IT and biotech sectors (Chu 2004, 2). In 2006 over 250,000 Europeans emigrated to the United States (164,285), Australia (40,455), Canada (37,946) and New Zealand (30,262). Germany alone saw 155,290 people leave the country (though mostly to destinations within Europe). This is the highest rate of worker emigration since reunification, which itself was equal to the rate in the aftermath of World War II (Brain Drain). In relative terms in 2002-2003 the EU produced more science graduates (PhDs) than the United States but has fewer researchers (5.36 per thousand of the working population in the EU compared with 8.66 in the USA and 9.72 in Japan) (Carrington and Detragiache 1999).
The second is a migration of skilled workers from Eastern and Southeastern Europe into Western Europe, often made easy by the new EU membership (Brain Drain). Lithuania, for example, has lost about 100,000 citizens since 2003, many of them young, well-educated, to emigration to Ireland in particular. Similar phenomenon occurred in Poland after its entry into the European Union in 2004. In the first year of its EU membership, 100,000 Poles registered to work in England, joining an estimated 750,000 residents of Polish descent (Brain Drain).
While historically, the United States has been extremely pragmatic and has rolled out red carpets to immigrants with specific skills, Europe has been reluctant to open its borders (Straubhaar 2000, 7-8). Compared to the US, Europe is increasingly unsuccessful at attracting the highly skilled. 'We are not good enough at attracting highly skilled people,' European Commission President Jose Manuel Barroso stated on a press-conference on 10 October 2007 (Spiegel online 2007). Highly qualified workers from all third countries account for 1.72% of the EU's total workforce, which is also well behind other important immigration countries such as Australia (9.9%), Canada (7.3%), the US (3.2%) and Switzerland (5.3%) (Gentili 2008).
Despite all the efforts to stimulate the mobility of the higher qualified labor force within the EU, the amount of migration of the highly skilled is low and it increases only slowly (Straubhaar 2000, 10). Of course, the main reason is that the immigration options for people from outside the EU into the EU are extremely restrictive. And even for students or PhD candidates the hurdles to surmount are time-taking, troublesome and even sometimes rather arbitrary (Straubhaar 2000, 10). The attractiveness of the EU suffers additionally from the fact that at present highly qualified migrants must face 27 different admission systems, do not have the possibility of easily moving from one country to another for work, and in several cases lengthy and cumbersome procedures make them opt for non-EU countries granting more favorable conditions for entry and stay (Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment 2007). However, even where specific schemes exist, these are exclusively national and do not allow any facilitation for highly qualified third-country workers needing or wishing to move to another Member State for employment, therefore segmenting the EU labor market and not allowing for more efficient (re)allocation of the necessary workforce (Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment 2007). At present, each EU member–state operate a series of bilateral agreements with certain third countries and decides whether and how to recognise qualifications. In practice, this attitude amounts to a waste of skills, with negative spin-off not only for the economy of a country – immigrants do not contribute up to their capacity – but also for the process of integration (Bertozzi 2007, 13 - 14).

As the result, as it has been already mentioned, the EU lacks the magnetic power to attract high skilled foreign scientists and to become leading centre of research intensive (service) production (Straubhaar 2000, 20). For example, some 400,000 European science and technology graduates now live in the U.S. and thousands more leave each year. A survey released by the European Commission in November 2003 found that only 13% of European science professionals working abroad currently intend to return home (Chu 2004, 3).
Several years ago, EU leaders vowed to make the union 'the most competitive and dynamic knowledge-based economy in the world' by 2010 (Chu 2004, 2). Moreover, in a market where there is increasing international competition for these workers, Europe can only succeed in attracting 'the best and the brightest' if it speaks with one voice (Cerna 2008, 4). In this context, the Hague Programme of 4-5 November 2004 clearly recognized that 'legal migration will play an important role in enhancing the knowledge-based economy in Europe, in advancing economic development and thus contributing to the implementation of the Lisbon Strategy'(Cerna 2008, 5). In their turn, members of the European Parliament recognized that 'Apart from the preference communautaire' applied in large sectors of our economic policies, there's no question that a real demand exists for specific skills, varying from one country to another, which can't be met inside the EU. In those cases, it's fair to open our doors' (Cerna 2008, 15). As Franco Frattini, European Commissioner responsible for Justice, Freedom and Security, mentioned in 2007: 'It is essential, for example, for Europe to become a real magnet for highly skilled immigrants. We have to push this idea of being the sole player to overcome the challenge of globalisation' (Frattini 2007, 2). Several years before former German Chancellor Gerhard Schröder noted: 'Only if we manage to keep our innovation at the top will we be able to reach a level of prosperity that will allow us to keep our welfare system in today's changing conditions'. To make that vision a reality across the region, Europe will have to add 700,000 new researchers by 2010 and lure back the Continent's scientific expats (Chu 2004, 4).
An expert group convened by the European Commission concluded at the end of 2003, that 'new European approaches to strengthening research are urgently needed', including a publicly funded, science-driven body to support research. 'There's a need for a competitive funding scheme independent of national interests', says Danish scientist Mogens Flensted-Jensen. 'To define excellence, you need competition on a European level that is supporting basic research' (Chu 2004, 9).

EU strategies towards the attraction of highly skilled migrants

Definitively, without immigrants, Europe will not be able to maintain the same standards of living to which it is accustomed (Bertozzi 2007, 15). In order to achieve the objective of raising Europe's investment in research to 3% of gross domestic product (GDP), as decided at the Barcelona European Council meeting in March 2002, the EU will need 700,000 extra researchers (Carrington and Detragiache 1999). The foundations for this policy strategy were already laid by the Lisbon European Council (23-24 March 2000), which set the EU the strategic objective 'to become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion. [...] The shift to a digital, knowledge-based economy, prompted by new goods and services, will be a powerful engine for growth, competitiveness and jobs' (Bertozzi 2007, 15).
This target is to be met through a series of interlocking measures, such as making scientific careers more attractive to young people, promoting women's involvement in scientific research, extending the opportunities for training and mobility in research, improving career prospects for researchers in the Community and opening up the Community to third-country nationals who might be admitted for the purposes of research (Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research, 1). For example, a number of concrete achievements were achieved after 2000, namely, the launch on 10

July 2003 of the European Researcher's mobility portal (http://ec.europa.eu/eracareers/index_en.cfm) (Europea.eu 2003).
Based on a thorough analysis of career prospects in the EU, the *EC Communication* '*Researchers in the European Research Area: one profession, multiple careers*' proposed concrete steps to encourage and structure improved dialogue and information exchange with researchers and to establish a genuinely competitive research labor market at a European level. Recommended actions included a '*European Researcher's Charter'*, a '*Code of conduct for the recruitment of researchers*', a common way of evaluating and recording researchers' skills, qualifications and achievements, advanced training tools, access to adequate funding and minimum social security benefits for PhD students (Europea.eu 2003). Consequently, the European Council requested in June 2004 to proceed quickly on the work of encouraging the mobility of researchers. Work in this area is implemented by the European Commission in cooperation with the Member States through the '*Steering Group on Human Resources and Mobility in the European Research Area*'. Recent results are the Pan-European Researchers Mobility Portal and the European Network of Mobility Centres (ERA-MORE) (Conclusions and recommendations of the EU-Conference 2004).
The above-mentioned Hague Programme stressed the importance of developing 'a policy plan on legal migration, including admission procedures capable of responding promptly to fluctuating demands for migrant labour in the labour market' (Bertozzi 2007, 9). The EU *6th Research Framework Programme (FP6 2003-2006)* devoted nearly 10% of its budget (€1.6 billion out of a total of 17.5 billion), to actions aimed at enhancing training and mobility opportunities for researchers, such as the Marie Curie Actions a 60 % increase in comparison to the previous Framework Programme (Europea.eu 2003). In the Marie Curie Human Resources and Mobility Actions schemes individual support measures exist for top-class third-country researchers wishing to come to Europe (Conclusions and recommendations of the EU-Conference 2004).
Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research is intended to foster the admission and mobility for research purposes of third-country nationals for stays of more than three months, in order to make the Community more attractive to researchers from around the world and to boost its position as an international centre for research (Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research 2005).
The European Job Mobility Action Plan (2007-2010) represented a further, important step in a long line of initiatives to promote mobility (Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Mobility, an instrument for more and better jobs: The European Job Mobility Action Plan (2007-2010) 2007). Based on a process launched in February 2001 by the *Commission's Communication on the New Labor Markets*, the conclusions of the *Stockholm European Council* of March 2001 and the work of the *High Level Task Force on Skills and Mobility*, the Commission adopted in February 2002 an *Action Plan for Skills and Mobility*. The *Final Report* on this Action Plan, adopted on 25 January 2005, looked at the lessons to be learnt from the plan and presented three main areas for follow-up: making education and training systems more responsive to the labor market and to preparing people for mobility via language learning; removing legal and administrative barriers and promoting the cross-border recognition of qualifications; and setting up a one-stop mobility information portal, based on the EURES job vacancy system (Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Mobility, an instrument for more and better jobs: The European Job Mobility Action Plan (2007-2010) 2007). At the end of 2005, DG Employment, Social Affairs and Equal Opportunities Commissioner Vladimír Špidla together with DG Justice and Home Affairs Commissioner Franco Frattini presented the *Policy Plan on Legal*

Migration (Ministry of the Interior of the Czech Republic 2008). This Plan assumed to propose four directives that would regulate the conditions of entry and residence of particular categories of workers from third countries, and one framework directive that would regulate the set of rights of these six categories of third country workers (Ministry of the Interior of the Czech Republic 2008). The explanatory memorandum set out the main arguments for highly qualified migration: the business argument – businesses need economic migrants to fulfil their recruitment needs; the demographic argument – the EU is no longer producing sufficient numbers of workers to meets its business needs; and the evidence of the failure of the current highly qualified regime exemplified by the fact that the highly qualified from the EU's North African neighbours go to Canada and the US, rather than to the EU (Guild 2007). *The European Parliament's resolution of 26 September 2007 on the Policy Plan on legal migration* supported any measure designed to increase the attractiveness of the EU to the most highly skilled workers so as to meet the needs of the EU labor market in order to ensure Europe's prosperity as well as to meet the Lisbon targets (European Parliament resolution of 26 September 2007 on the policy plan on legal migration 2007).

On 23 October 2007 the Commission adopted two legislative proposals in the area of economic migration. The first proposal aimed at establishing a framework Directive for the purpose of admission of highly qualified migrants to the EU, creating the *EU Blue Card*. Referring to this initiative Commission President José Manuel Barroso underlined: 'Labour migration into Europe boosts our competitiveness and therefore our economic growth. It also helps tackle demographic problems resulting from our ageing population. This is particularly the case for highly skilled labour. With today's proposal for an EU Blue Card we send a clear signal: highly skilled migrants are welcome in the EU! We are also proposing is to give a clear set of rights to all third country nationals who legally reside in the EU. This will protect EU citizens from unfair competition in the labour market and promote the integration of migrants into our societies' (Europa.eu 2007). In his turn, Vice-President Franco Frattini, the Commissioner responsible for Freedom, Security and Justice, stated that "Europe's ability to attract highly skilled migrants is a measure of its international strength. We want Europe to become at least as attractive as favorite migration destinations such as Australia, Canada and the USA. We have to make highly skilled workers change their perception of Europe's labor market governed as they are by inconsistent admission procedures...A new vision and new tools are indispensable for reversing this trend. We will also minimize the risk of brain drain from developing countries" (Spiegel online 2007). The European Parliament adopted this legislative resolution on 20 November 2007, by 388 votes to 56 with 124 abstentions (Europeanunionbluecard.com. Not much for the moment - waiting for endorcement' 2009). And the European Council adopted it on 25 May 2009 (Europeanunionbluecard.com. European Council press release 2009). Following its publication in the Official Journal of the EU, the member states will have two years to incorporate the new provisions into their domestic legislation (Europeanunionbluecard.com. European Council press release 2009).

The EU Blue Card seeks to create a single application procedure for non-EU workers to reside and work within the EU, and to establish a common set of rights for workers in member states (Cerna 2008, 2). The Blue Card is valid for up to two years and is renewable. It allows holders and families to live, work and travel in the EU. The applicant must have a one-year EU job contract with salary of three times the minimum wage. Permanent residency is automatic after five years. The application procedure is expected to take less than three month (Cerna 2008, 15). Potential immigrants will, therefore, not have to face 27 different systems, but will know, easily, the conditions to be satisfied in order to be admitted in any member state (Cerna 2008, 4). Holders of an EU Blue Card would be treated just like EU nationals as regards tax benefits, social assistance, payment of pensions, access to public housing and study grants (Cerna 2008, 4).

Summarizing, the factors behind the EU Blue Card initiative have mainly to do with the global economic competition, demand of multinational companies for non-EU cheaper labor and

simplification of work visa processing and plans of EU to establish knowledge based economy (Maru 2008, 5). Thus, the EU Blue Card is an attempt of the EU to compete mainly with Australia, Canada and the United States (US) in a 'global war for talent' (Cerna 2008, 2).

EU member-states national policies towards the "brain-drain" and highly skilled migration: pro or contra?

Member states vary in their openness towards high-skilled immigration. Different labor market conditions and needs exist across countries and, thus, EU member countries will be reluctant to cede their responsibility to regulate labor market access and to grant rights to immigrants based on EU-figures and expectations (Cerna 2008, 2). EU member-states do not want let the EU dictate who they have to admit and who not (Cerna 2008, 15). For example, the EU Blue Card has met with some resistance, particularly in Germany, where many remain skeptical of a pan-European solution to the problem. During the negotiation of this initiative German Economy Minister Michael Glos said: "Germany could not take in large numbers of foreign workers just because it needs them at one particular moment" (Spiegel online 2007). But, at the same time, business leaders in Germany have complained that shortages in skilled workers, such as engineers and computer specialists could start to have a negative effect on the economy (Spiegel online 2007). The United Kingdom, Ireland and Denmark were not taking part in the Blue Card negotiation (Eucoherence.org 2008). Mr Massimiliano Cali of the Overseas Development Institute doubted if the Blue Card would be able to address to the migration barriers that exist at the moment. He stated that 'there is a 40 % of brain waste currently within the EU: these migrants have a job in the EU that they are overqualified for. High skilled workers in low skilled jobs. There is a need for matching the right of workers: labour mobility. Most migrants only come here in the EU after they have found work' (Preda 2007). To alleviate the fears of some member states, the European Justice Commissioner said that '[the EU Blued Card initiative] is not an open doors policy', because, 'if a given member-state needs engineers or doctors, it has to decide how many, and then I will provide a state with a common procedure'. So, each member state will maintain the right to determine the number of immigrant workers that can be admitted into the domestic labor market through the Blue Card (Cerna 2008, 7).
In this context, the examples of the national policies towards the 'brain-drain' or highly-skilled immigration in some EU member-state are worth to be mentioned. For example, the UK government aimed at increasing the salaries of post-doctorates by 25% and increase funding for the hiring of university professors. Also, the British government, in cooperation with the Wolfson Foundation, a research charity, launched a £20 million, five-year research award scheme aimed at drawing the return of the UK's leading expatriate scientists and sparking the migration of top young researchers to the United Kingdom (Brain Drain). The UK's Highly Skilled Migrant Programme, which began in January 2002, was designed to allow people of high human capital to migrate to the UK in order to seek and take up work. In effect, it encouraged highly skilled foreigners to nominate themselves for immigration. It used a points system based on educational qualifications, work experience, past earnings, achievements in chosen fields (Salt 2005, 30).

In France, some 7000 teaching-researcher posts have been created since 1997 to retain talent and encourage the return of post-doctorates working abroad (Brain Drain).

In Ireland returning highly-educated migrants enjoy a 10% wage premium over their stay-at-home compatriots (Wooldridge 2006, 10).

Special programmes for attracting third country highly-skilled workers were common in some Member States (Austria, Germany, Greece, Italy, Sweden). Other Member States (Ireland, Latvia, the Netherlands) had programmes which were part of larger visa or work permit schemes giving certain advantages to highly-skilled workers (European Migration Network 2007, 22).

Besides, various EU-member countries had implemented a 'science visa', designed to make it easier for non-EU researchers to get working visas within Union countries (Proposal for a Council

Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment 2007).

"Brain drain" versus "Brain gain"

The efforts to mitigate the negative effects of the brain drain for the source countries should be implemented as the brain drain could have a negative impact on the growth potential of the source country's economy by depriving it of its innovation potential (Europa.eu 2008). According to the UNESCO report "*Science, Technology and Economic Development in Southeastern Europe*" of 2007, many countries experience emigration of up to 70% of their skilled professionals. Two out of three teaching and research jobs are lost on some university campuses, devastating scientific research and higher education capacities (Preda 2007). More than 500,000 Russian scientists and computer programmers have left the country since the fall of the Soviet Union in 1991 (Brain Drain). Especially, brain drain impacts negatively on vital sectors such as education and health, and reduces those countries' capacity to achieve the Millennium Development Goals (MDGs) (Eucoherence.org 2008).

Summarizing experts' opinion on possible causes of highly-qualified migration or 'brain drain', we can highlight the following: the violation of human rights or academic freedoms; political, ethnic and religious persecution; economic difficulties facing countries in transition make it less likely that they will be able to substantially invest; deprivation of the right to education (Vedran 2004, 77). According to Olesen, bad governance also plays an important role in the migration of highly skilled persons. It seems that this population is particularly sensitive when 'they find the human rights/governance situation in their home country unacceptable. This can have many forms: honest civil servants refusing to be corrupted; lack of freedom to speak ones mind, especially for civil servants; and promotions based on unprofessional criteria' (Vedran 2004, 76). Moreover, according to Bozoki, it could be said that most talent leaves a country because the present social elite in their domicile countries have emerged from the turbulence of transition often tainted with corruption and a wild, non-ethical capitalism which created an 'oligarchic' concept of state management that cannot be attractive. In this context, the brain drain phenomenon could be interpreted as avoidance of direct social conflict and some kind of silent revolution by those who want to be valued according to their merits and not 'managerial' capabilities that can be perceived as the base for implementing false-transition (Vedran 2004, 90).

From quite opposite point of view, scholars now recognize and the beneficial impact that brain drain can have if to be turned into 'brain circulation' (Vedran 2004, 77). The researches argue that although the emigration of educated workers leads to lower growth and welfare in the short run, it can act as a stimulus for government to invest more in education in order to improve their labor market and increase the skill level (or so-called 'skill ratio') of their workers (Vedran 2004, 92).

Return migrants, in particular, bring back their skills and work experience from abroad boosting productivity. Expatriates who remain abroad contribute money via worker remittances; and many observers claim that their transfer of knowledge or technology to developing countries can increase productivity and economic development (Vedran 2004, 81). They may also make professional and personal contacts, which prove useful and productive for their endeavors back home (Vedran 2004, 81).

The above mentioned necessity of using the possible beneficial impact of the brain drain for the source countries are recognized by the EU member-states. For example, in its "*Global Approach to Migration" Communication* of 2005 the Commission mentions that 'an equitable immigration policy which incorporates return and/or circular migration might appear to be needed' (European Migration Network 2007, 8). In point 2.4 of *European Commission's Communication "Migration and Development: Some concrete orientations*", adopted on 01 September 2005, 'The Commission encourages Member States to develop mechanisms [...] to limit active recruitment in cases where it

would have significantly negative repercussions for targeted developing countries' (Bertozzi 2007, 13). In the *Communication from the Commission to the Council and the European Parliament* "*The Global Approach to Migration one year on: Towards a comprehensive European migration policy*", adopted on 30 November 2006, it is mentioned that 'in developing policies that take account of the potential benefits to third countries of labor migration to Europe, the EU should be very much aware of the risks of brain drain and its socio-economic consequences on developing countries' (Communication from the Council and the European Parliament 2006). The European Parliament tries to promote the same approach. In its *Resolution of 26 September 2007 on the policy plan on legal migration*, '[European Parliament] considers it important that the risks of a brain drain be taken into account when EU legal immigration measures are laid down […] calls upon the Commission, in conjunction with the countries of origin, to carry out statistical studies with a view to identifying the areas of expertise in which there is a clear risk of brain drain' (European Parliament resolution of 26 September 2007 on the policy plan on legal migration 2007).

Conclusions

Concluding, it should be mentioned that the positive effects of the brain circulation can be strengthened and even utilized for a country's development. As some scholars argue, the presence of a highly skilled elite is required if a country wants to proceed with economic development and successfully implement transition reforms. In order to create the conditions for circulation, states must, at least, encourage the return of their nationals, increase investment in science and education, develop contacts with Diaspora and perhaps even initiate short-term positive discrimination in employment, tax and housing areas (Vedran 2004, 82). For example, Iredale suggests that 'sending' countries may consider encouraging or supporting their highly skilled population to take part in brain circulation instead of trying to contain them (Vedran 2004, 82). In Morocco, for instance, civil servants who emigrate tend to be excluded from the civil service for their lifetime. This means that they cannot deploy their knowledge or skills upon return and this will effectively reduce their inclination to invest and return (Vedran 2004, 82).

It also must be emphasized that return policies should be long-term oriented and can be efficient only when the home-country 'can offer prospective returnees satisfactory career conditions in their field, which itself implies a high(er) level of socio-economic development' (Vedran 2004, 82-83). In this sense, a well developed scientific infrastructure, higher investments in the science sector, and the stability of a consolidated democratic government that assures human rights and academic freedoms all provide a suitable environment that allows for this form of migration to occur (Vedran 2004, 84).

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ASSESSMENT AND ANALYSIS OF MIGRATION PROBLEMS IN RUSSIA
(In Russian)
ОЦЕНКА И АНАЛИЗ МИГРАЦИОННЫХ ПРОБЛЕМ В РОССИИ

Аннотация. *Российская Федерация является центром притяжения для мигрантов на постсоветском пространстве. За 1989-2002 гг. миграционный прирост населения России составил 5,5 млн. человек, в последние годы он составляет около 250 тыс. ежегодно. На территории страны единовременно находится от 3 до 5 млн. временных трудовых мигрантов - граждан стран СНГ и дальнего зарубежья. С конца 1980-х гг. масштабы эмиграции на ПМЖ в страны традиционного зарубежья составила 1,5-2 млн. человек.*
В пределах страны в последние два десятилетия население перемещается из восточной части страны в западную, наиболее активно теряют население в результате миграции регионы Севера, с неблагоприятными для жизни природно-климатическими условиями, с моноотраслевой экономической специализацией. Продолжается отток из сельской местности в города, из малых городов - в крупнейшие, однако этот поток сокращается ввиду сокращения мобильных контингентов молодежи. Ежегодно в России около 1 млн. человек совершают переселения из региона в регион, еще столько же мигрируют в пределах регионов. В России нет внутренних ресурсов пространственной мобильности, которым можно управлять в целях обеспечения экономики развивающихся регионов рабочей силой.
Россия, как и большинство развитых стран, нуждается в притоке населения для компенсации потерь от депопуляции, испытывает потребность в притоке рабочей силы разной квалификации. Политика приема иммигрантов нуждается как в мерах по регулированию количественной и качественной составляющих потоков, механизмов натурализации иммигрантов, так и в политике их адаптации и интеграции в принимающий социум.

Ключевые слова: миграционный прирост, постоянная миграция, временная миграция, пространственная мобильность

Российская Федерация - одна из стран, на протяжении длительного времени являющаяся центром притяжения для мигрантов, но, в отличие от основных мировых центров притяжения мигрантов, ее влияние распространяется прежде всего на постсоветское пространство. Несмотря на то, что Россию в 1990-е гг., как и все страны бывшего СССР, потряс тяжелейший трансформацинный кризис, и ей пришлось столкнуться с определенными трудностями по приему мигрантов, именно благодаря миграции в России не было сильного сокращения населения. Миграция из постсоветских стран в значительной мере компенсировала потери населения от депопуляции, и продолжает играть эту роль в настоящее время. Несмотря на успехи в сокращении масштабов естественной убыли населения – с -847 тыс., или 0,6% от общей численности населения в 2005 г. до -249 тыс., или

0,2% в 2009 г., в немалой мере благодаря миграционному притоку население России впервые с 1994 г. не уменьшилось.

За 1989-2002 гг., т.е. за последний межпереписной период, в Россию прибыло около 11 млн. человек (рис. 1), в основном из постсоветских стран, при этом миграционный прирост населения составил 5,5 млн. человек. В последние годы прирост населения России за счет миграции стабилизировался и составляет около 250 тыс. ежегодно (рис. 2), но это – цифры миграции на постоянное место жительство, они включают лиц, получивших гражданство Российской Федерации или вид на жительство, а также, с недавних пор – разрешение на временное проживание[1]. Одновременно на территории страны единовременно находится от 3 до 5 млн. временных трудовых мигрантов - граждан стран СНГ и дальнего зарубежья, значительная их часть (около 2/3) не имеют при этом разрешения на работу, т.е. являются мигрантами с неурегулированным правовым статусом. Вероятно, результаты ближайшей переписи населения, проведение которой в России намечено на октябрь 2010 г. скорректируют миграционный прирост населения страны в сторону увеличения, как это было после последней переписи 2002 г. (рис. 1, 2).

Выезд из России в другие страны неуклонно сокращается (рис. 1), стремится к нулю, хотя есть обоснованные сомнения, так ли это на самом деле. Представляется, что статистика выбытий из России в другие страны неадекватна в не меньшей степени, чем статистика прибытий. У эмигрантов из России нет в настоящее время особых причин продавать имеющуюся недвижимость, сниматься с паспортного учета, следовательно, значительная их часть не попадает в статистический учет.

[1] Статистика миграции в России, как и в других странах, не вполне адекватна. Особенно серьезные проблемы в ней возникли с конца 2000 г., когда в результате изменения порядка учета международных мигрантов многие из прибывающих в Россию на длительный срок оказались вне поля зрения официальной статистики. Подробнее см.: Мкртчян Н.В. Возможные причины снижения иммиграции в Россию в 2000-2001 годах / Вопросы статистики, 2003, №5, с. 47-50; Чудиновских О.С. О критическом состоянии учета миграции в России / Вопросы статистики №10 2004, с. 27-36; Чудиновских О.С. Учет миграции в России: причины и последствия кризиса / Демоскоп Weekly №185-186, 10-23 января 2005 г., http://www.demoscope.ru/weekly/2005/0185/analit03.php; Население России 2005. Тринадцатый ежегодный демографический доклад / Отв. ред. А.Г. Вишневский. М.: Изд. дом ГУ ВШЭ, 2007. с. 186-191

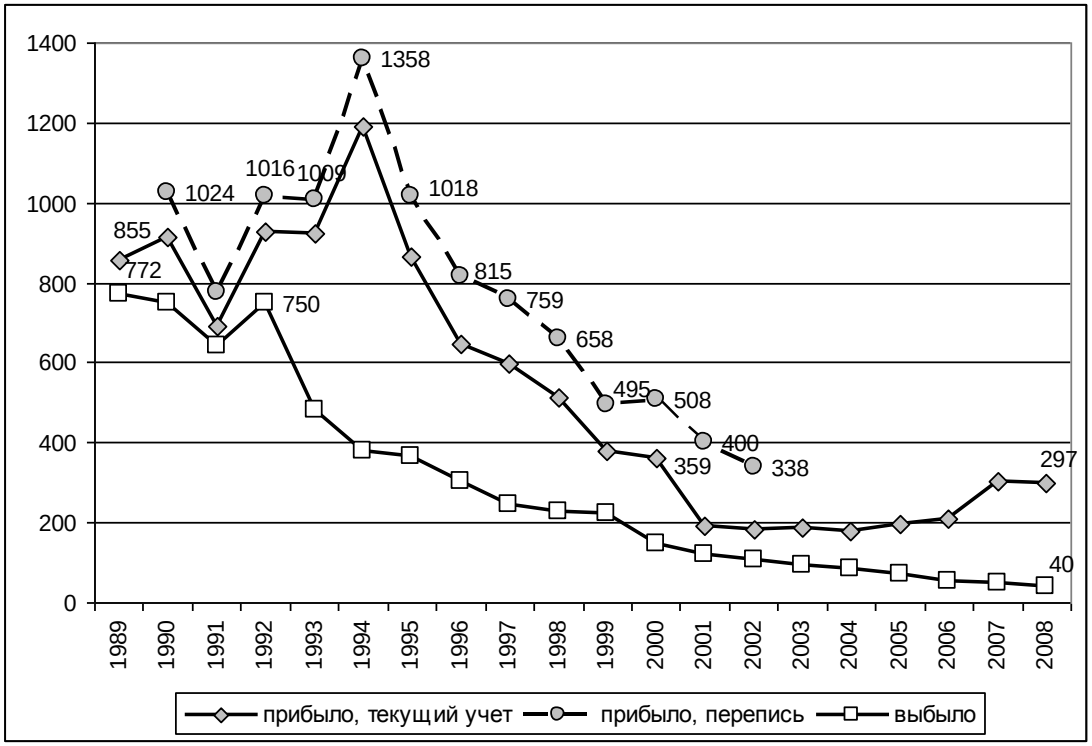

Рисунок 1: Миграционные потоки в Россию и из России, тыс. человек

Источник: Рассчитано по: Демографический ежегодник России 2005. М.: Росстат, 2006; данные Росстата

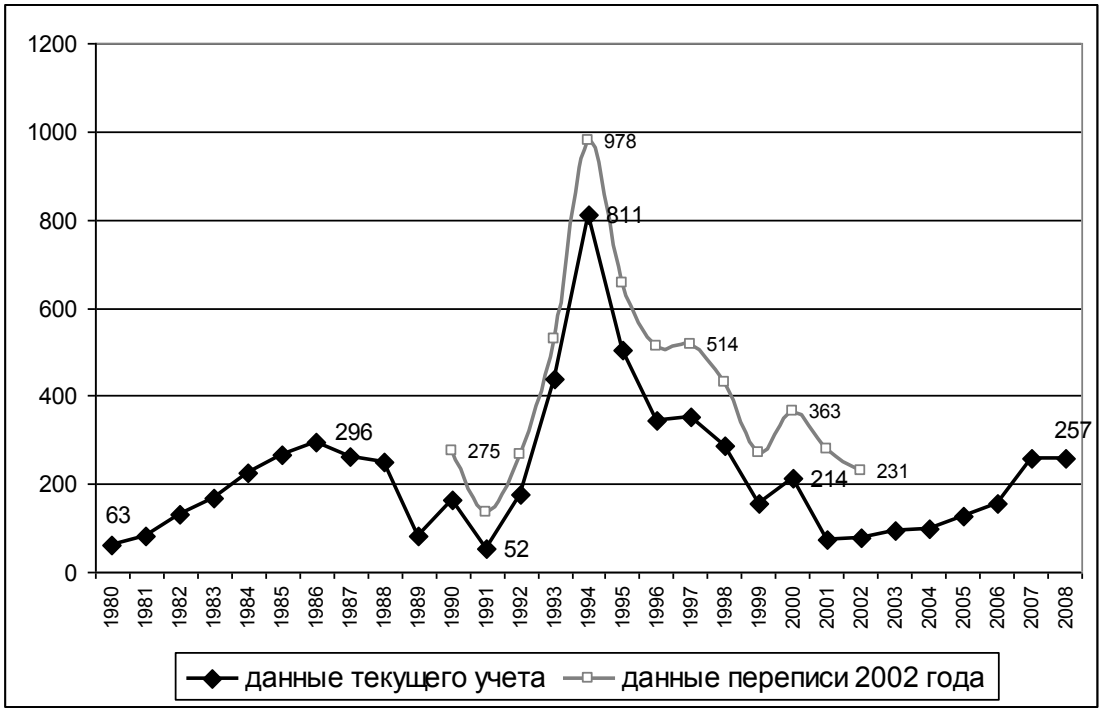

Рисунок 2: Миграционный прирост населения России, тыс. человек

Источник: Демографический ежегодник России 2005. М.: Росстат, 2006; данные Росстата

На исходе второго десятилетия после распада СССР постсоветское пространство (за исключением стран Балтии) было и остается главным поставщиком мигрантов в Россию. В 1990-е гг. в потоках из стран СНГ в Россию преобладали этнические россияне (русские и представители т.н. «титульных» народов России – татары, башкиры, удмурты, мордва, осетины и др.). Доля русских в общем миграционном приросте, составлявшая 81% в 1989-1992 гг., 64% - в 1993-2000 гг., 59% - в 2001-2004 гг., 54% - в 2005 г., в 2006 г. упала до 44,2%, когда русские впервые оказались в меньшинстве в потоке из СНГ, а в 2007 г. они составили только одну треть (32%) миграционного прироста России со странами СНГ[2]. И это – данные статистики миграции ПМЖ, в потоках временных мигрантов доля этнических россиян еще ниже.
Тенденция последнего времени – выход Средней Азии на позицию главного российского донора и утрата этой позиции Казахстаном (табл. 1). В 2006 г. чистый приток из Средней Азии более чем в 2, а в 2007-2008 гг. – в 3 раза превысил приток из Казахстана. Доля Средней Азии в миграционном приросте России за счет стран СНГ в 2008 г. составила 37%, тогда как доля Казахстана - 13,4%, такая перемена знаменует спад репатриации в Россию.

Таблица 1: Нетто-миграция между Россией и странами СНГ в 2003-2008 гг., тыс. Человек

Страны	2003	2004	2005	2006	2007	2008
Западные страны	**26,8**	**23,5**	**29,5**	**33,9**	**59,9**	**60,9**
Белоруссия	0,8	3	1,5	-	1,1	2,2
Молдавия	8,2	6,5	6,5	9,1	14,4	15,9
Украина	17,8	14	21,5	24,8	44,4	42,8
Закавказье	**18,3**	**13,4**	**17**	**29,6**	**63,8**	**68,3**
Азербайджан	4,6	2,6	3,8	8,6	21	23,4
Армения	6,5	4	7,8	13,9	32,1	36,2
Грузия	7,2	6,8	5,4	7,1	10,7	8,7
Средняя Азия	**55,9**	**46,2**	**59,2**	**69,5**	**104,4**	**95,2**
Киргизия	9,3	13,9	16,8	17	25,7	24,7
Таджикистан	7	4,6	4,8	6,9	18	21,2
Туркмения	9	5,6	4,4	4,5	5,1	4,1
Узбекистан	30,6	22,1	33,2	41,1	55,6	45,1
Казахстан	**29,6**	**49**	**45,1**	**31,4**	**32,7**	**34,6**
Всего	**130,6**	**131,1**	**150,8**	**164,4**	**260,8**	**257,1**

Источник: Росстат, оценка

Несмотря на широко разрекламированную Государственную программу содействия добровольному переселению в Российскую Федерацию соотечественников, проживающих за рубежом (Госпрограмма), их число, включая членов семей, остается незначительным: в 2007 г. – 682 человека, в 2008 г. – 8279 человек, «на старте» программы ее разработчики рассчитывали на гораздо большие масштабы притока соотечественников – 50 тыс. в 2007 г.,

[2] Население России 2007. Пятнадцатый ежегодный демографический доклад / Отв. ред. А.Г. Вишневский. М.: Изд. дом ГУ ВШЭ, 2009. с. 208

100 тыс. – в 2008 г. и 150 тыс. – в 2009 г.[3]. Учитывая, что «содействие добровольному переселению соотечественников, проживающих за рубежом, на постоянное место жительства в Российскую Федерацию»[4] заявлено в числе приоритетных задач демографической политики Российской Федерации на период до 2025 г., практика реализации программы пока не позволяет на это рассчитывать.

Единственным стимулом для более активного участия в Госпрограмме, может послужить отмена упрощенного порядка приобретения российского гражданства. Госпрограмма предполагает упрощенный порядок приобретения гражданства и видов на жительства для ее участников. Однако к росту иммиграции в Россию это не приведет, в лучшем случае это позволит иммиграции не сократиться, как это было после ужесточения порядка получения гражданства в 2002 г.

Численность получающих разрешение на временное проживание (РВП) в России в 2006-2008 гг. увеличивалось, а число получивших российское гражданство находилось практически на неизменном уровне (табл. 1). Однако уже в 2009 г. ФМС России ожидает более чем двукратного сокращения числа получивших гражданство, видимо, в результате отмены упрощенного режима получения гражданства, хотя по итогам 1 полугодия 2009 г. число получивших гражданство уже составило 189 тыс. человек[5]. С 2010 г. планируется снижение числа получивших РВП (за первое полугодие выдано 135 тыс. разрешений). Это приведет к сокращению числа потенциальных мигрантов в Россию, прибывающих на ПМЖ, т.к. основанием для заполнения талона статучета мигранта является наличие гражданства, вида на жительство или РВП.

Таблица 1: Численность получивших разрешение на временное проживание, вид на жительство и гражданство России в 2006-2008 гг. и план на 2009-2012 гг., тыс. человек

	2006	2007	2008	2009 (план)	2010 (план)	2011 (план)	2012 (план)
Численность получивших РВП	150,7	193,8	220,5	250,0	230,0	200,0	170,0
Численность оформивших вид на жительство в РФ	16,6	14,6	12,4	20,0	60,0	80,0	100,0
Численность принятых в гражданство РФ	371,8	359,2	362,5	150,0	50,0	40,0	40,0

Источник: Проект доклада о результатах и основных направлениях деятельности федеральной миграционной службы на 2010–2012 годы. М.: 2009. Информация с официального сайта ФМС России http://www.fms.gov.ru/about/ofstat/

Возрастной профиль миграции из стран СНГ характеризуется высокой долей мигрантов в трудоспособном возрасте, их доля в миграционном приросте, полученном Россией в обмене со странами СНГ в 2008 г. составляла почти 80% (рис. 3). Особенно увеличилась доля мигрантов в трудоспособных возрастах после 2007 г., когда в статистику стали включать лиц, впервые получивших статус временно проживающего.

[3] Вандышева О. Глава ФМС Константин Ромодановский уверен, что мигранты для России – благо //Комсомольская правда. 29 декабря 2006 г.

[4] Концепция демографической политики Российской Федерации на период до 2025 года. Утв. Указом Президента РФ от 9 октября 2007 г. № 1351.

[5] Статистические данные по форме 1-РД «Результаты деятельности территориальных органов за 6 месяцев 2009 года». Информация с официального сайта ФМС России, http://www.fms.gov.ru/about/ofstat/stat_1_rd/part_7.php

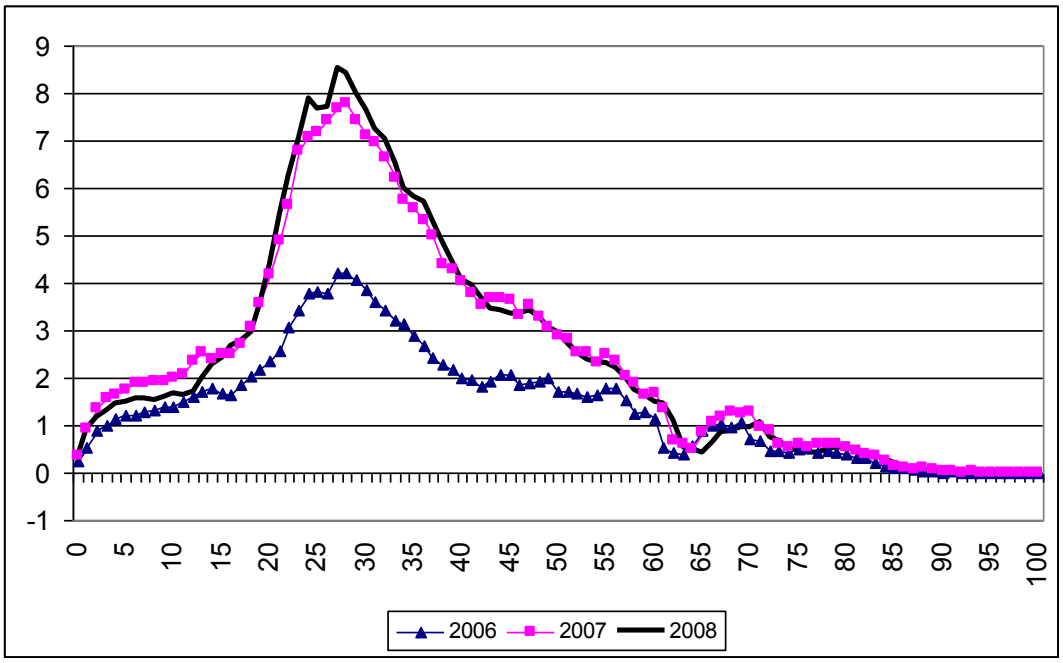

Рисунок 3: Миграционный прирост населения России за счет стран СНГ по возрасту в 2006-2008 гг., тыс. человек
Источник: данные Росстата

Эмиграция из России в страны дальнего зарубежья, носящая в основном этнический характер, сопровождается вовлечением страны в процессы циркуляции умов, выгоды от которой пока не удается повернуть на пользу экономике. Регистрируемые российской статистикой масштабы эмиграции в пиковые годы немногим превышали 100 тыс. человек (рис. 4), однако, по оценкам, основанным на данных статистики принимающих стран[6], ее масштабы были выше примерно на 20%. С конца 1980-х гг. эмиграция из России на ПМЖ в страны традиционного зарубежья, по оценке, составила 1,5-2 млн. человек. У эмигрантов из России нет в настоящее время особых причин оповещать власти о своем отъезде на ПМЖ, сниматься с паспортного учета, продавать имеющуюся недвижимость, следовательно, значительная их часть не попадает в статистический учет.

[6] Денисенко М. Эмиграция из России по данным зарубежной статистики /Демоскоп Weekly №65-66, 29 апреля – 19 мая 2002 г. http://demoscope.ru/weekly/2002/065/tema01.php

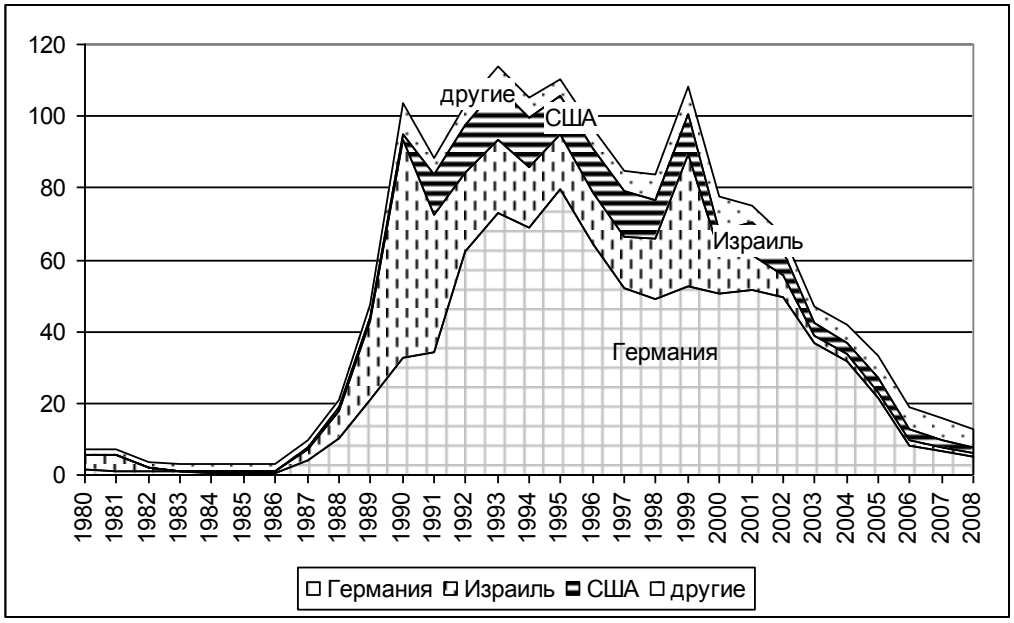

Рисунок 4: Эмиграция из России по странам исхода, тыс. человек
Источник: данные Росстата

Расселение международных мигрантов, с одной стороны, происходит неравномерно по территории страны: и в 1990-е гг., и в настоящее время большая их часть оседает в староосвоенных регионах Европейской части страны, а также по границе с Центральноазиатским регионом, откуда в Россию идут основные миграционные потоки. Приток в восточную часть страны существенно ниже. С другой стороны, прирост за счет миграции из постсоветских стран получает подавляющее большинство регионов, теряющих население в межрегиональной миграции.
Географическое распределение прибывших в Россию из других стран достаточно устойчиво во времени, около 70% мигрантов расселяется в округах Европейской части страны (табл. 3). В сравнении с 1990-ми гг. больше мигрантов приезжает в Центральный округ, меньше – в Южный. При этом распределение прибывших в 2006-2008 гг. практически не отличается от 2001-2005 гг., т.е. это распределение устойчиво во времени.

Таблица 3: Распределение прибывших в Россию международных мигрантов по федеральным округам, %

	1991-1995	1996-2000	2001-2005	2006-2008
Россия	**100,0**	**100,0**	**100,0**	**100,0**
Центральный	23,9	24,8	32,8	32,8
Северо-Западный	9,9	9,2	9,2	8,0
Южный	18,6	14,6	13,6	13,5
Приволжский	18,6	18,9	17,7	19,1
Уральский	9,3	13,3	9,8	9,7
Сибирский	14,7	15,6	14,3	13,7
Дальневосточный	5,1	3,6	2,5	3,2

География выезда из России в другие страны также устойчива (табл. 4), однако роль восточных регионов выше, чем в прибытии – 40-45%, что объясняется общими высокими

миграционными потерями этих регионов, а также этнической специфичностью эмиграции в страны дальнего зарубежья (выезд в Германию осуществляется из мест компактного проживания этнических немцев – прежде всего Омской, Новосибирской областей, Алтайского края).

Таблица 4: Распределение выбывших из России международных мигрантов по федеральным округам, %

	1991-1995	1996-2000	2001-2005	2006-2008
Россия	**100,0**	**100,0**	**100,0**	**100,0**
Центральный	18,1	17,7	16,7	20,3
Северо-Западный	14,0	12,1	10,3	11,5
Южный	11,5	12,7	13,2	13,2
Приволжский	11,4	12,6	13,8	14,4
Уральский	12,1	12,5	11,5	12,5
Сибирский	18,0	22,4	29,6	22,2
Дальневосточный	14,8	10,0	4,8	5,9

Вариация географии выбытий в 2006-2008 гг. в сравнении с первой половиной 2000-х гг. более существенна, чем география прибытий, однако, в силу незначительности объемов выезда из России в другие страны в последние годы она не имеет принципиального значения, и увеличения выезда из какого-то округа на несколько тысяч человек может существенно поменять распределение выбытий по макрорегионам страны.

Временная трудовая миграция

Время, когда основной поток миграции в Россию был представлен репатриацией русских, осталось в прошлом, начиная с 2000-х гг. в потоках преобладают временные трудовые мигранты – выходцы стран СНГ и дальнего зарубежья. В новом веке преобладающими мотивами миграции в Россию стали экономические, мигранты прочно заняли ниши на рынках труда в России и ее регионах. Фиксируемое статистикой число трудовых мигрантов в течение последних 10-15 лет постоянно увеличивалось. В 2006 г. число официально работающих в России мигрантов превысило 1 млн. человек, а в 2008 г. – приблизилось к 2,5 млн.

Проведенная в 2007 г. либерализация режима трудовой миграции для стран СНГ, имеющих безвизовый режим с Россией, привела к увеличению доли этих стран в структуре миграционного потока. Согласно официальным данным, в 2008 г. доля стран СНГ (не включая Грузию и Туркменистан) составляла 73%, по сравнению с 67% в 2007 г. и 53% в 2006 г. В реальном потоке доля СНГ может быть еще выше, так как именно «безвизовики» преобладают среди «нелегалов», не учитываемых статистикой временных трудовых мигрантов. Тем не менее, либерализация миграционной политики, по экспертной оценке Ж.А. Зайончковской и Е.В. Тюрюкановой, позволила сократить долю «нелегалов» в потоке трудовых мигрантов с 90-95% в 2000 г. до 60-65%[7].

Тенденция последних лет - рост временной трудовой миграции в Россию из стран Центральной Азии. Доля этого региона в 2008 г. составила половину всей официальной трудовой миграции в Россию и 68% потока из стран СНГ (рис. 5). Учитывая, что миграционные потоки западных стран СНГ постепенно переориентируются в сторону

[7] Население России 2007. Пятнадцатый ежегодный демографический доклад / Отв. ред. А.Г. Вишневский. М.: Изд. дом ГУ ВШЭ, 2009. с. 234

Европы, Центральная Азия является едва ли не единственным регионом СНГ, способным в ближайшее время существенно увеличить свою трудовую миграцию в Россию.

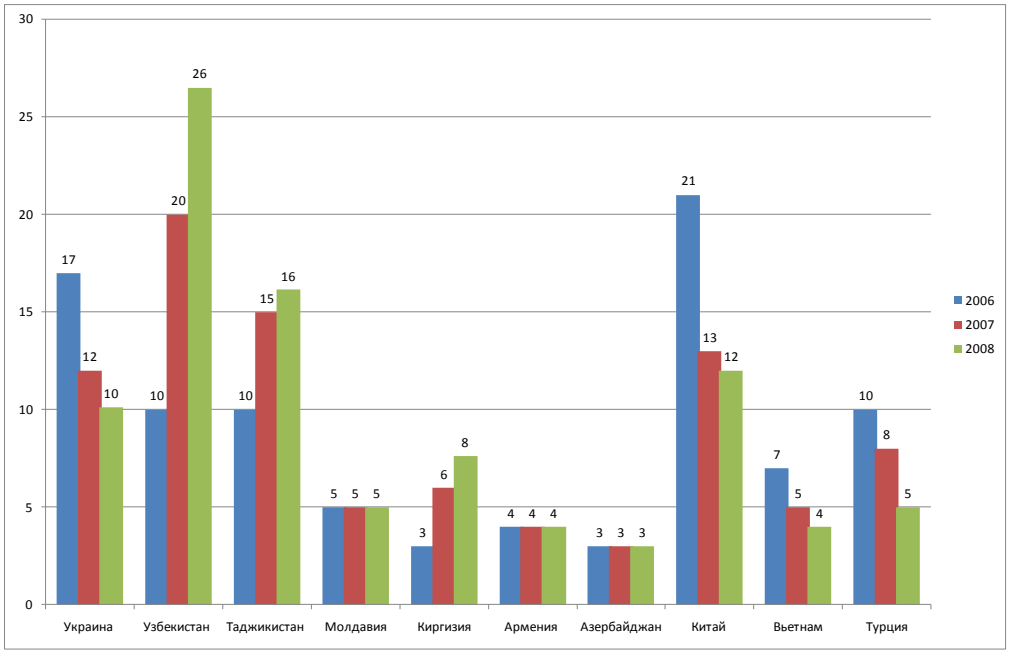

Рисунок 5: Доля основных стран выхода в структуре трудовой миграции в Россию, %
Источник: расчеты Е.В. Тюрюкановой по данным ФМС России

Если потоки из постсоветских стран в 1990-е гг. состояли из людей с хорошей профессиональной подготовкой, высоким уровнем образования[8], то сейчас ситуация меняется. В миграцию вовлекаются совсем другие контингенты –основу миграции из СНГ (более 70%) составляют выходцы из небольших городов и сел[9]. Поскольку в России они концентрируются, по большей части, в крупных городах, их адаптация осложняется не только разницей культур как таковой, но и новой для них культурой большого города. Снижается образовательный уровень трудовых мигрантов. Более 40% приезжающих в РФ мигрантов не имеют профессионального образования и могут заниматься только неквалифицированным трудом. Однако, именно этот труд востребован российской экономикой: по оценкам, доля временных трудовых мигрантов в сегменте «неквалифицированной занятости» в России составляет около 40%[10], и эти работы не пользуются спросом у российских граждан.
Нынешний социально-экономический кризис привел к некоторому сокращению потока трудовых мигрантов по оценкам, на 20-30%[11], но он не сопровождался кардинальными изменениями в структуре миграции в Россию. Сокращение числа выданных разрешений с 2426 тыс. 2008 г. до 1473 в 2009 г. означал рост сегмента нелегальной миграции в России.

[8] Население России 2003-2004. Одиннадцатый-двенадцатый ежегодный демографический доклад. / Отв. Ред. А.Г. Вишневский. М.:, 2006, с. 311, 313.
[9] Население России 2007. Пятнадцатый ежегодный демографический доклад / Отв. ред. А.Г. Вишневский. М.: Изд. дом ГУ ВШЭ, 2009. с. 237
[10] Карачурина Л.Б. Миграция и рынок труда в современной России: есть ли взаимосвязи? //Региональные исследования. 2005. № 2 (6). с. 19-32
[11] Карачурина Л.Б. Миграционные процессы //Российская экономика в 2009 году. Тенденции и перспективы (Выпуск 31) – М.: ИЭПП, 2009. раздел 4.2. стр. 376 - 392

Россия, как и большинство развитых стран, нуждается в притоке населения для компенсации потерь от депопуляции, но в еще большей мере испытывает потребность в притоке рабочей силы разной квалификации. Политика приема иммигрантов нуждается как в мерах по регулированию количественной и качественной составляющих потоков, механизмов натурализации иммигрантов, так и в политике их адаптации и интеграции в принимающий социум.

Проблемы регионального развития и внутренней миграции

В последние два десятилетия в России произошло более чем двукратное сокращение миграционной активности населения, по крайней мере тех переселений, которые фиксируются миграционной статистикой – с 4,2 млн. в 1990 до 1,9 млн. в 2008 г. Уровень пространственной мобильности населения России в постсоветский период снизился примерно вдвое до уровня, имевшего место в России перед Первой мировой войной[12]. Снижение пространственной мобильности зафиксировала и последняя российская перепись, проведенная в 2002 г. Доля людей, никогда не переезжавших – местных уроженцев, к 2002 г. сильно выросла – до 55,8% против 49,3% в 1989 г. и 46,1% в 1979 г.

На протяжении многих десятилетий, начиная с периода индустриализации 1930-х годов, решение ключевых вопросов рынка труда в России было тесно связано с внутренней миграцией в двух ее взаимосвязанных основных формах: миграция из деревни в город и межрегиональная миграция, позволявшая осваивать новые территории, развивать существующие или создавать новые промышленные и городские центры. Территориальное перераспределение населения в значительной степени управлялось из государственного центра в соответствии с его экономическими планами. Сейчас это этап остался в прошлом, в современной России государство ограничено в мерах стимулирования миграции в «нужных» направлениях. Нет ясности в том, куда необходимо направлять миграционные потоки (а главное – откуда брать) в условиях повсеместной нехватки населения: в России недонаселены не только восточные районы, но и центр Европейской части. По расчетам, в Европейской части России недостает около 5 млн. человек сельского населения[13]. Для успешного развития сельского хозяйства только в основной сельскохозяйственной зоне Европейской России (без севера) «недостает» 64 больших города с 6-7 миллионами населения[14].

Излишнего населения, «трудоизбыточности», сегодня нет в России нигде, за исключением ряда республик Северного Кавказа и юга Сибири[15], но и здесь избыток не очень велик. Высоким переселенческим потенциалом обладают только Дагестан и Чечня, где он составляет несколько сот тысяч человек в рабочих возрастах, которые и будут, скорее всего, постепенно перераспределяться по территории России.

В последние 20 лет направления внутрироссийской миграции имеют устойчивый центростремительный характер: население стягивается в Центральный федеральный округ, прежде всего - в столичный регион. Только за 1989-2002 гг. Москва и область получили 2,8 млн. миграционного прироста, частично за счет международной миграции, но на 70-80% - за

[12] Зайончковская Ж.А., Ноздрина Н.Н. Миграционный опыт населения региональных центров России / Проблемы прогнозирования №4 2008, с. 98

[13] Подробнее см.: Вишневский А.Г., Андреев Е.М., Трейвиш А.И. Перспективы развития России: роль демографического фактора. М.: ИЭПП., научные труды №53Р, 2003. с. 33-36

[14] Нефедова Т.Г. Сельская Россия на перепутье: географические очерки. М.: Новое издательство, 2003. с. 299-301

[15] Методику оценки трудоизбыточности см.: Государственный контракт (№ 55-юр от 11.07.2008 г.) по теме: «Разработка модели организации трудоустройства в другой местности граждан, ищущих работу, органами государственной службы занятости и рекомендации по ее администрированию». Руководитель работы – М.Б. Денисенко.

счет притока населения из других регионов страны, в первую очередь, из самого Центрального округа. Притягивающая роль столичного региона сильно ощущается в пределах всей европейской части страны.

Притягивающая роль Москвы не ослабеет в будущем, она может только усилиться, т.к. два ближайших десятилетия будут отмечены очень сильным сокращением численности ее населения в трудоспособном возрасте. По нашим расчетам, при условии отсутствия миграции (как международной, так и внутренней) в Центральном федеральном округе и в столичном регионе сокращение населения в трудоспособном возрасте будет сильнее, чем в целом по стране (табл. 1, рис. 2). Только для компенсации потерь населения в трудоспособном возрасте Центральному округу потребуется приток трудовых ресурсов в 6,4 млн. человек, в т.ч. 3,2 млн. понадобится столичному региону. Учитывая, что в потоках внутренней миграции лица в трудоспособных возрастах составляют около 75% общего потока, миграционный прирост, необходимый для компенсации потерь, должен составить 8,5 и 4,3 млн. соответственно. Рост рождаемости и снижение смертности могут скорректировать эти цифры, но ненамного и уже не в этом десятилетии. Источником такого миграционного прироста могут быть либо внутренняя, либо международная миграция, либо и та, и другая.

Таблица 1: Оценка изменения численности населения в трудоспособном возрасте в 2005-2025 гг. при отсутствии миграции

	Численность населения, млн. человек		Изменение за 2005-2025 гг.	
	2005	2026	млн. чел.	в %
Российская Федерация	90,2	71,3	-18,9	-21,0
Центральный федеральный округ	23,3	16,9	-6,4	-27,5
в т.ч. Москва и Московская область	10,9	7,7	-3,2	-29,3
Северо-Западный федеральный округ	8,8	6,5	-2,3	-26,2
Южный федеральный округ	13,9	12,5	-1,4	-10,4
Приволжский федеральный округ	19,2	15,2	-4,0	-21,0
Уральский федеральный округ	7,9	6,4	-1,6	-19,9
Сибирский федеральный округ	12,7	10,4	-2,3	-18,2
Дальневосточный федеральный округ	4,4	3,5	-0,8	-19,1

Источник: расчеты Центра демографии и экологии человека ИНП РАН, 2004 г.

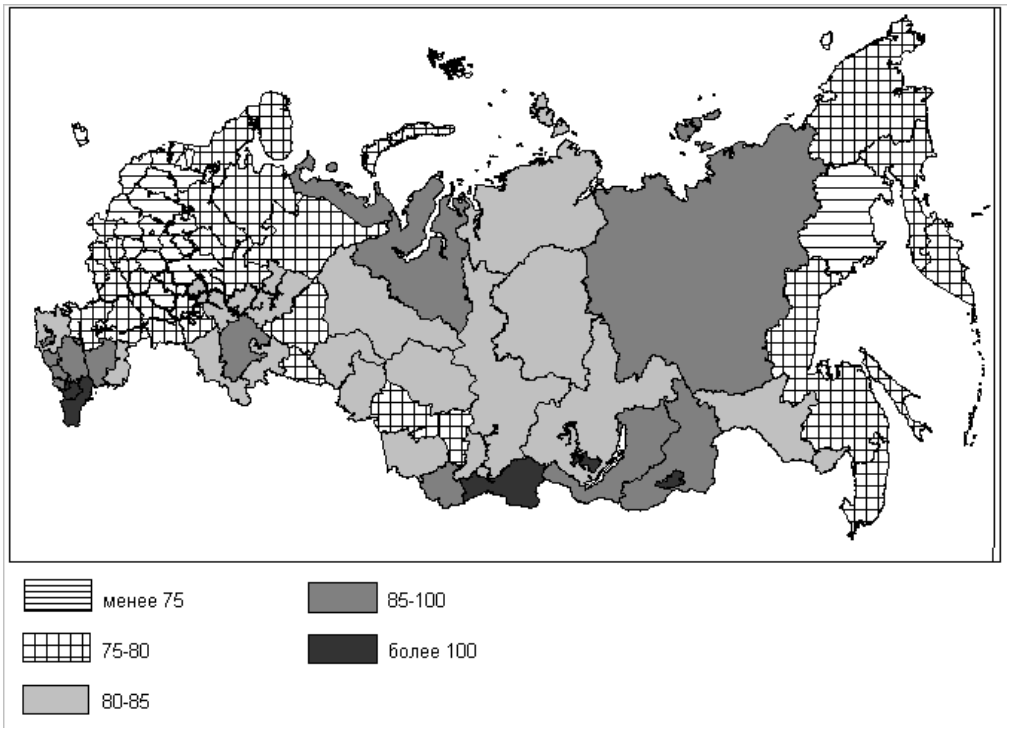

Рисунок 2: Численность населения в трудоспособном возрасте в 2025 г., в % к 2005 г. (миграция отсутствует)

Источник: расчеты Центра демографии и экологии человека ИНП РАН, 2004 г.

Власти наиболее миграционно привлекательных регионов страны, прежде всего - Москвы, уже не первый год говорят о необходимости замены иностранных работников россиянами «из глубинки»[16]. Но прогнозные расчеты показывают, что при миграционном приросте населения России на уровне 200-250 тыс. человек в год (нынешний уровень) только для обеспечения стабилизации численности населения в трудоспособном возрасте в столичном регионе на уровне середины 2000-х гг. отток населения из регионов Южного, Приволжского, Уральского, Сибирского и Дальневосточного федеральных округов должен в ближайшие полтора десятилетия усилиться. Миграционные потери регионов Сибири и Дальнего Востока, уже и без того значительные (по оценке, за 1990-2002 гг. миграционные потери составили около 1,7-1,8 млн. человек[17], в последующие годы отток, по данным статистики, был на уровне 50 тыс. в год, т.е. суммарные потери превысили 2 млн. человек), за 2010-2025 гг. составят еще около 1,2 млн. человек. При этом на регионы Центрального федерального округа будет приходиться 60-70% прироста за счет внешней миграции, полученной Россией. Для прекращения миграционных потерь регионов Сибири и Дальнего Востока необходим миграционный прирост населения России на уровне 600-700 тыс. человек в год, только тогда потери этих регионов в результате внутренней миграции сократятся и будут перекрыты притоком международных мигрантов. Прирост за счет международной миграции на уровне 1 млн. мигрантов в год и более способен привести устойчивому притоку в регионы Сибири и

[16] См., например: Елков И. Вместо иностранных гастарбайтеров столица призовет безработных из глубинки / Российская газета - Неделя 2 апреля 2009 г.

[17] Данные статистики, скорректированные по результатам переписи населения 2002 г. См.: Мкртчян Н. Миграция в России: западный дрейф / Демоскоп Weekly №185-186, 10-23 января 2005 г. http://demoscope.ru/weekly/2005/0185/tema01.php

Дальнего Востока, однако и он не позволит восполнить потери, понесенные населением этих округов в последние два десятилетия.

Поэтому возможность «разворота» миграционных потоков вспять - не столько вопрос сложностей управления пространственной мобильностью, отсутствия полюсов роста в тех частях страны, куда необходимо организовать приток населения, сколько вопрос нехватки, отсутствия демографических ресурсов.

Помимо нехватки трудовых ресурсов, существует еще проблема их территориальной мобильности, которая представляет собой один из видов общей мобильности рабочей силы, наряду с отраслевой, профессиональной, квалификационной мобильностью. Мобильность рабочей силы – очень важная характеристика рынка труда, который постоянно меняется, пульсирует, требует от всех участников рынка быстрых реакций. По оценкам, основанным на обследованиях домохозяйств в 7 городах России, проведенных в 2002 году, размеры временной трудовой миграции в России составляют примерно 3 млн. человек, что сопоставимо с трудовой иммиграцией в Россию из стран СНГ[18].

Миграция на постоянное место жительства сменяется разными формами временной пространственной мобильности[19], которые либо не поддаются статистическому учету, либо поддаются ему с большим трудом. Тем не менее, территориальная мобильность рабочей силы на российском рынке труда крайне низка, этот известный факт лишний раз подтвердили исследования мобильности безработных и лиц, ищущих работу во время экономического кризиса.

Проведенный недавно в России опрос безработных и лиц, ищущих работу[20] показал, что даже во время кризиса текущая и потенциальная мобильность граждан, обращающихся за содействием в поисках работы в региональные службы и центры занятости, невелика. Только 8% опрошенных в течение двух лет, предшествующих опросу, работали в других населенных пунктах. 10% предпринимали попытки искать работу в других регионах, 16% рассматривали варианты работы в других городах, ПГТ или сельских районах своей области (края, республики). Среди опрошенных 17% хотели бы при этом поехать на временную или постоянную работу в другую местность. Готовность искать работу в других регионах мало зависела от места проведения опроса: жители регионального центра, и других городов примерно в равной мере не настроены ради работы покидать свой регион. При этом условия, на которых опрошенные соглашались сменить место жительства, свидетельствуют об их довольно высоких притязаниях. Запрашиваемый ими размер заработной платы был в 4 раза выше, чем на последнем месте работы, а при переселении в Сибирь и на Дальний Восток – в 7 раз выше. Большая часть опрошенных рассчитывала не ухудшить свои жилищные условия или улучшить их. Свыше половины опрошенных соглашались только на улучшение жилищных условий либо отвергали любые варианты.

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[18] Зайончковская Ж.А. Трудовая миграция в СНГ с позиций общества, семьи и личности / Миграция населения. Вып. 2: Трудовая миграция в России. Приложение к журналу «Миграция в России». // Под общей ред. О.Д. Воробьевой. М., 2001, с. 21

[19] См., например: Моисеенко В.М. Внутренняя миграция населения М.: «ТЭИС», 2004, с. 238; Моисеенко В.М. Снижение масштабов внутренней миграции населения в России: опыт оценки динамики по данным текущего учета / Вопросы статистики №7 2004. с.50; Рязанцев С.В. Внутренняя миграция населения в России: региональные особенности и перспективы / Народонаселение№3 2004, с. 113; Население России 2005. Тринадцатый ежегодный демографический доклад / отв. Ред. А.Г. Вишневский / Гос. Ун-т – Высшая школа экономики. М.: Изд. Дом ГУ ВШЭ, 2007. с.186-188.

[20] Институт международных исследований семьи по заказу Роструда. Государственный контракт (№ 55-юр от 11.07.2008 г.) по теме: «Разработка модели организации трудоустройства в другой местности граждан, ищущих работу, органами государственной службы занятости и рекомендации по ее администрированию». Руководитель работы – М.Б. Денисенко.

В России сохраняются, пусть и в сильно смягченной форме, институциональные барьеры пространственной мобильности, связанные с сохранением системы регистрации по месту жительства и пребывания, но основной барьер мобильности – дороговизна жилья в крупных городах, неразвитость рынка дешевого арендного жилья[21]. Кроме того, существуют так называемые «ловушки бедности», в которые попадают жители депрессивных регионов, не имея возможности оплатить переезд и связанные с ним большие первоначальные затраты — на жилье, поиски работы[22].

Миграция позволяет семьям поддерживать уровень благосостояния, но, с другой стороны, ситуацию, когда миллионы российских семей живут «на разрыве» между местом работы одного или двух их членов и местом обычного, постоянного жительства, следует признать ненормальной. Значительная часть внутренней миграции носит латентный характер. Человек годами работает, проживает в арендуемом помещении, пользуется комплексом услуг, платит налоги, но при этом для статистики, для властных структур такой мигрант – де-факто постоянный житель города - не виден. Он не имеет регистрации по месту жительства в городе и в большинстве случаев – регистрации по месту пребывания. Специфический мигрантский образ жизни, в отсутствии социального контроля со стороны семьи, часто порождает пьянство и связные с ним девиации, негативно сказываться на здоровье. В семьях мигрантов чаще возникают проблемы с воспитанием детей. При этом временный работник далеко не всегда является адекватной заменой постоянному.

Сказанное не означает, что необходимо противодействовать временной трудовой миграции. Речь идет о расширении свободы выбора для конкретного индивида – о снятии барьеров, препятствующих переселению на постоянное место жительства, о снижении издержек, связанных с миграцией, развитии гибких форм труда и т.п.

В то же время появление в крупных городах массы мигрантов – иностранцев не выглядит чем-то из ряда вон выходящим, как это принято сейчас считать. Эти мигранты заменили в крупных городах лимитчиков, которые также соглашались на непрестижные работы, занимали ниши на рынках труда, оказывающиеся невостребованными среди «коренного» населения. Нынешние гастарбайтеры – те же лимитчики, только обладающие еще меньшей социальной защищенностью и, в силу этнокультурных отличий, пользующиеся еще большим настороженным вниманием коренных жителей.

Внутренняя и внешняя миграция связаны между собой, и эта связь заслуживает серьезного внимания. В современной России важной движущей силой миграции является спрос на труд в крупных городах, он стимулирует не только миграцию в пределах регионов, но и между отдельными частями страны. Расширяя предложение на рынке труда в наиболее активно развивающихся регионах Европейской России, внешняя миграция сдерживает опасные тенденции нарастания «западного переноса» и обезлюдения ее азиатской части.

В то же время, демографические соображения не позволяют ожидать существенных изменений в территориальной мобильности российских трудовых ресурсов. При общем сокращении трудоспособного населения в ближайшие десятилетия, особенно сильно уменьшатся контингенты молодежи (17-29 лет), а именно в этом возрасте отмечен пик территориальной мобильности (рис.). Этот пик устойчив во времени, в 2004-2008 гг. на лиц в этом возрасте приходилось 41-42% всех внутристрановых миграций. По расчетам, только за счет изменения структуры населения в пределах трудоспособного возраста (сокращение доли молодежи) миграционная активность населения снизится к 2025 г. на 9%[23]. Негативное

[21] Зайончковская Ж.А., Мкртчян Н.В. Внутренняя миграция в России: правовая практика. М., 2007.

[22] Ловушка бедности / «Коммерсантъ», № 57 от 3 апреля 2006 г.

[23] Карачурина Л.Б., Мкртчян Н.В. Демографические и социально-экономические факторы динамики миграционной активности населения России: современная ситуация и перспективы / Научные труды: ИНП РАН // Гл. ред. А.Г. Коровкин. М.: МАКС Пресс, 2008. с. 571-604.

воздействие изменения возрастной структуры уже ощущается на динамике пространственной мобильности, но наблюдаемый сейчас низкий уровень пространственной мобильности – не предел.

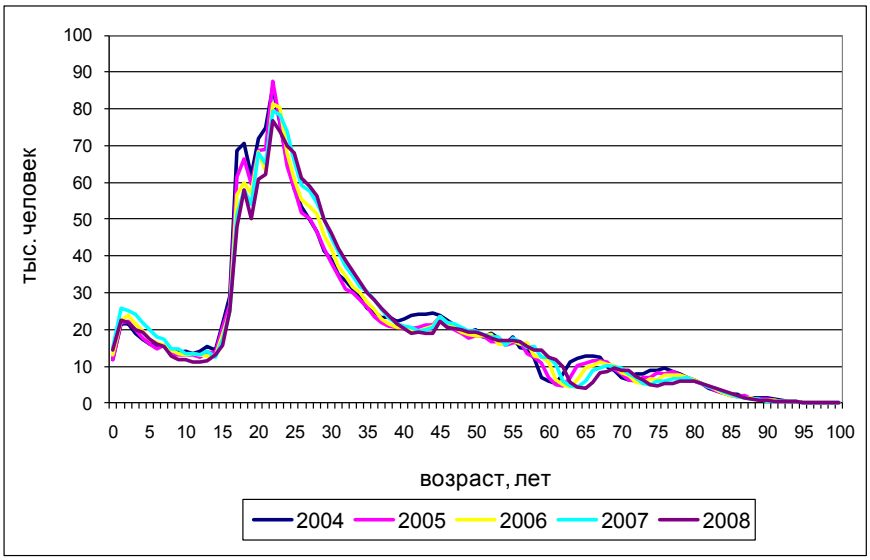

Рисунок 1: Распределение внутрироссийских мигрантов по возрасту, тыс. человек

Возможности внутренней миграции внести вклад в смягчение напряжений на рынке труда минимальны. В той же мере, в какой этот рынок способен все-таки формировать отдельные устойчивые потоки внутренней миграции, он лишь обнажает скудность наличных демографических ресурсов, приводя к обезлюдению и без того слабо заселенных пространств.

Сельско-городская миграция

Миграция из села в город традиционно обеспечивала высокую в целом мобильность населения России. Эта миграция была обусловлена интенсивной урбанизацией, мощно развернувшейся в годы первых советских пятилеток. Миграционный поток сельского населения в города в конце 1960-х – начале 1970-х гг. превышал 1 млн. в год, или 2% всего населения[24]. Однако уже во второй половине 1970-х гг. выезд из села резко снизился. Причины снижения оттока населения из сел, во-первых, в истощении демографических ресурсов села, во-вторых – в резко возросшей концентрации сельского населения вокруг больших городов. Благодаря более высокому благосостоянию и более разнообразному образу жизни, население пригородов более устойчиво в миграционном отношении по сравнению с периферией[25].

Только в начале 1990-х гг. миграционный приток из стран СНГ позволил немного сгладить потери, которые сельская местность несла в течение предыдущего десятилетия. Только за 1990-1994 гг. российское село получило около 1,2 млн. дополнительного населения[26]. Даже сельско-городской тренд немного «подломился» (рис. 6), однако уже в 1994 г. он восстановился практически в тех же объемах.

[24] Численность, состав и движение населения в РСФСР. -М.: ЦСУ РСФСР, 1986. С. 27, 54-55

[25] Население России 1993. Ежегодный демографический доклад / Отв. Ред. А.Г. Вишневский, С.В. Захаров. М.: 1993, с. 62

[26] Население России 1995. Третий ежегодный демографический доклад / Отв. Ред. А.Г. Вишневский. М.: 1996, с. 86

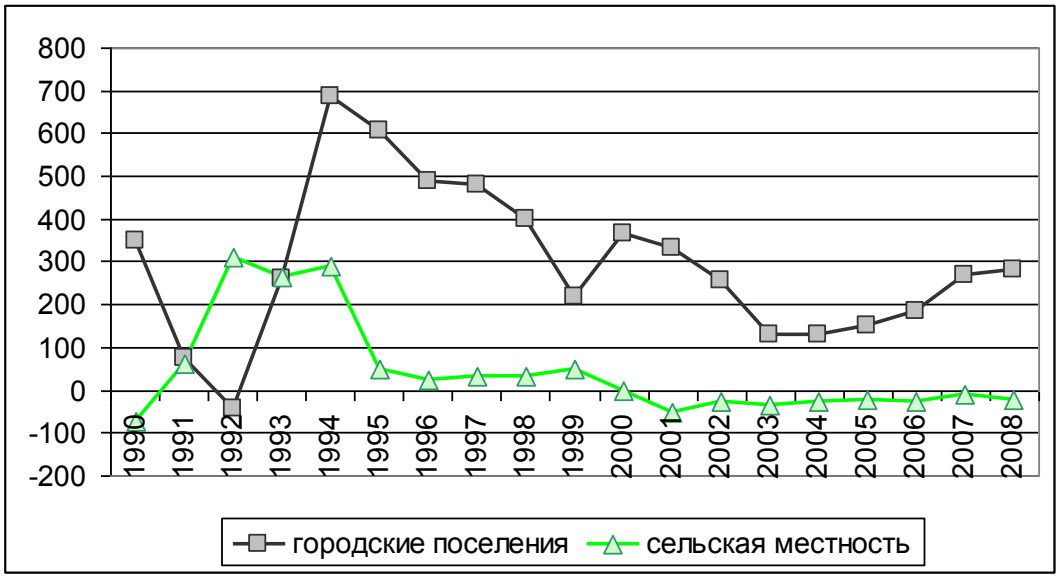

Рисунок 6: Нетто-миграция по городским поселениям и сельской местности, тыс. человек

При этом, как показывают наши оценки, даже в начале 1990-х гг. во внутрироссийской миграции движения в сельскую местность из городов практически не было, а незначительная миграционная убыль городского населения в обмене с сельским обеспечивалась интенсивным выездом из небольших городов и пгт, расположенных на Севере и востоке страны.

Потенциальная мобильность молодого населения малых городов и сельской местности достаточно высока. По данным опроса учащихся одиннадцатых (выпускных) классов школ малых городов, твердо намерены покинуть свои города 70% девушек и 54% юношей[27]. Исследование потенциальной миграции в Томской области показывает, что чаще всего миграционные намерения демонстрируют жители наименее благополучной в социально-экономическом отношении сельской местности, в то время как в сельскохозяйственных районах на юге области, расположенных рядом с областным центром, миграционные намерения ниже, чем в среднем по области[28]. О достаточно высоком миграционном потенциале молодежи сельской местности свидетельствуют данные обследования сельской местности 10 регионов России[29], согласно которому 54% от всех респондентов желают, чтобы их дети уехали из села.

Не прослеживается причин, по которым бы перераспределение населения между селом и городом изменило свое направление. Масштабы перераспределения населения между поселениями разных типов устойчивы в последние годы, выезд из села в города в пределах страны удерживается на уровне 70-100 тыс. в год, миграционный приток из стран СНГ не полностью компенсирует эти потери.

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[27] Флоринская Ю.Ф., Рощина Т.Г. Миграционные намерения выпускников школ из малых городов России / Российская молодежь: проблемы и решения. М.: Центр социального прогнозирования, 2005, с. 402. Опрашивалось 500 респондентов в четырех малых городах и крупной станице Ставропольского края, школы выбирались произвольно.

[28] Кузнецова П.О., Федорец А.В. Микроанализ потенциальной миграции в Томской области / Миграция населения: статистика, выборочные обследования, политика: Сборник статей // Под ред. М.Б. Денисенко. -М.: МАКС Пресс, 2006, с. 85.

[29] Краснослободцев В.П. Сельские "миры" России и миграция / Демоскоп Weekly №185-186, 10-23 января 2005 г., http://demoscope.ru/weekly/2005/0185/analit04.php

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В будущем России, чтобы не только обеспечить стабилизацию численности населения, но и предотвратить резкое сокращение рабочей силы вследствие демографических изменений, придется принимать все больше мигрантов. Ресурсов стран СНГ, выходцы из которых сейчас доминируют среди постоянных и временных мигрантов, для этого будет недостаточно, их совокупный миграционный потенциал, даже будучи реализованным не обеспечит потребностей России. Необходимо учитывать также конкуренцию за мигрантов из постсоветских стран со странами ЕС, применительно к миграции из стран Центральной Азии – и с Казахстаном. Для этого необходимо не только серьезное изменение миграционной политики, но и очень серьезные усилия по адаптации и интеграции мигрантов, невозможные без консенсуса во власти и обществе.

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TRENDS OF EXTERNAL LABOUR MIGRATION IN RUSSIAN REGIONS: A VIEW FROM THE KALININGRAD REGION OF THE RUSSIAN FEDERATION

Abstract
The article focuses on the scope and main patterns of labour migration in the Kaliningrad region. The author identifies reasons for attracting migrant labour force into the region and analyses the regional labour market and migrant labour force under the conditions of the world economic crisis.

Key words: labour migration, labour market, economic crisis, employment

Although the foundations of the Labour Code of the Russian Federation and its application rules are the same in all Russian regions, the very process of labour migration differs considerably from region to region. The differences in the geodemographic situation in Russian regions, the rate of their economic development, the functioning of their markets, formed under the influence of the existing institutional mechanisms of the migration policy, create a rather mosaic picture of labour migration in the subjects of the Russian Federation. The Kaliningrad region has rather specific characteristics of economic migration. A specific geographical location – that of a exclave - the region's geographical disconnection with the mainland Russia and lack of unhampered transport links with the region's mother state (which does not allow the region to make use of the Russian domestic system of labour farce distribution), fragmentary reform the of the regional system of professional training, high industrial growth rates before the world economic crisis and a reduction of the region's own labour force potential made it necessary to attract a large number of labour migrants to the region. The world economic crisis has resulted in a decrease in the volume of labour migration. Nevertheless, one can speak about dense migration networks being formed in the Kaliningrad region. These networks create the multiplication effects, including the economic one, in the movement of migrants: the so-called niches of migrant employment have been formed.

Labour migration in the region: history

The region experienced external labour migration at the beginning of the 1990s. First migrant workers appeared at construction sites of Kaliningrad and began working at industrial enterprises of the region. Those were migrant workers from Poland, employed by Russian-Polish joint ventures. Their number did not exceed 1,5 thousand people. Then, in the middle of the 1990s, Lithuanian migrant workers substituted Polish ones. The major document regulating their stay within the territory of the Kaliningrad region was the Decree of the |President of the Russian Federation on foreign labour power intake № 2146, dated December 16, 1993 and supplements to it. In accordance with this document, a migrant worker could be hired for a period of up to one year provided his employer has a special permit to employ migrant workers. Another condition was a

written labour permit given to the migrant worker. All the paper work and issuing labour permits were done with the approval of Moscow. It was obvious that an influx of highly qualified migrant workers from the neighbouring countries to the Kaliningrad region was regarded as a positive factor, since the migrants had better skills and technological expertise to share with Kaliningraders. The experience gained at joint-ventures facilitated the development of entrepreneurship. Owners of joint ventures and foreign companies had to solve the problem of adaptation of migrant workers to the new labour conditions. Temporary labour migration from the former Soviet Union republics was not practically noticeable in the middle of the 1990s. It was followed by forced migration, which compensated for a drop in demographic figures and regenerated labour resources by one third. A fast growing Kaliningrad economy faced a shortage of labour force in the late 1990s as a result of a sharp decline in a number of migrants, as well as due to the region's internal demographic problems. Employers started to more actively attract specialists from the CIS countries, first and foremost from Belarus and Ukraine. Before the world economic crisis, migrants from 39 countries (the majority coming from former Soviet Asian Republics, Ukraine, Kazakhstan and Moldova) had come to the region. The scale of this migration has been growing since then. The number of quotas for external labour force increased sevenfold from 2004 to 2008 (from 4875 thousand people in 2004 to 36 thousand people in 2008). It goes without saying that the crisis brought some changes to the quota system. Thus, in 2008 only half of the applications for the external labour force were approved.

Demographic prerequisites for attracting temporary labour migrants to the region

Migration has always been one of the most important ways of forming the population of the Kaliningrad region. The region has always shown a positive migration figure with the exception of relatively short periods of time at the end of the 1960s, 1970s and 1980s. During these periods, the outflux of migrants exceeded the influx (the so-called 'return' migration) (Г.Федоров, 2001). For a long time high migration inflow has compensated for depopulation of the region, mitigating its consequences. Since 1992 migration inflow has been the only source of population growth and replenishing human resources. Annually this figure, calculated per 1000 people, exceeded the corresponding figure for Russia by 4,8 times. During the period of 1991-2000, the migration balance was 101 thousand people. The inflow of migrants was twice as much as the outflow. In 1989-1999, the population of the region increased from 878,1 to 961,3 thousand people, and able-bodied population – by more than 62,0 thousand people, i.e. by 11,9% (the corresponding figure for Russia was only 1%). However, by 2000, the political situation in Russia after the demise of the Soviet Union had stabilized. It resulted in a drop in annual migration figures from 15,0 - 20,0 thousand people to.3 – 3,5 thousand.

Given this decrease in migration, negative demographic tendencies in the Kaliningrad region became particularly apparent. In 2005, the highest natural population loss ever was registered (in 2000, the natural population growth in absolute figures was 8663 people). From 2003-2005 the annual population loss was 0,5%. During this period the population loss exceeded migration growth by 2,3 times (see Table 1).

Table 1: The ratio of natural population, migration and general population growth in the Kaliningrad region, 2002-2007, (thousand people).

	2002	2003	2004	2005	2006	2007	2008	2009
Natural population growth	-8053	-8270	-8500	-8663	-6704	-4225	-3766	-2842
Migration population growth	5160	3137	3822	3571	4009	4276	3722	3387
General population growth	- 2893	- 5133	-4678	-5092	- 2695	51	-44	545

Source: Kaliningrad branch of the Federal Statistics Service

Some improvement of demographic indicators was registered in 2006-2009. The birth rate grew for the first time in almost ten years. The number of newborns per thousand went up from 9,1 in 2004 to 11,5 in 2009. At the same time, the death rate went down from 18,1 per 1000 people to 14,6. A growth in migration resulted in the stabilization of the population size. In 2007, the general population growth was positive for the first time since 1999 (51 people); in 2009 it amounted to 545 people. However, there was no reason to evaluate it as a considerable improvement of the demographic situation. The birth rate growth during this period of time can be explained by the following fact: those people who were born during the last peak of natality in Russia (1983-1987) reached the reproductive age. Obviously, this growth, or stabilization, tendency may be observed for a number of years, while the population loss rate may slow down. Further ahead, people born in the 1990s (this number being half of those born at the end of the 1980s) reached the reproductive age. According to demographic forecasts, without migration replenishment, the region will face will a more rapid population loss.

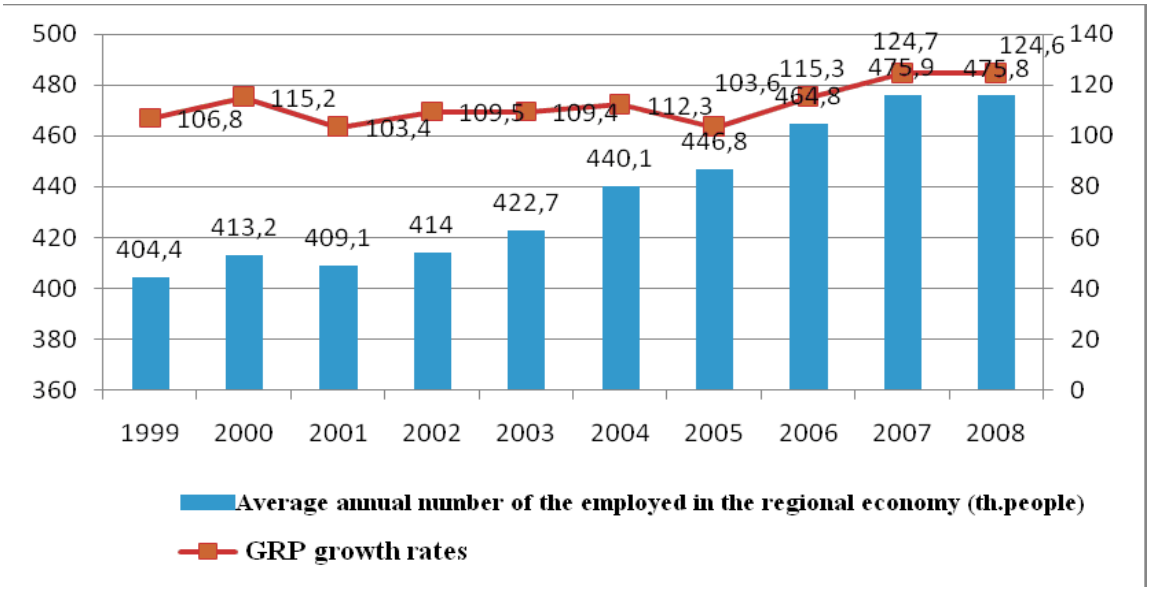
If the present indicators of migration flow remain unchanged (annual migration inflow of 4-5 thousand people), the number of migrants will not be able to compensate for this decrease. The number of labour force will be decreasing more rapidly, whereas until 2005 the labour force had been growing. During 2002-2005, the number of able-bodied population increased from 605 thousand people to 611 thousand people (since those born at the end of the 1980s reached the working age). However, since 2006 the number of the able-bodied population has started to go down as those few, born in the 1990s, reached the working age. At the beginning of 2009, the number of able-bodied population amounted to 603 thousand people. The calculations made by professor G.Fedorov (Г.Федоров, 2009) show that in the future retirees will gradually outnumber those reaching their working age. According to professor G.Fedorov, in 2014-2015, this surplus will be 7 thousand people annually. Insufficient growth rate and high morality of the population in the working age result in the aging of the population of the Kaliningrad region. If in 1992, the share of females over the age of 55 and males over 60 was 16,8 %, then in 2008 it amounted to 20,9%[1],[2]. The number of retirees increased from 226,9 thousand people in 2007 to 236,5 thousand people in 2009. According to the Ministry of Social Policy and Labour of the Government of the Kaliningrad

[1] Source: Annual demographic bulletin, 2009. Statistics. The Kaliningrad branch of the Federal Statistics Agency.- Kaliningrad, 2009.

[2] Source: The Kaliningrad region in figures.1992.The Federal Statistics Agency. Kaliningrad regional department of Statistics: Kaliningrad, 1993.

region, out of 268 thousand families living in the region, 47% do not have children. This considerably lowers the demographic potential.
Until recently (before the economic crisis), the existing labour resources were insufficient for meeting the needs of the policy towards an accelerated economic growth, proposed by the Regional Government. Acute economic problems resulting form the exclave location of the region brought about the necessity to launch a number of programmes aimed at building-up the human potential in the region.

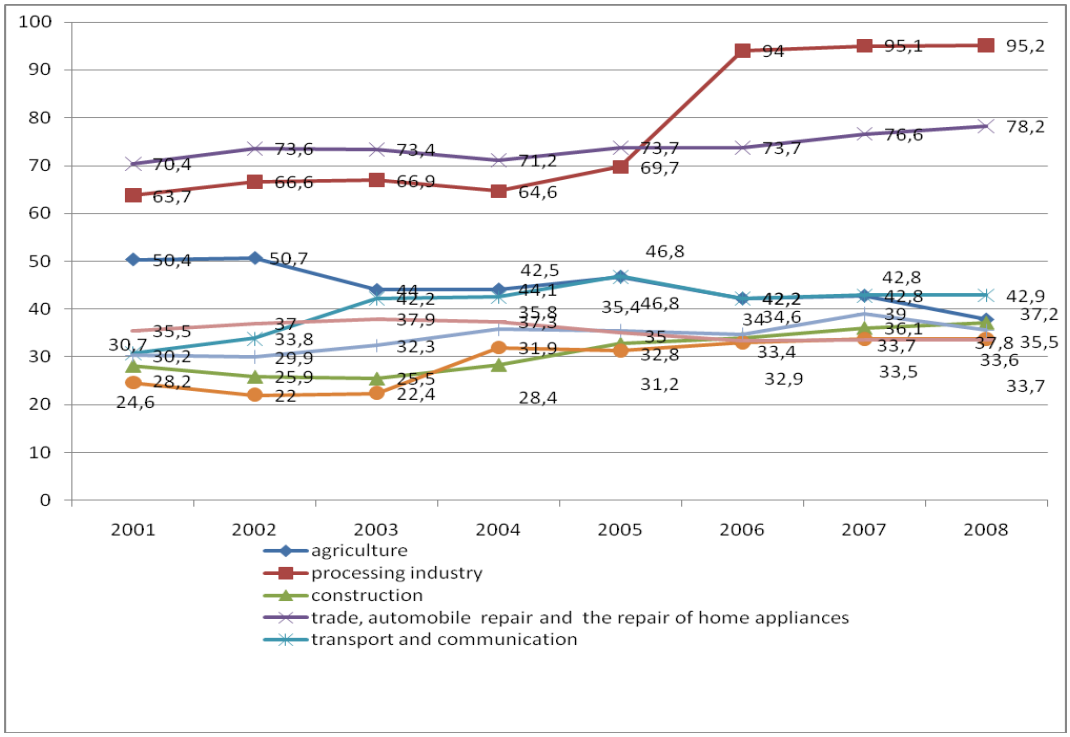
Economic feasibility of attracting labour resources to the region
Due to the region's geographical location, the labour market in the Kaliningrad region is isolated from the all-Russia labour market and has rather limited labour resources (651,5 thousand people). Before the crisis, due to high economic growth rates, the level of labour activity of the population reached its maximum. The number of those employed in the regional economy increased by 15% since 1998 (from 413 to 475,8 thousand people) due to a high GRP growth rate. In 2006, the GRP growth rate was 115,3%, and in 2007 - 124,7% (see Pic 1).



Pic. 1: Average number of the employed in the regional economy and the GRP growth rates in 1999-2008
Source: Kaliningrad branch of the Federal Statistics Service

The annual GRP growth during the period of 2001-2007 was 11%. The number of the unemployed registered officially went down to 7 thousand people, i.e. 1,3% of the economically active population of the region. The unemployment level lowered to 3,5 %, i.e. the level of so-called 'natural' unemployment. An annual vacancy number growth given by employers to the Federal Employment Service steadily exceeded 15 %.
Before the crisis, a characteristic feature of the social and economic development of the region was an acceleration of the industrial development growth rates, particularly in the processing industry. According to statistical data, the index of industrial production in 2006 was 166,6%, and in 2007 - 140,3%. In 2007, the index of industrial production in the processing industry was 193,7%. The number of the employed in this sector increased by 35% in 2006 (more than by 24 thousand people). Such positive dynamics was also registered in construction, trade, public administration,

transport and communication (Pic. 2).



Pic 2: The dynamics of employment according of the type of economic activity, thousand people.
Source: Kaliningrad branch of the Federal Statistics Agency

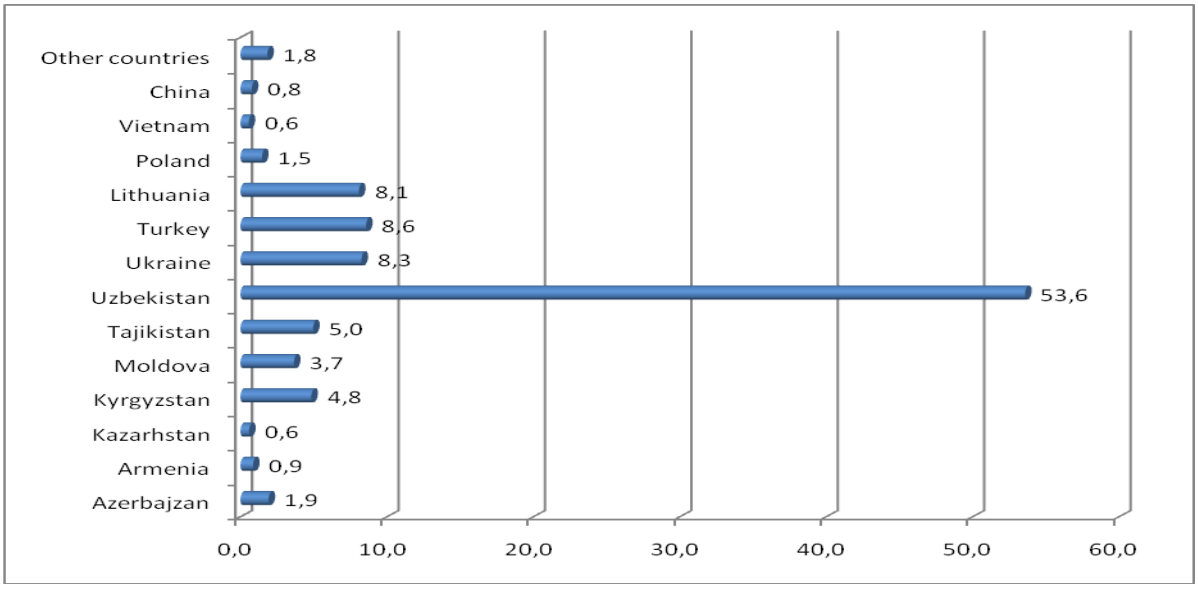
Such a rapid growth of the regional economy under the condition of the worsening demographic potential of the region brought about the need to attract more permanent labour migrants to the Kaliningrad region. In 2006, labour permits were given to 5,013 migrant workers, which is 31,2 % more than in 2005. In 2007, labour permits were given to 17,400 migrants.

In 2008, the total number of foreign labour force which Kaliningrad enterprises and organizations planned to employ was 36 thousand people (this figure takes into account the increased quota for external labour force). Applications for employing migrant workers were received from 290 business entities, the majority being construction companies including road construction companies. Much fewer applications were received from the transport sector, food processing industry, and trade. Among companies facing a deficit of labour force in 2008 were enterprises producing vehicles and metalwork. Recently established enterprises, manufacturing TV sets and radio electronics, wood processing and furniture producing enterprises, as well as agro-industrial companies sent numerous applications for highly qualified specialists in various fields of engineering. In the service sector, hotels, restaurants and utility companies faced a considerable shortage of staff.

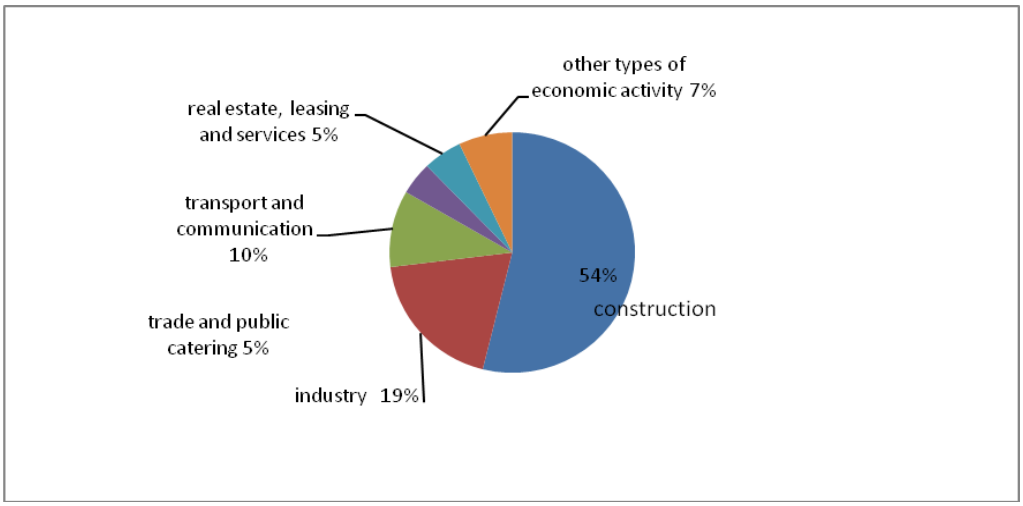
In 2008, the number of migrant workers coming from countries having a visa regime with Russia was 3,2 thousand people. Among these migrant workers there were qualified construction workers, technicians and engineers from Turkey; long-distance drivers and highly qualified construction workers from Lithuania; administration and management staff and qualified construction workers from Poland; specialists in catering, trade and shoemaking from China and Vietnam.

During 2008 the Employment Agency of the Kaliningrad region received more than 11 thousand notifications of employing migrant workers from countries having visa-free regime with Russia. Foreign labour force distribution according to countries is shown in Pic.3. In 2008, the majority of

foreign labour force came from Uzbekistan (almost 54%). The share of labour migrants from Ukraine, Lithuania and Turkey was 8 % each. Fewer migrants came from Kyrgyztan, Tajikistan and Moldova. More than half of all migrant workers were employed in construction, one fifth in industry, 10% in transport and 5% in trade and catering.



Pic 3: The countries-sources of labour migration to the Kaliningrad region %.
Source: Kaliningrad branch of the Federal Migration Service



Pic 4: The employment of migrant workers according to the sectors of the regional economy %.
Source: Kaliningrad branch of the Federal Migration Service

According to the Regional Ministry of Social Policy and Labour, before the crisis foreign labour force did not have any particular influence on the tension of the regional labour market and the level of unemployment, which had been decreasing until October 2008. The number of announced vacancies during that period (40-50 thousand jobs) considerably exceeded the number of officially registered unemployed (6,0-7,5 thousand people).
In August 2008, the Migration Service registered a sharp decrease in the number of temporary migrant workers in the region. The actual number of all foreigners employed in the Kaliningrad

region during 2008 was only half of the initially planned number – slightly over 20 thousand people. At the beginning of 2009, approximately 10 thousand migrant workers were employed in the region.

The regional labour market in 2009 and challenges of using migrant labour force

The economic downturn of the second half of 2008 drastically changed the situation in the regional labour market. In 2009, the number of vacancies reduced by more than two thirds from 10 thousand people (January 2009) to 2,8 thousand (January 2010). The number of employed in the regional economy reduced by 23,5 thousand people. The number of people looking for a job in January 2010 was 19,604 people, exceeding the corresponding indicators of 2008 by 70 %. Out of people looking for a job, the number of unemployed (15,490 people in January 2010 года) increased by 82% compared to 2008. The rate of both general unemployment (11,6 %) and the registered unemployment (3,1 %) was considerably higher than in other regions of the North-West district of Russia. It is also higher compared to the average unemployment rate in Russia *(Major social and economic indicators)*. Laid-off workers appeared as a result of liquidation of some economic entities, staff reduction in companies and organisations, as well as resignations.

The economic crises brought some changes to the existing system of labour quotas: in 2009, the migrant labour quota in the Kaliningrad region decreased sevenfold – down to 5,5 thousand people compared to the quota of 2008. This was a forced measure which showed quite negative expectations about the development of the regional economy. A fast growth of unemployment in the first six months of the year did prove these negative forecasts to be true. The tension of the labour market became apparent - 7 applicants per job vacancy. In order to mitigate the consequences of the economic crisis, a number of measures with regard to migrant workers and the labour market in general were adopted. Employers were obliged to strictly stick to the given quotas, whereas migrant workers had to abide the Labour Code. The employer organization had to send a request to register labour permits and had to participate in the process of quoting. An obligatory requirement for obtaining the labour permit for citizens of countries having visa-free regime with Russia was a signed labour contract.

The adopted measures resulted in a lower number of migrant workers, thus easing the tension of the regional labour market. In 2009, the number of issued labour permits was 6,693 which is three times less than in 2008. The number of migrant workers coming from the countries having visa regime with Russia considerably decreased - almost by 4 times.

At the same time, the number of notifications about signed labour contracts with migrant workers coming from countries having visa-free regime with Russia only halved, compared to last year. This tendency testifies to the fact that migrant labour is still in demand in a number of sectors of the regional economy. One of these sectors is construction, employing more than 50 % of all the migrant workers. The processing industry employs 18%, trade – 8,7 % and transport – 6,4%. The majority of labour migrants in 2009 came from Uzbekistan (57 %), Ukraine - (12,4 %), Lithuania (6,7 %), Kyrgyzstan (4,6 %), Moldova (4,3 %), and Tajikistan (3,9%). Apparently, the share of labour migrants with regard to sectors of the regional economy and source country has not changed. This shows the still existing demand for skilled migrant workers – specialists of different qualifications in construction, industry (first and foremost, in ship-building and fish processing), in transport and trade. The data provided by the Employment Agency of the Kaliningrad region indirectly confirm this tendency. The data show that although the number of vacancies considerably reduced, there is lack of drivers, assemblers of concrete-ferrous constructions, assembly workers, hospital cleaners, nurses, and street cleaners. Some of these vacancies are not filled because of a low salary. It is not a secret, that migrants primarily have low qualified and poorly paid jobs or jobs in arduous work conditions.

Economically stable enterprises have been employing migrant labour force from former Soviet Republics. For instance, the shipbuilding yard "Yantar" has to employ specialists from Latvia and Ukraine as there is lack of local highly skilled professionals such as hull mounters. No wonder, the quota for migrant labour force to be employed by the ship-yard was increased. It should be noted that the previously given quota limited the demand for qualified workers which had been growing since the second half of 2009. This tendency was taken into account while considering the labour migrant quotas for 2010. The quota was increased up to 10 thousand people. The same tendency holds true when speaking about construction since there is a growing demand for construction workers in the region.

One of the peculiarities of the Kaliningrad region is the existence of a population group which is seeking employment abroad. These are mainly sailors and fishermen having no opportunity to work on board Russian vessels. They usually look for a job abroad through recruiting agencies. In 2009, the total number of Kaliningraders employed abroad amounted to approximately 7 thousand people (this is slightly less than in 2008). The majority of these people have signed job contracts for up to six months. Russian migrants work in 44 countries, but they are most in demand as marine specialists in Cyprus, the Netherlands, Norway, Panama, Germany, Liberia, Singapore, and Greece. They are employed mainly at maritime transport and enterprises specializing in fish processing and fisheries. The majority of Russian citizens employed abroad had vocational or higher education; 59% of them were 30- 49 years old and 98 % of the labour emigrants were male. This shows that the residents of the westernmost region of Russia are quite mobile; they are competitive on the international labour market and are in demand as specialists. Given the crisis, the outflow of Kaliningraders abroad in search of employment easies the tension of the regional labour market.

Conclusions

In this paper we did not touch upon the problem of adaptation of labour migrants. This topic was considered in the framework of the project "Transborder migration: the practice of mutual adaptation" (2007-2008). The major conclusions were made in the light of institutional mechanisms of the implementation of the labour policy in the region and intermediation practices that existed in the period of maximum use of migrant labour *(Емельянова 2009), (Емельянова, Косс 2009).*

The article highlights the present day problems of employing migrant workers, as well as describes the scope of labour migration and its economic patterns. In our opinions, external labour migration is largely interconnected with uncertain and constantly changing demand of the Russian labour market for personnel. Quoting as a regulating mechanism is not effective enough, though under the conditions of the economic decline, it has played a positive role as it eased the tension of the Kaliningrad labour market. At the same time one cannot but mention the importance of labour migration forecasting. We fully agree with the analysis, performed by V. Mukomel. It is difficult to estimate the real demand for labour force since few employers obey the labour legislation and provide the necessary information about vacancies and their filling to employment agencies. As V. Mukomel writes, the Federal Service for Labour and Employment knows only about one third of the vacancies existing in the market *(Мукомель 2009).* Given this, it is rather difficult to make any forecast about the development of the economy; the process of issuing quotas for migrant labour force and the elaboration of measures aimed at reducing unemployment are done without reliable and verified statistical information. Russia coming out the economic crises, the situation on the labour market of the Kaliningrad region requires a system of control over employers and their proving information about the existing vacancies to employment agencies. Constant monitoring of economic activity of business entities, including small businesses is becoming particularly important. In order to eliminate a discrepancy between labour supply and demand, it is necessary to reconsider the manpower policy in the region, including professional training and education.

Another measure is to set up a data base similar to European ones (for instance, the one in UK). The data base would contain the information about future demand for certain professions, qualifications and skills. This, in its turn, will create certain guidelines for labour market participants both Russian and coming from abroad.

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MIGRATION POLICY OF RUSSIA: PRIORITIES, TOOLS AND PROBLEMS OF REALISATION

(in Russian)

МИГРАЦИОННАЯ ПОЛИТИКА РОССИИ: ПРИОРИТЕТЫ, ИНСТРУМЕНТЫ, ПРОБЛЕМЫ РЕАЛИЗАЦИИ

Abstract

In the Russia discourse migration is related to other social challenges, i.e. increase of inter-ethnic and inter-confessional tensions, dangers of the Russian identity erosion, threats to the territorial integrity of Russia, growth of unemployment, social cleavages and impoverishment of population, growth of corruption and crime. The public pays a particular attention to external migration, in the first place to influx of migrant workers.

Russians strongly resent having to integrate migrants. Restrictive migration policy is supported by the overwhelming majority of Russians.

A particular attention is paid by authorities to regulation of foreign migration which is executed by the instrumentality of quotas for work permits for migrant workers: quotas on issue of work permits to citizens of states that don't have visa regime with Russia; quotas on issue of invitations that enable foreign citizens from countries that have agreements on visa regime with Russia. Among other instruments of migration policy the following should be mentioned: the extreme limits of employment in various spheres of employment are prescribed; quotas for issue of temporary residence are defined.

Preference is still given to the direct administrative regulation of migration flows. Authorities proceed on the assumption that possibilities to regulate migration flows are virtually unlimited.

Imperfection of laws and poor quality of procedures of their implementation aggravate legal access of migrants to labor markets. In addition to explicit ban on work in some types of trade indirect limitations are widely used. The fact that the new laws are designed for major employers with stable and predictable demand for labor is a major defect of the laws.

Ideology of the new migration policy ignores the key moment, that is to say, problems of repatriates and immigrants' social integration, adaptation of temporary labor migrants.

Nowadays implementation of migration policy runs into fundamental problems. Firstly, public consensus in respect of Russia's strategy of development is absent. Secondly, there is no institution in Russia which would fight against xenophobia in fact, not in word. Thirdly, institutions of migrant's socialization, their adaptation and integration are ineffective. Fourthly, instruments of coordination of the migration policy various actors' (i.e., Federal state power bodies, bodies of state power of the Federation constituent parts, bodies of local self-government, employers, other business structures, recipient population, migrants) interests are absent. Fifthly, delimitation of migration policy various actors' competencies as well as coordination of their powers are absent.

Sixthly, instruments required for coordination of various social and political group interests are acquiring a particular significance. Finally, integration policy is in need of public control system which can be provided only by the civic society which does not exist so far.

Key words: migration, immigration, migration policy, integration policy, tools of policy, implementation, xenophobia

Предисловие

Миграционные процессы и миграционная политика России не могут быть адекватно оценены вне социального и политического контекста. Во-первых, миграционная и политика рассматривается властями, СМИ и общественностью в неразрывной связи с этнонациональной политикой. Особенностью российского дискурса является преувеличенное значение этничности: многие социальные, политические, экономические проблемы сводятся к поиску причин, лежащих в сфере этничности и межнациональных отношений, этническая принадлежность выступает ключевым маркером отношений «свой/чужой».

Во-вторых, миграционная политика стали рассматриваться сквозь призму проблем национальной и общественной безопасности, приобретших исключительно важное значение в начале 2000-х. Возрастающее этно-культурное и этно-конфессиональное разнообразие общества - результат миграционных процессов, - способствовало поляризации взглядов политиков и общественного мнения на вопросы миграционной политики.

В-третьих, миграционная политика стала рассматриваться властями не только как внутриполитический, но и как внешнеполитический ресурс. Введение (или угроза введения) визового режима, натурализация граждан непризнанных государств, инициация переговоров о реадмиссии, проведение съездов граждан других государств накануне выборов в этих странах, стали обыденными инструментами внешней политики России на постсоветском пространстве.

В-четвертых, резко изменилась демографическая обстановка. Особенно значимо сокращение численности трудовых ресурсов: по последнему прогнозу Федеральной службы статистики, в 2010-2030 гг. сокращение населения в трудоспособном возрасте составит 12,1 млн. человек. (При сокращении численности всего населения на 2,8 млн. человек. В этих расчетах уже учтена иммиграция в 7,7 млн. человек, существенно превышающая нынешнюю) [1]. Наиболее критической будет ситуация в 2012-2017 гг., когда численность населения в трудоспособном возрасте будет ежегодно сокращаться более чем на 1 млн. человек.

По сути, единственным источником компенсации сокращения трудовых ресурсов на ближайшие десятилетия является миграция.[2]. Россия обречена на масштабное привлечение рабочей силы из-за рубежа – это не вопрос выбора, а вопрос необходимости. Однако массовый приток иноэтничных мигрантов станет серьезным вызовом, если не удастся обеспечить их адаптацию и интеграцию.

Проблемы иммиграции – ключевые в российском дискурсе. Иммиграция увязывается с иными социальными вызовами – обострением межэтнических и межконфессиональных отношений, опасностью эрозии российской идентичности, угрозами территориальной целостности, ростом безработицы, социального напряжения, преступности. При этом доминирует алармистская трактовка последствий миграции.

[1] Средний вариант прогноза (Предположительная численность населения Российской Федерации до 2030 года).

[2] В 2009 г. за счет иммигрантов практически полностью была компенсирована естественная убыль населения. Однако данные о масштабах иммиграции искажены: с 2007 г. в численность иммигрантов включаются иностранцы, получившие разрешение на временное проживание в текущем году, независимо от того, в каком году они прибыли в Россию.

Приоритеты миграционной политики

Приоритеты политики определяются, во-первых, масштабами миграционных потоков во-вторых, серьезностью вызовов, генерируемых этими потоками, в-третьих – значением отдельных потоков для решения стратегических задач развития.
Кардинальные сдвиги произошли в самих миграционных процессах в 2000-х гг. Политические факторы миграции, доминировавшие в 1990-х, сошли на нет. Приток иммигрантов снизился в 2000-х гг. на порядок, стабилизировавшись на относительно низком уровне, еще более существенно снизилась эмиграция. Вынужденные миграции практически прекратились: численность беженцев, например, уменьшилась на три порядка.
Решающее значение приобрели экономические мотивы. Численность временных трудовых мигрантов, резко возросла: в настоящее время на российских рынках труда присутствует, по оценкам экспертов, до 5-5,5 млн. трудовых мигрантов, в большинстве своем являющихся представителями коренных этнических групп государств СНГ.

Таблица 1: Изменение отдельных миграционных потоков, 1997, 2002 и 2009 гг.

	1997	2002	2009
Иммигранты, тыс. человек	597,7	186,6	279,9
Эмигранты, тыс. человек	233,0	99,5	32,4
Беженцы, тыс.человек на конец года	239,4	13,8	0,8
Временное убежище, тыс.человек на конец года	-	1,1	3,4
Вынужденные переселенцы, тыс. человек на конец года	913,2 (на 1.04)	491,9	57,2

Изменение масштабов отдельных потоков способствовало смене приоритетов миграционной политики. На рубеже 2001-2002 гг. миграционная политика России, доселе вполне либеральная и адекватная вызовам того времени, подверглась коренному пересмотру (Мукомель, Владимир. 2005). Когда стало понятно, что ни вынужденная миграция, ни эмиграция не генерируют сколько-нибудь серьезные вызовы, а проблемой становится наплыв в Россию трудовых мигрантов, приоритетным направлением миграционной политики стала борьба с незаконной миграцией.
Президент России В.В.Путин, обозначивший курс на ужесточение миграционной политики на рубеже 2001-2002 гг., в 2005 г. обеспечил ее очередной разворот на 180 градусов. Тому имелось несколько причин. Во-первых, курс на борьбу с незаконной миграцией потерпел фиаско: руководство ФМС России с каждым годом давало новые, все более высокие оценки численности незаконных мигрантов в стране. Во-вторых, руководство страны обратило пристальное внимание на проблемы демографического развития.
Продемонстрировавшая свою несостоятельность политика подверглась ревизии в марте 2005 года, когда было принято решение на Совете Безопасности, возглавляемом Президентом России, об ее либерализации, переориентации на привлечение иммигрантов.
Летом 2006 г. был принят соответствующий пакет федеральных законов: Федеральный закон «О миграционном учете иностранных граждан и лиц без гражданства в Российской Федерации», внесены изменения и дополнения в федеральные законы о гражданстве и правовом положении иностранных граждан и лиц без гражданства и др. Одновременно была утверждена Государственная программа содействия добровольному переселению

соотечественников, подготовлена (однако до сих пор не принята) принципиально новая Концепция государственной миграционной политики.
Новая миграционная политика затрагивала три категории мигрантов: временных трудовых мигрантов из стран СНГ, которым облегчается доступ к рынкам труда и регистрации пребывания; иммигрантов, для которых существенно либерализованы процедуры получения разрешения на проживание; соотечественников, которым предусмотрены льготы при репатриации. Новая миграционная политика была призвана облегчить приезд и обустройство иммигрантам, прибывающим в Россию по этим каналам, «расшить» нерешенные правовые и процедурные проблемы.
Действия властей были логичны. Если страна в условиях демографического спада нуждается в приросте граждан, следует обеспечить приток иммигрантов и лучше, если это будут бывшие граждане СССР, предпочтительно – русскоязычные соотечественники. Последним будет легче интегрироваться в российское общество, а принимающее население будет относиться к ним более благожелательно, чем к приезду иноэтничных мигрантов. Если Россия не может обойтись без использования труда трудовых мигрантов– значит нужно ввести процесс в цивилизованное русло, максимально облегчив им возможность легальной занятости и снизив незаконную миграцию.

Инструменты миграционной политики

Основной акцент делается на регулировании иммиграционных потоков. Эмиграция из России не регулируется. (Во-первых, свобода выезда, въезда и выбора места проживания относится к неотъемлемым правам человека и гражданина. Во-вторых, проблема эмиграции теряет актуальность, т.к. масштабы эмиграции резко снизились по сравнению с 1990-ми гг. Если в 1990-х гг. из России ежегодно эмигрировало до 100 тысяч человек, то в последние годы – 13-18 тысяч человек. По некоторым традиционным направлениям эмиграции (Израиль, Греция) обозначилась масштабная встречная иммиграция. Потеряла актуальность и «утечка умов», всплеск которой пришелся на начало 1990-х гг. В незначительной степени регулируется организованная трудовая миграция российских граждан, особенно определенных контингентов – моряков, работников на проекте и др.).
Инструменты миграционной политики регулируют правовой статус иностранных граждан, их возможности передвижения и выбора места проживания и допуска на рынок труда.

Таблица 2: Основные формы регулирования

Контингент	Форма регулирования	Примечание
Трудовые мигранты и временные резиденты	Миграционный учет	Ежегодно на миграционный учет ставится 8,5-8,9 млн. иностранцев
	Квотирование разрешений на временное проживание (временные резиденты)	На 2010 г. установлена квота в 160 тыс. разрешений. В 2009 г. было выдано 200 тыс. разрешений. В настоящее время в России проживает по разрешению на временное проживание 253 тыс. человек, по виду на жительство – 51 тысяча человек
Трудовые мигранты и временные резиденты из стран с безвизовым режимом	Квотирование разрешений на работу	На 2010 г. установлена квота в 1,9 млн. разрешений. В 2009 г. было выдано 1,5 млн. разрешений

Трудовые мигранты и временные резиденты из стран с визовым режимом	Квотирование выдачи приглашений на въезд для работы.	На 2010 г. Установлена квота в 611 тысяч приглашений, в 2009 году – 125 тысяч приглашений
Иностранные граждане	Предельно допустимые нормы занятости в отдельных сферах занятости	С 2007 г. действует запрет на занятость иностранных граждан в отдельных видах торговля
Соотечественники[3]	Стимулирование переезда в отдельные регионы	С 2010 г. в программу репатриации включены 20 регионов из 83.
Беженцы	Неформальное квотирование	Статус беженца будут получать 5% обратившихся с ходатайством.
Претенденты на временное убежище	Неформальное квотирование	Временное убежище будут получать 30% обратившихся с ходатайством.

Резиденты, имеющие вид на жительство (разрешение на постоянное проживание), в отличие, например, от имеющих разрешений на временное проживание, не нуждаются в получении разрешения на работу, а также практически не ограничены в выборе места жительства и места работы. Точно также разный набор прав имеют беженцы и лица, получившие временное убежище.

Важной компонентой миграционной политики является политика натурализации. Общий порядок предоставления российского гражданства, достаточно строгий, предполагает предварительные этапы: проживание по разрешению на временное проживание (3 года), проживание по виду на жительство (дается на пять лет). По упрощенной процедуре предоставляется гражданство ряду категорий иностранцев, в первую очередь из стран СНГ. (В частности, по двусторонним межгосударственным соглашениям, для граждан государств, входивших в состав СССР и прослуживших не менее трех лет в российской армии, для крупных инвесторов, студентов, получивших образование в России и др.). Строгость российского законодательства обходится необязательностью его исполнения. Ежегодно российское гражданство получают 350-390 тысяч иностранцев, из них только 0,02% - в общем порядке (2009)[4].

Большинство инструментов миграционной политики носят ограничительный характер.

Непоследовательность миграционной политики

Существенное упрощение процедуры получения разрешения на работу иностранными гражданами, прибывшими в Российскую Федерацию в порядке, не требующем получения визы, принесло свои плоды. Резко возросло количество иностранных граждан, легально осуществляющих трудовую деятельность на территории Российской Федерации: с 1,0 млн. человек в 2006 г. до 2,3 млн. разрешений в 2007 г., 2,1 млн. в 2008 г. и 1,5 млн. разрешений в 2009 г.

Одновременно действия властей были непоследовательны. Миграционная политика по определению конъюнктурна и зависит от внутриполитической ситуации. Уже в конце 2006 г.

[3] В настоящее время разрабатывается также программа репатриации высококвалифицированных специалистов из стран традиционного зарубежья

[4] С 2010 г. порядок предоставления гражданства изменился.

она стала испытывать сильнейшее влияние предстоявших в конце 2007 г. парламентских, а в начале 2008 г. президентских выборов, что стимулировало принятие популистских решений, идущих вразрез с артикулированными задачами миграционной политики[5].

Особо подвержены конъюнктуре процедуры установки квот на выдачу разрешений на работу иностранным работникам. Еще до кризиса, в 2008 году, квоты разрешений на работу были сокращены в 3,3 раза - до 1,8 млн. разрешений по сравнению с 6 млн. разрешений на 2007 г. Логика ФМС России была такова: во-первых, квота 2007 г. оказалась завышенной, во-вторых, получив разрешение на работу, мигранты исчезают из поля зрения официальных органов – лишь на часть этих мигрантов приходит подтверждение от работодателей, что они работают.

Не учитывалось несколько обстоятельств. Во-первых, чрезмерно высокая планка квоты на 2007 г. была очевидна всем специалистам, но не работникам ФМС России, ставшим заложниками руководства, артикулировавшим мифическую оценку численности незаконных мигрантов в 10,2 млн. человек – откуда и появились эти 6 млн. разрешений.

Во-вторых, система квотирования несовершенна. (Квота разрешений на работу определяется исходя из заявок работодателей, поданных в предшествующем году). Система формирования заявок работодателей практически ориентирована лишь на крупные предприятия, с отсутствием выраженной сезонности производства. Мелкому бизнесу крайне сложно прогнозировать спрос на работников загодя. В результате, заявки регионов априори занижены. В-третьих, вся система выстроена таким образом, что физические лица, желающие официально нанимать гастербайтеров, практически лишены такой возможности.

Резкое сокращение квоты разрешений на работу способствует лишь тому, что трудовые мигранты выталкиваются в «тень», нелегальная занятость доминирует не только среди занятых у физических лиц, но и среди занятых в мелком бизнесе.

И этот процесс пошел: по состоянию на 31 июля 2008 г. годовая квота разрешений на работу была полностью исчерпана в Центральном округах, практически исчерпана в Южном и Северо-Западном ФО (на 99% и 98%, соответственно), близка к исчерпанию в Уральском и Приволжском округах (на 94% и 93%). В июле резерв квоты был распределен по регионам, но уже в сентябре в основных принимающих мигрантов субъектах Федерации и он был исчерпан, вследствие чего в начале октября квота на привлечение иностранных работников была увеличена до 3,4 млн. человек (против изначально планировавшихся 1,8 млн. разрешений).

На 2009 г. изначально планировалась квота в 4 млн. разрешений на работу. Но в декабре 2008 г., когда кризис был в разгаре, В.В. Путин во время общения с народом на телеконференции высказал пожелание сократить эту квоту на 50%. Квоту оставили неизменной, однако она теперь может быть как увеличена, так и сокращена на 50%. Под давлением федерального центра, увязавшего выдачу субвенций регионам с «добровольным» сокращением квот, квоты по России на 2009 г. оказались снижены вдвое. (При этом в ряде регионов квоты были исчерпаны уже к сентябрю 2009 г.).

Кризис, похоже, окончательно поставил крест на либеральной риторике. Откат от намеченного курса продолжается: на этом же низком уровне (1,9 млн. разрешений) установлены квоты и на 2010 г. Наконец, формально не отступая от буквы закона, власти существенно ограничили для мигрантов доступ к процедуре получения разрешений на

[5] Осенью 2006 г. были приняты беспрецедентные меры преследования грузинских граждан, а также «выдавливания» иностранцев с российских рынков, на 2007 год вдвое, по сравнению с 2006 г., снижена квота на выдачу иностранным гражданам разрешений на временное проживание. Одновременно эта квота была распространена и на лиц, прибывающих в Россию в безвизовом порядке. Наконец, Президент России высказался в том смысле, что не надо бы и форсировать Программу репатриации соотечественников (Стенографический отчет о совещании с членами Правительства).

работу. (Во-первых, ряд подразделений миграционной службы перешли на сокращенный график работы, что создало большие очереди. Во-вторых, повсеместно нарушался регламент, согласно которому решение о выдаче разрешения на работу принимается в течение 10 рабочих дней. Весной 2009 г. изменилась процедура выдачи разрешений на работу: работник, не имеющий трудового договора с работодателем[6], может получить разрешение на работу лишь на 3 месяца). Все эти меры также способствовали росту теневой занятости мигрантов.

Идеологические изъяны миграционной политики

Реализация нового законодательства выявила ряд нерешенных проблем и в самих законах, и в их правоприменении. Однако наиболее серьезные издержки новой миграционной политики сопряжены с ее идеологической составляющей.

Во-первых, учитывая общественное мнение, негативно относящее к иноэтничным мигрантам, во главу угла была поставлена задача привлечения соотечественников, хотя миграционный потенциал этого контингента ограничен и не превышает 6-7 млн. человек.

Во-вторых, преобладает патерналистский подход; ожидалось, что соотечественникам будут созданы благоприятные условия: оплачен переезд, созданы рабочие места и инфраструктура, построено жилье и т.п.

В-третьих, предполагалось, что соотечественники будут направляться в регионы, теряющие население – Дальний Восток, Сибирь. Учитывая, что большинство потенциальных иммигрантов-соотечественников проживают в Центральной Азии, в иных природно-климатических условиях, эфемерность этой затеи очевидна.

В-четвертых, декларируется приоритетное привлечение из-за границы квалифицированных специалистов – тогда как российская экономика испытывает потребности в неквалифицированных и очень высококвалифицированных работниках. (Ставка на приоритетное привлечение из-за границы «квалифицированных специалистов» – в понимании чиновников – не совсем адекватна: трудно надеяться, что из стран СНГ, на которые делается акцент, удастся привлечь действительно квалифицированные кадры в виду катастрофически ухудшившейся их подготовке после распада СССР).

В-пятых, идеология новой миграционной политики исходит из неочевидной посылки, что мигранты из стран СНГ никуда не денутся, Россия для них – единственно возможное направление и так будет всегда. Притягательность России обусловлена не только тем, что в ней есть работа и возможность заработка, но и знанием мигрантами языка принимающего населения и российских реалий, общностью традиций и культур, сохраняющихся и спустя полтора десятилетия после распада СССР, наличием родственных связей, коммуникаций. Однако столь благоприятная ситуация не вечна: конкуренция за рабочие руки нарастает. Если сегодня реальную конкуренцию России на постсоветском пространстве составляет лишь Казахстан, в ближайшие годы придется конкурировать с Украиной, Азербайджаном.

Однако наиболее серьезные издержки новой миграционной политики сопряжены с ее «советской» идеологией, убежденности в безграничных возможностях регулирования миграционных потоков.

Непонятна технократическая убежденность, что можно выявить спрос на рабочие руки в тех или иных регионах (да еще в разрезе специальностей) и все проблемы будут решены. Уже нет поголовной занятости в госсекторе, нет и Госплана, но дух его жив. Госплановским подходом пронизаны как система отбора соотечественников, так и система квотирования разрешений на работу для «гастербайтеров».

[6] Что достаточно сложно, т.к. работодатель не может заключить такой договор с мигрантом, не имеющим разрешения на работу.

Федеральный центр самонадеянно игнорирует интересы регионов, принимающего населения этих территорий, работодателей и самих мигрантов. Наиболее яркой демонстрацией серьезности вызовов и угроз, проистекающих вследствие игнорирования интересов различных акторов миграционной политики, является реализация программы репатриации соотечественников, фактически проваленной.

Программа репатриации предполагает, что федеральный центр берет на себя минимум обязательств: оплата расходов на переезд, уплату госпошлины за оформление документов, оплату подъемных, выплату ежемесячного пособия при отсутствии работы. Такие «мелочи», как социальная поддержка, трудоустройство, обеспечение репатриантов жильем должны быть реализованы в рамках региональных программ.

Региональные власти достаточно быстро осознали негативные социальные последствия реализации Программы репатриации по сценарию, предлагаемому Федеральным центром, при котором неизбежно усиление напряженности между властями и населением региона, а также между местными и приезжими. Осознав грядущие неприятности, регионы стали разными способами торпедировать региональные Программы репатриации.

Неудивительно, что реальный поток соотечественников был на два порядка меньше запланированного: в 2007-2009 гг. планировалось переселить 250 тысяч соотечественников, реально переселилось на 1.10.2009 г. лишь 14,3 тысячи человек.

Приоритетными районами вселения признаны восточные регионы России и территории, испытывающие наибольший дефицит рабочей силы. Однако основной поток приходится на Калининградскую область (41% переселенцев), Калужскую (22%) Липецкую область (17%). На Дальний Восток переселилось менее 2% соотечественников[7].

Проблема не только в том, что мало едут, не туда, куда планировалось, но и в том, что едут не те, на кого изначально рассчитывали. Вопреки заявленным целям Программы, ориентированной на приток молодых, полноценных семей (расчетный коэффициент семейности – 4 человека), в Россию прибывают, преимущественно, неполные семьи: средний размер семьи, приехавшей в 2009 г. – 2,15 человека (Статистические данные по форме 1-РД, раздел 9).

Проблема не в деньгах, не столько даже в организации, не в завышенных ожиданиях от ее реализации, главное – отсутствие механизмов согласования учета интересов государства, регионов[8], принимающего населения, соотечественников.

Миграционная политика и политика интеграции

Провал ставки на привлечение соотечественников и искусственное ограничение притока в Россию иноэтничных гастербайтеров заставляет взглянуть на проблемы миграционной политики с иного ракурса.

Идеология новой миграционной политики игнорирует ключевой момент – проблемы социальной интеграции репатриантов и иммигрантов, адаптации временных трудовых мигрантов. На местах сознают, что миграционная политика неразрывна от политики интеграции. Что предотвращение социального взрыва – неизбежного, если приезжие будут иметь преференции перед принимающим населением (реальные или мнимые), – требует кропотливой работы по воспитанию взаимной толерантности мигрантов и местных жителей.

Все мигранты нуждаются, в той или иной мере, в интеграции. Соотечественники – в социальной, экономической и культурной (ре)интеграции. Иммигранты, приезжающие на постоянное жительство в Россию и нацеленные на то, чтобы стать ее полноправными

[7] На 1 октября 2009 г. (Мониторинг).

[8] Единственный реверанс регионам – за ними остается окончательное решение о признании аппликанта участником Программы.

гражданами, - в первую очередь, в культурной и социальной интеграции. Гастербайтеры, ориентированные исключительно на заработок, нуждаются хотя бы в элементарном знании языка, традиций, культуры и норм поведения принимающего социума.

В настоящее время имеются определенные социокультурные ограничения иммиграционной политики и политики интеграции: противодействие принимающего населения локальных социумов, крайне негативно относящегося к мигрантам; слабые адаптивные возможности части мигрантов; социальные практики взаимодействия принимающего населения с иммигрантами; специфический исторический опыт и традиции межкультурного взаимодействия принимающего населения; особенности и стереотипы общественного сознания россиян.

Ксенофобные настроения разделяются большинством населения России: лозунг «Россия для русских!», по опросам социологов, поддерживается большинством респондентов [9]. Ксенофобные настроения проецируются на представителей мигрантских «видимых» меньшинств, мигрантофобии имеют выраженную этническую этиологию.

Население с большей или меньшей симпатией относится к тому, чтобы в их местность или в другие регионы приезжали на работу украинцы, с некоторой напряженностью воспринимает молдаван. В отношении других этнических групп у половины респондентов доминируют раздражение, неприязнь, недоверие и страх.

Таблица 3: Распределение ответов на вопрос: "Как бы Вы отнеслись к тому, чтобы рядом с Вами поселилась самая обычная семья приезжих из…:", %

	положительно, скорее положительно	Спокойно, безразлично	Отрицательно, скорее отрицательно
Украины	30,9	55,1	14,1
Молдовы	25,2	55,9	18,9
Северного Кавказа	11,4	37,3	51,3
Государств Закавказья	11,5	38,5	50,0
Средней Азии	11,2	39,7	49,1
Юго-Восточной Азии	9,2	37,5	53,3

Источник: ЦЭПРИ, ИС РАН, ноябрь 2008, N=11877, ответившие

Ограничительная миграционная политика поддерживается большинством россиян. 55 % респондентов поддержали бы запрет принимать мигрантов на постоянное проживание в своем населенном пункте, 48 % - запрет на временное проживание.

Не удивительно, что основная часть россиян считает, что Россия не нуждается в мигрантах.

[9] По данным Левада-Центра, в ноябре 2009 г. 18% респондентов на вопрос: «как Вы относитесь к идее «Россия для русских»? ответили «поддерживаю, ее давно пора осуществить», еще 36% считали, что «ее неплохо было бы осуществить, но в разумных пределах». Лишь 32% ответили «отрицательно, это настоящий фашизм». Опрошено 1600 респондентов по репрезентативной выборке (Пресс-выпуск 7.12.2009).

Таблица 4: Распределение ответов на вопрос: «В каких мигрантах нуждается Россия?», %

Нашей стране нужны только те мигранты, которые хотят остаться здесь жить навсегда	18,5
Стране нужны только те мигранты, которые приезжают только на заработки и не собираются здесь жить постоянно	19,2
Стране нужны и те и другие мигранты	17,2
Стране не нужны ни те, ни другие мигранты	45,1

Источник: ЦЭПРИ, ИС РАН, ноябрь 2008, N=9893, ответившие

Особо распространена точка зрения, что никакие мигранты России не нужны, среди жителей тех мест, где мигрантов нет (55% из них придерживается этого вгляда). Представления о том, что мигранты России не нужны, превалирующие в общественном мнении – в значительной мере конструкт, базирующийся не на личном опыте, а сформированный социальной средой, особенно информационным пространством.

Не внушает оптимизма и то, что на смену достаточно толерантной молодежи конца 1980–1990-х годов приходят иные когорты, социализированные в других социокультурных условиях. В массовом обследовании молодежи на вопрос: «как следовало бы поступить с незаконными мигрантами?» - 22% респондентов ответили, что их следовало бы ликвидировать, 21% - что их следует «изолировать от общества» (Даффлон 2008, 28). Интолерантность принимающего населения – значимый фактор напряженности между мигрантами и местным населением. (Даже если бы неприятие мигрантов принимающим населением было бы надуманным, оно являлось бы серьезной социальной проблемой). В не меньшей мере напряженность между принимающим населением и мигрантами провоцирует низкая способность этнических мигрантов к адаптации к окружающей социальной среде – их слабая включенность в повседневный социальный и культурный контекст принимающей стороны, отсутствие у них потребности следовать общепринятым образцам и традициям и/или их незнание (часто принимаемое местными жителями за нежелание знать), потребительское отношение к принимающему сообществу.

Доминирующие в российском обществе антимигрантские настроения, одобрение большинством населения административных и иных мер, препятствующих интеграции мигрантов, создают специфический фон для дискриминационных социальных практик на рынках труда и жилья, получивших широкое распространение. (Иноэтничные мигранты подвергаются дискриминации в области социальных, культурных, экономических прав, однако наиболее болезненны для них практики дискриминации в сфере занятости и найма жилья: сложности вхождения на рынок труда и жилищного обустройства затрудняют аккультурацию и интеграцию мигрантов, способствуя их изоляции).

Важный аспект, выпадающий из дискуссий о дискриминации иммигрантов, – тот факт, что их труд чаще всего носит принудительный характер.

Политика интеграции испытывает и еще долгие годы будет испытывать серьезное влияние исторического опыта и традиций: закрытости советского общества, отсутствия укоренившихся традиций иммиграции; укоренившихся представлений о действенности административных мер, механизмов и инструментов; доминирования политических и административных соображений над экономическими; предпочтений, отдаваемым решению конъюнктурных задач в ущерб долгосрочным; неоимперского мышления.

Серьезное воздействие на иммиграционную политику и политику интеграции оказывают и особенности общественного сознания: политизированность мышления и неразвитость экономического мышления; представления о доминирующей роли государственных интересов (в ущерб групповым и личным), являющиеся базовыми; упрощенческий взгляд

на социальные процессы, восприятие сложных социальных процессов в черное-белом свете; представления о жесткой экономической детерминированности миграционных процессов, о мотивации к миграции с позиций рационального выбора индивидуума; представление о целесообразности, которая может быть превыше Закона; разрыв между законодательством и правоприменительной практикой; слабость институтов гражданского общества, неразвитость гражданского самосознания и отсутствие традиций гражданского контроля в России; экспансия культуры цинизма; отсутствие традиций социального диалога.

Фундаментальные проблемы миграционной политики

Неизбежным следствием политики потворства ксенофобии и мигрантофобии являютсяопасные внутриполитические вызовы. Такие, как ослабление социальных институтов, деградация моральных норм, ускоренная депопуляция, рост социальной напряженности, серьезные угрозы конституционному строю, снижение эффективности и конкурентоспособности российской экономики.

Каналы распространения ненависти к «чужим» известны: масс-медиа, выступления публичных политиков, массовая культура, особенно молодежная субкультура, отдельные представители интеллектуалов. Напрашивающийся вывод: достаточно их перекрыть, ввести элементы если не пресловутой политкорректности, то элементарной чистоплотности. Этого недостаточно.

Сегодня реализация миграционной политики и политики интеграции наталкивается на фундаментальные проблемы. Во-первых, отсутствие общественного консенсуса относительно стратегии развития России. Есть две альтернативные позиции. Согласно одной, исходя из демографических, социальных, экономических и геополитических вызовов, Россия нуждается в иммигрантах. Другая гласит: будущее России в ориентации на русско-православное культурное ядро, жестком ограничении иммиграции.

Во-вторых, в России, нет институтов, которые не на словах, а на деле боролись бы с ксенофобией. В США, в свое время, решающий вклад в борьбу с расовой сегрегацией внесли четыре института: Верховный суд, армия, спорт и шоу-бизнес. В России же институты, призванные преодолевать проблемы, превратились в институты, их порождающие. Вероятно, нужны кардинальные реформы в судебной системе, в образовании, в армии, в правоохранительных органах.

В-третьих, неэффективность институтов социализации мигрантов, их адаптации и интеграции. Исключением являются рабочие коллективы, в которых, как демонстрируют исследования, мигранты интенсивно общаются с местными работниками, причем чаще на русском языке[10].

В-четвертых, отсутствие инструментов согласования интересов различных акторов политики интеграции: федеральных органов государственной власти, органов государственной власти субъектов Федерации, органов местного самоуправления, работодателей, иных бизнес-структур, принимающего населения, мигрантов.

В-пятых, отсутствие четкого разграничения компетенций различных акторов.

[10] Согласно обследованию, проведенному среди азербайджанских и таджикских мигрантов в Астрахани и Самаре, только 20% трудовых мигрантов работали в преимущественно мигрантских рабочих коллективах, остальные – в коллективах, где преобладали местные работники - 37%, либо в смешанных коллективах – 35%. Общались на работе на материнским языке лишь 4 % мигрантов, основная масса общалась на материнском и русском языке – 57%, либо исключительно на русском – 39%. (Обследование Института социологии РАН «Анализ социальных практик, способствующих теневой занятости трудовых мигрантов», 2008 г., 422 респондента).

Ключевой вывод: наряду с изменением социальной среды, трансформацией социальных коммуникаций, дискурсов, необходимы серьезные институциональные преобразования, особенно в сфере образования, масс-медиа, судебной системе, в армии, в правоохранительных органах.

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SQUEEZED BY THE PAPER WALL: THE IMPACT OF THE ENLARGEMENT OF THE SCHENGEN AREA ON WESTERN UKRAINE

Abstract
This paper examines the consequences of the Eastwards enlargement of the Schengen area on the EU neighbors by examining the case of Ukraine. After the free travel regime established between the Central and Eastern European countries in the 90s the reintroduction of visa regime by new EU members had a very negative impact on the border regions, in particular on Western Ukraine. While Kyiv abolished any visa requiremnts for EU citizens, Brussels opted for a restrictive rigid visa policy. Thus, the Schengen area became the symbol of exclusion and isolation for Ukrainians. It seems essential that visa policy is further liberalised in view of a visa-free travel regime with the EU as the future goal, while the now available solution is setting loosened visa issuance procedures.

Key words: visa policy; Schengen area; Ukraine; European Union.

The end of the cold war era offered a unique opportunity to establish a wider and more comprehensive system of cooperation that would involve all European countries. The fall of the Berlin Wall, which in mid-20th century became the symbol of artificial division of Europe into two blocs, marked the beginning of a complete dismantlement of all forced barriers in order to facilitate the reintegration of the European continent. The liberalization of visa policy or their total abolishment became one of the key components in rebuilding the European unity.

Nowadays the visa is gradually losing its original meaning as an instrument of territorial sovereignty which enables the national state to exert its control over entry and residence of third country citizens in its territory, becoming a more ambiguous instrument to use. The visa policy of a state or a group of states has a direct influence on the development of international relations, becomes a proof of mutual trust, indicates the status of bilateral and may be seen as a stimulating factor to support further development of closer cooperation relationship or, on the contrary, the visa may be used as a means to exercise different kind of pressure or even coercion, and alienate countries; it may help ensure national security and counter to some degree illegal immigration or essentially slow down social, professional and private contacts between citizens.

It should be pointed out that the visa instrument is being gradually transformed into another means of suppression, contrary to the global tendency towards dismantling artificial barriers in the increasingly interdependent world. In the future, a visa-free travel regime should be adopted by a growing number of states, except in relation to such countries that pose a direct threat to national security. Therefore, visa policy in today's circumstances requires flexibility and efficacy in responding to changes resulting from the dynamic development of the world.

The visa-free travel regime established between the Central and Eastern European countries in the 90s was seen as a triumph of justice and as an evident achievement of post-communist transformation. This was of key importance for Western Ukraine that was historically integral part of this subregion. After the half century of the forced isolation it could reinstate the relationships at the level of regional and local authorities, nongovernmental organisations and other institutions with the border regions of neighbouring countries, especially by stepping up the economic cooperation. In this context it should noticed that Polish, Slovak, Hungarian regions neighbouring Western Ukraine belong to the most unprivileged areas in their countries and the visa-free regime was deemed an important element to combat economic underdevelopment. Last, but not least, many families could finally be reunited. Thus, over a decade the area of free circulation was formed in the Central and Eastern Europe and this became natural part of everyday life.

The situation changed dramatically in the begging of the XXI century. The Eastwards Enlargement of the European Union meant that the Ukraine's western borderline became the EU external border. This resulted in the gradual abolition of the free-travel regime. Regardless of the geographical proximity, historical and cultural kinship or intensive economic relations and strong ties at the regional level the Ukraine's neighbours were obliged to introduce the national visa regime towards Ukrainian citizens prior their accession to the European Union. This measure, applied under direct Brussels' pressure, standed in complete opposition to the regional cross-border realities.

The introduction of visa requirement yielded negative effects, in fact ruined the area of free circulation of persons in Central and Eastern Europe established after the Cold War and posed an essential hindrance to individual contacts. Obviously, the results were especially tangible in Western Ukraine that experienced the first negative results of approaching the European Union. Thus, many voiced their concerns and expressed their fears of the consequences to already well-established cross-border cooperation.

Ukraine made significant concessions, withdrew from the principle of reciprocity and equality, and deliberately consented to the introduction of visa regime which discriminates its citizens, all these in order to reduce as much as possible the negative consequences of EU candidate country visa policies. Moreover, it signed asymmetric visa agreements with most countries of Central and Eastern Europe, which provided for facilitated free-of-charge visa procedures or a complete abolition of visa requirement. Under these regulations citizens from Central and Eastern Europe countries were released from visa requirements and granted freedom of movement in Ukraine meanvhile Ukrainians enjoyed rather liberalised free-of-charge visa regime.

This was a interim solution that introduced loosened visa requirements for Ukrainian citizens. Thus, both Ukraine and its neigbours did their best to reduce the negative impact of a reesteblished visa regime, in particalar in the border regions. Visa applications were processed free of charge and multiple-entry visas for long-term validity were usually issued. The procedures were simlper with few documents required. The waiting time was short, often the entire process was comlpeted within only one day. In addition, rejection rates were significantly lower (1,2% for Poland, Hungary and Slovakia) than in case of the Shengen states - 11,5% (Boratynski 2006).

The situation became more complicated after the new EU member joined the Schengen area and asymmetrical agreements lost their force, which posed a substantial hindrance to circulation of persons between the neighbouring countries which lost their free choice to make decisions on their visa policies and is now unable to efficiently influence the position of the European Union in this respect.

Due to the accession of Central and Eastern European countries to the Shengen area in 2008, resulting in Ukraine's turning to one of its direct neighbours, visa policy has become of key importance in the bilateral cooperation between Ukraine and the European Union. It is a very delicate and sensitive issue of the EU-Ukrainian relations now, which directly affects citizens and is

thus frequently considered a barometer to verify actually implemented policies of the European Union against its intentions and declarations.
It should be underscored that the EU member states neighbouring Ukraine annually issued enormous numbers of visas to its citizens, mainly form Western regions, as compared to the Shengen states. Poland alone issued over 560000 annually. Taken together, Hungary, Poland and Slovakia issued over 820000 such visas annually, this was nearly three times as many as all the Schengen states combined – 290000 (Boratynski 2006).
The negotiations between Ukraine and the European Union on visa facilitation agreement raised substantial expectations. It would be the optimum solution, however, if the scope of asymmetric agreements were extended over all Schengen group members. By consenting to the unilateral abolition of visa requirement for EU citizens Ukraine wasted its basic argument for negotiations. The situation was further complicated by the requirement of a simultaneous adoption of the readmission agreement.
Moreover, essential changes to EU visa policy were prevented by the internal crisis of the European Union itself. Negotiations with Ukraine were seriously hindered by disagreements between new and old Member States due to the important differences in their national interest.
On the one hand, new EU Member States, deprived of the right to decide on their national visa policies independently, could not influence the text of the agreement in any significant way. The transposition of the EU visa acquis by the EU accession states is an example of policy transfer whereby an exixtsing policy was trasposed in a technical and depoliticezed manner without considering the policy rationale behind it. These countries were expected to implement new restrictive policies vis-à-vis their non-EU neigbhours (Jileva 2002).
On the other hand, it was Paris and Berlin that assumed very rigid positions, on the exclusive grounds that Kyiv could not be granted more than Moscow (Kravchenko 2006).
Vice-President Franco Frattini, Commissioner responsible for Justice, Freedom and Security, called on all the EU Member States to prevent any exceptions under visa policy. This call was directly related to Ukraine, since a group of EU Member States (Poland in the first place) issue visas to Ukrainian citizens free of charge.
Mr. Frattini is of an opinion that such preferences would be contrary to the aim of a common uniform European policy. “In the event that in line with our common political intent it is possible to conclude detailed agreements on visa issuance to third country nationals, for instance to the Ukrainians, I will certainly give my consent but I am strongly convinced that visa policy should be governed by the common European decision and not bilateral arrangements” (Ji: kordon).
However, it did not prevent the selective political approach of the EU in the case of other countries i.e. Bulgaria and Romania, which had been granted the abolition of visa requirement long before they joined the European Union. Social and economic situation in these countries was basically similar to that in Ukraine, with the levels of organised crime, illegal immigration and human trafficking as high. The conclusion is that in this case political appropriateness took precedence over all other arguments and confirmed the discriminatory approach of the European Union towards post-soviet countries.
The European Union opted for solving this problem by strengthening the exclusion of Ukraine and introducing a restrictive visa-regime policy. This will have far-reaching negative repurcussions on Ukraine by isolating it from the rest of Europe and impeding its modernization and its democratization.
The European Union ignored the concessions made by Ukraine and was clear enough from the very beginning that its plans do not provide for the abolition of visa requirement, even in the future. It raised the asymmetry in migration traffic as the basic argument during talks. “The design of visa regime is to balance this traffic” – explained Ian Boag, Head of the European Commission’s Delegation to Ukraine (Ji: kordon).

It should be emphasised that the currently applicable visa policies of EU Member States have not turned an effective instrument to combat illegal immigration or organised crime but have rather yielded opposite consequences, including irregularities and defaults directly or indirectly related to the processes of issuing visas. It is very often that the most important problem is not the difficulty in obtaining a visa to enter a Schengen area territory but the visa validity term and different kinds of illegal fees to be paid to multiple rather dubious intermediaries.
In this way, the function of a visa as a tool to prevent and fight uncontrolled migration is undermined altogether. The significant numbers of Ukrainian citizens residing illegally in Schengen group member states, who entered their territories with a valid visa to a great extent give the most reliable evidence.
In this context, it should be noted that a well-designed migration policy could be an effective solution to the existing situation. However, this would exclude the EU from the field of action, since regulations on legal migration still lie in the competence of national legislations of Member States and bilateral agreements. Ukraine has gained a lot of positive experiences from agreements concerning the status of its citizens signed with Portugal, Spain, and the Czech Republic.
It should be pointed out that the agreement on visa facilitation lays down specific permits for citizens from border areas neighbouring the EU to enjoy facilitated procedures for crossing the border. This local border traffic system entered into force after EU Member states (Hungary, Poland, Slovakia) and Ukraine had signed bilateral agreements. Citizens from border areas (i.e. administrative districts extending from the border no more than 30 km), who can document their legal residence in these areas over the minimum period of one year, may apply for local border traffic permit. The advantages from this initiative are rather dubious as the local reality is completely ignored, which results in low numbers of border zone residents being entitled to such permits. The Polish Consulate issued only 35000 permits (State Migration Service). Therefore, this policy of the European Union appears to be more propaganda to support numerous declarations and not an instrument for an active development of cross-border cooperation, which is usually hindered most by restrictions put on free movement of persons.
The visa facilitation agreement between Ukraine and the European Union concluded in 2007 set out some advantageous conditions only for some Ukrainian citizens. Many experts were sceptical about the definition of citizen groups subject to visa facilitations, negotiated according to professional position rather than to visa track records of individual persons. The latter option would make it possible virtually for anybody to enjoy facilitated entry, provided they have been to an EU Member State once and have done nothing to raise an alert (Kravchenko 2005).
The introduced amendments are unsatisfactory and concerned a limited part of Ukrainian society. For the major part of Ukrainian citizens, the positive aspects of the Agreement cover only the streamlining and unification of the existing visa procedures and setting the cost of issuing a visa at € 35. In addition, there are many so-called visa centers that officialy serve as intermediators between Ukrainians and many EU consulates. Therefore, Ukarinians are obliged to pay additional fees for visa pocedures. At the same time, Kyiv continues to apply visa-free travel regime for EU citizens, without claiming any fees for crossing Ukraine's border.
Ukrainian citizens have been suffering from the consequences arising from the visa policy applicable within the Schengen area. Reports say about regular and frequent cases of violation of human rights and dignity during visa issuance procedures. Infrastructure at consular posts is often far from satisfactory to service that level of visa applicants, while refusals to issue a visa frequently happen to be ungrounded or far too subjective. Such cases were documented in a quite elaborate report entitled "Visa Policies of European Union Member States" prepared by a Polish-Ukrainian joint team of analysts. The report gives the analysis of a wide array of breaches, violations, defects and common offences, which unfortunately outnumber positive aspects.

Disrespect often demonstrated by EU consular agents towards Ukrainian visa applicants is an everyday phenomenon. The issue has over time become so hot that it was listed on the agenda during negotiations with the EU, after which Brussels committed itself to undertake relevant action (Getmanchuk 2006).

Unfortunately, the conclusion must be drawn that the situation over the last decade has turned in the opposite direction than we could expect, with visa policies applicable to the neighboring countries becoming more and more complex and the eastern borders of the European Union secured with a paper wall to protect Fortress Europe against external threats. These threats seem to have encompassed Ukraine and all its citizens.

The impact within Ukraine was uneven due to the closeness or remoteness to the border of the European Union. Western Ukrainian border regions were the most affected where the repercussions of the decision made in a "distant Brussels" were especially feared. Western Ukrainian regional and local authorities unequivocally expressed their concerns upon the discriminatory policy carried out by the European Union towards Ukrainian citizens. The mayor of Uzhgorod called upon reintroducing visa requirements for EU citizens in line with the principle of reciprocity.

It should be stressed the above-mentioned agreement facilitation did not work properly and contributed to raising unnecessary barriers to trade, social cultural exchange or regional cooperation between Ukraine and its EU neighbouring countries. The introduction of the Shengen visa regime with Poland in 2008 caused in Western Ukraine some protests against new visa restrictions that were deemed biased and discriminatory towards Ukrainian citizens. The first reactions were quite negative and there were several cases when the roads to the board crossing were blocked by local residents (Dowling 2008).

Indeed, the cross-border movement of persons drastically decreased. The number of Polish citizens was been steadily growing. On the contrary, Ukrainians crossed less the border due to the fact that Poland issued in 2008 only 350000 visas, 40% less as compared with 580000 visas granted in 2007. Two Polish consulates in Western Ukraine (Lviv and Lutsk) alone issued 260000 visas (State Migration Service of Ukraine).

Widespread discontent among local residents caused humiliating experience at EU consulates, in particular the situation is still tense in Lviv due to the fact that infrastructure at consular posts is often far from satisfactory (Musakovska 2008). The consulates can not handle well so numerous applicants. It should pointed out that the Polish consulate in Lviv already set up a record by issuing the bigest number of visas in the world.

During last years the issuance of Schengen visas was a subject of multiple controversies, particularly concerning the residents from Western Ukraine. There were various absurd cases when visa was denied to Ukrainians, including prominent well-known persons, without delivering any coherent explication (Marynovych 2009)

Particularly sensitive and scandalous are the cases that involve the common past history. It should be reminded that about 1 million ethnic Ukrainians were forcibly repatriated from the eastern territories of Poland in the Soviet Union after the Second World War. The more or less same number of Poles was transferred in Poland. One of the main achievements of the Polish-Ukrainian reconciliation was the fact that citizens of both countries were allowed freely without restrictions to visit their native land. The situation changed after 2008 when many Ukrainians in particular elderly people lost the chance to travel in Poland mainly due to lengthy times of bureaucratic procedures. There were numerous cases when important cultural events were frustrated due to the visa issuance. That caused acute tension between Ukrainians and Poles.

Tightening the system of issuing visas has practical negative economic implications for Western Ukraine. New artificial barriers directly hamper cross-border economic cooperation and slow down economic growth. Shengen visa regime has a negative impact on Ukrainian local business community by reducing its competiveness. EU partners are more privileged and in a better position

due to the fact they do need entrance visa and can travel freely in Ukraine. Meanwhile Ukrainian businessmen are obliged to go through humiliating bureaucratic procedures. Local business associations call upon EU consulates to streamline and facilitate the issuance of visas for business purposes (Lviv entrepreneurs committee).

It should be pointed out that the problem surrounding the Shengen visa system became a lucrative source of enrichment for organized criminal groups (Bobkova 2009).

Such numerous incidents always attracted special attention of mass-media and contributed to the formation of the image of the Schengen area as an instrument of repression against Ukrainians.

The enlargement of the Shengen area symbolized the mental separation of Ukraine from the rest of Europe. It is especially strongly felt in Western Ukraine that personally witnessed the gradual closing of the border and the erection of new barriers. For many Ukrainians the Iron curtain did not disappear, this was moved on the East and replaced by the paper wall. In the public opinion Shengen represents the symbol of exclusion and segregation. One may find numerous examples of negative connotations like Shengen wall, Shengen fortification, Shengen barrage, Shengen inquisition, Shengen lawlessness or just read "creepy stories" about Shengen. This directly affected the image of the European Union by strengthening its perception as an inaccessible Fortress. Such problems are highly detrimental to the perception of the Europran Union in Ukraine. Schengen does not help combat mutual stereotypes but rather the reverse, strengthens them.

Visa should be deemed a right and not a privilege for the chosen, while visa issuing procedures should be no more than an everyday formality, of course except in relation to those citizens who have a track record of visa regime violations or criminal offences.

Therefore, it seems essential that visa policy is further liberalised in view of a visa-free travel regime as the future goal, while the now available solution is setting loosened visa issuance procedures. Relevant efforts should be undertaken by both Ukraine and the European Union. Kyiv should focus on performing its obligations in full and do everything within the range of its competences to convince the EU about its readiness for a more liberal visa regime. This process could yield even better results if Brussels gives Ukraine a clear message that it is ready to undertake such an effort.

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THE EU MEMBER STATES' VISA PRACTICES IN UKRAINE AND THE EU-UKRAINE VISA DIALOGUE

The EU and Ukraine continued to run visa dialogue launched in October 2008, that foresees the abolition of visa requirements for Ukrainian citizens „as a long term goal". After a first round of meetings covering blocks

- („Document security, including biometrics"),
- („Illegal migration, including readmission"),
- („Public order and security") and
- (External Relations).

The Senior Officials met on May 19, 2009 and identified the adoption and implementation of legislation in the following areas as a priority: document security, including biometrics; border management; migration management; asylum; data protection; judicial cooperation in criminal matters; fight against organized crime and antimony laundering; fight against corruption; fight against trafficking in human beings; fight against drugs; cooperation between law enforcement authorities; protection of human rights; combating racism, xenophobia and discrimination; challenges in obtaining residence registration.

Moreover, the full and correct implementation of the visa facilitation and readmission agreements, as well as the revised EU-Ukraine JLS Action Plan, remains of paramount importance for the dialogue. The EU-Ukraine JLS ministerial troika of 3 June 2009 agreed to continue work at an operational level through on-site visits performed by experts conducting a detailed analysis and evaluation. This would lead to a clear assessment of the situation in each Block, „allowing for recommendations to be made, in view of setting up the methodology for developing the relevant conditions for establishing visa free travel for Ukrainian citizens to the EU".

According to Senior officials" Report, delivered to the EU-Ukraine summit on December 4, 2009, the Senior Officials analyzed the results of the work done and noted the following:

1. On site visits by experts from Member States took place in October and November 2009 covering the areas of document security, including biometrics (27-28 October 2009), illegal immigration, including readmission (12-13 October 2009), public order and security (19-20 October 2009) and external relations (11 November 2009).
2. These visits produced a detailed analysis and evaluation, allowing for a clear assessment of the situation in each Block.
3. Work on all four Blocks of issues should now be continued in a structured visa dialogue containing sequenced priorities of action and recommendations to the Ukrainian authorities. These recommendations should describe specific reforms and measures to be undertaken by Ukraine in order to make progress in the relevant areas identified in the May Senior Officials' report.
4. In parallel to the visa dialogue, regular contacts on the joint readmission and visa facilitation committees have demonstrated that the two agreements are overall being implemented satisfactorily

and the Senior Officials underlined the importance of continuing constructive cooperation in the effective implementation of these two agreements and look forward to constructive discussions on the possible updating of the visa facilitation agreement[1].

Though, the component of free movement of people may become a mutually beneficial priority for the EU as well, because advance to visa-free regime shall be accompanied with implementation of a series of reforms by Ukraine and that facilitate substantial progress of the important for the EU spheres. They are:

- fighting the illegal migration, human trafficking and other challenges of the crossborder criminality;
- documents" security including introduction of biometric technologies (biometric passports first of all);
- border management including border infrastructure development (Integrated Border Management);
- cooperation in the sphere of security and law enforcement;
- implementation of Readmission Agreement

Current Visa Practice of the EU Member States in Ukraine

The Centre for peace, conversion and foreign policy of Ukraine, and all-Ukrainian NGO consortium of "Europe without Barriers" in the Summer of 2009 conducted the third stage of research of policy and practice of visas issuance for the citizens of Ukraine by consular offices of EU countries after expansion of the Schengen area (on December, 21 in 2007) and entering into force of Agreement on facilitation of the visa issuance between Ukraine and EU (on January, 1 2008), further - VFA, that was supported of the International Renaissance Foundation[2]

Research, which is the third wave of the public monitoring of EU visa policy, was conducted by questioning of respondents stepping out from consular offices (or visa centres).

Two groups of respondents included:

Group 1: persons stepping out from consular offices, which have completed submission of visa documents for consideration (there were 2303 persons polled in 21 consular offices).

Group 2: persons on leaving from consular offices, which have received the decisions on visa application (there are 2102 persons polled in 21 consular offices).

Consular offices of 11 states of Schengen area, which are situated in Kyiv (10 consulates or visa centres) and other regions of Ukraine (11 consulates), were investigated.

The group 2 includes those schengen visas recipients who went through all way of visa application without any assistance - from submitting of documents to the receipt of decision. Those, who got visas through tourist agencies, were not polled.

[1] Senior officials" report on EU-Ukraine visa dialogue to the EU-Ukraine JLS ministerial troika in view of the EU-Ukraine Summit on 4 December 2009

[2] The research, took by interrogation of respondents on leaving consular offices (or visa centers). Countries included: (in brackets – the number of consular offices, included monitoring): Germany (1), France (1), Italy (1), Spain (1), Belgium (1), Greece (2), Poland (5), Hungary (3), Czech Republic (3), Slovakia (2), Lithuania (1). The research was supported by the European program of the International Renaissance Foundation

Among many elements of visas registration process the special attention in research was concentrated on determination of implementation level of Agreement provisions, particularly:[3]

- The effectiveness of visa procedure (share and reasons of visa refusals);
- Issuance of multiple, long-term and free visas to the certain categories of applicants, determined by the Agreement;
- An observance of Agreement provisions regarding to the exhaustive list of documents proving the purpose of visit;
- Implementation of Agreement provision regarding to the terms consideration of visa application.

1. The Effectiveness of Visa Procedure

Refusal Level

The following tendencies were found out by the research:

- Stabilization of the visa refusals (8%), considerable difference between different consular offices regarding the refusal rate: from 1% (Lithuania) to 17% (Czech Republic)
- Among respondents, during submission of the documents, the 8% of applications were not accepted by consulate. Consequently the real amount of those, who came with the purpose of journey and did not realize it, is greater than a 8% level of ultimate official refusals.
- Most of applicants, which did not get a permission for an entrance, applied for a short-term, single entry visa. Among applicants that did not get a visa - 55%, were applying for a one-entry visa, 87% - wished to get the visa of category «C», 33% - applied for the term of validity of visa from 15 to 30 days.
- The share of explanations of refusals given has increased, that in most cases have a formal character and does not expose reasons of refusal in a complete measure.
- Most of cases of the unaccepted visa application were determined by incomplete set of documents.

Main conclusions:

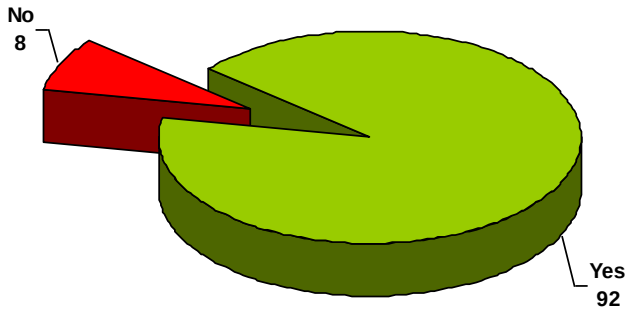
- The share of refusals, at the level of 8%, correlates with data of the previous (second) wave of monitoring in 2008 and testifies to the certain stabilization of effectiveness of visa procedure without essential positive and/or negative changes.
- Except for the percentage of refusals, it is necessary to pay attention to the share of those, whose documents were not accepted to consideration during submission. This category of persons (8% according to monitoring information) essentially increases (in 1,5-2 times) the number of those, who aimed to carry out a trip, but couldn't do it. Only some part of the applicants makes a second attempt of document feed, other persons resigns the journey in general, being confronted with difficulties.
- In the context of formally unified rules of Schengen there is a place for own visa practices for individual states, particularly more friendly, transparent and non difficult procedure, as in the case of consulates of Lithuania, Poland and Slovakia.
- The absence of exhaustive list of documents remains the stable obstacle for considerable facilitation of visa procedure. The amount of documents grows in the

[3] The outcomes of research were presented at the round table: «*Ukraine-EU visa dialog -: tasks which stand before Ukraine*», that took place on October, 5, 2009 in Kyiv.

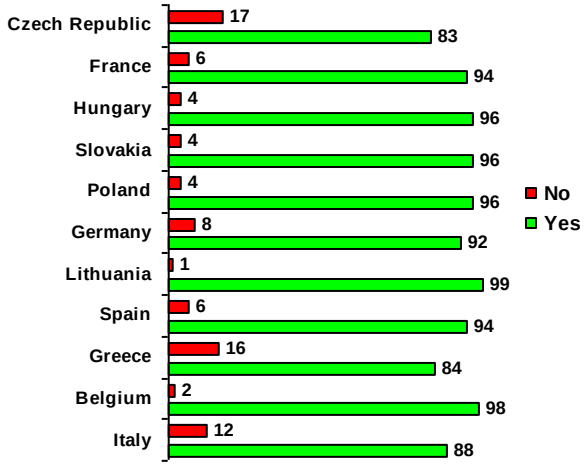
case of appearance of doubts concerning an applicant and is one of basic methods of verification of his person, financial and family status, aims of journey, and others.

- The cases of explanation of refusals became more frequent, but there is a problem of their sketchiness and the formalized approach that do not expose all reasons of refusal. Explanation of refusals remains a right, but not obligation for the majority of consulates.

1. HAVE YOU RECEIVED A VISA?
(% of all polled)



2. HAVE YOU RECEIVED A VISA (BY COUNTRIES)? (% of all polled)

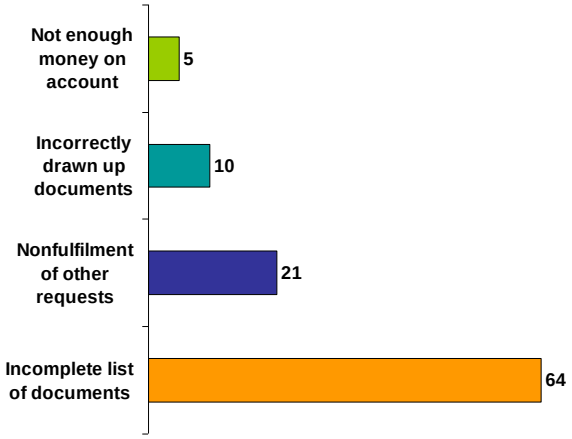


3. WERE YOUR APPLICATION DOCUMENTS ACCEPTED?

(% of all polled)

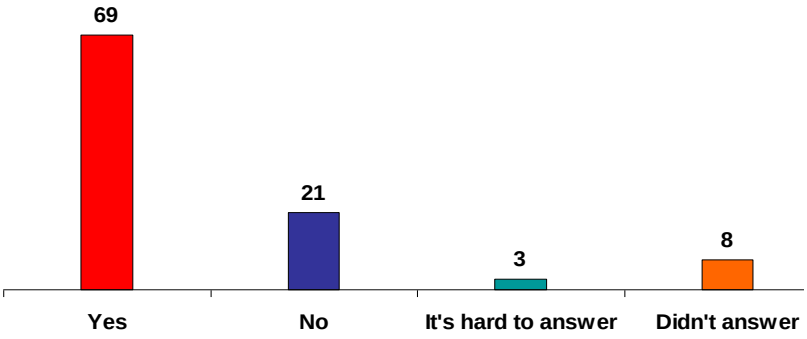
4. WHAT WAS THE REASON OF NON-ACCEPTANCE OF THE DOCUMENTS?

(in % to those,whose documents weren't accepted)



5. WAS THE REASON OF REFUSAL EXPLAINED (OR GIVEN IN WRITTEN FORM) TO YOU?

(in % among persons, who didn't receive a visa)



2. Effectiveness of Visa Procedure. Multiple and Long-Term Visas

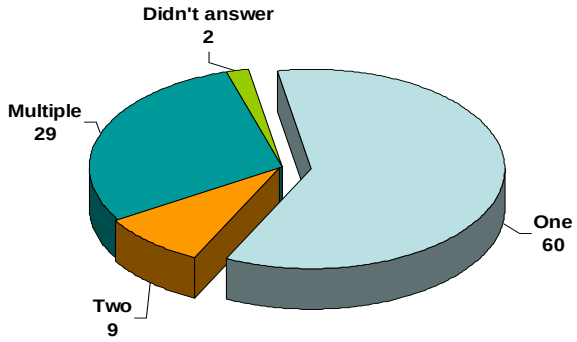
The Article 5 of the VFA

The followings tendencies were found out by research:

- The decrease of general amount of long-term visas (from 37% to 29%), but, at the same time, the average time of long-term visas has increased.

7.WHAT NUMBER OF ENTRIES HAVE YOU RECEIVED?

(%among the persons , who received a visa)

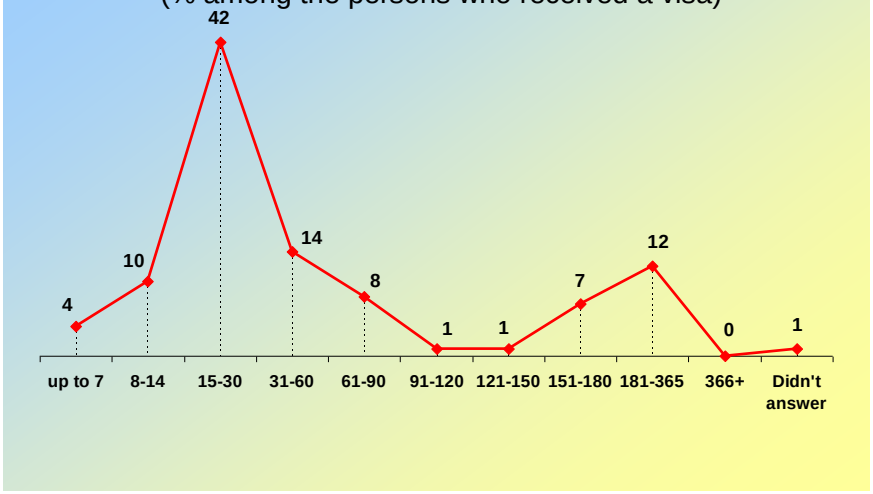


- The share of visa with the term of validity over 5 month has increased from 13-14% to 20% , which is an encouraging, positive result. Approximately every tenth visa has one year validity term. The best results concerning the delivery of long-term visas demonstrate the consular offices of Hungary (more than a half of visas has the term of validity over 5 months).
- Only 11 respondents (0,5%) of 2102 received visas with the term of validity more than year (two-three years). Seven from these visas were given by the consulates of Poland.

8. WHICH TERM OF VALIDITY OF VISA DID YOU RECEIVE?

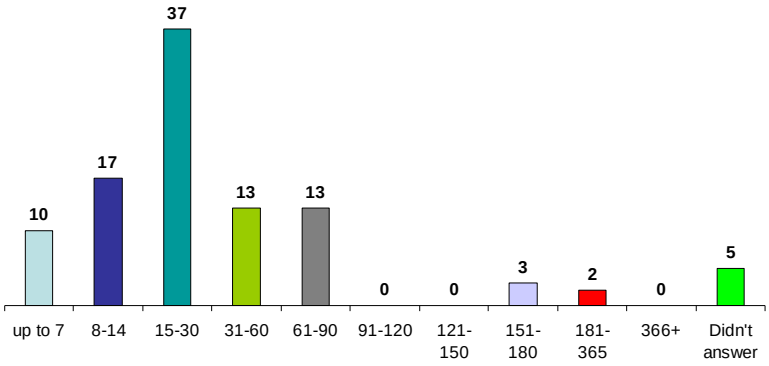
(in days)

(% among the persons who received a visa)



9. WHAT TERM OF STAY OF VISA DID YOU RECEIVE?
(in days)

(% among the persons who obtained a visa)



Main conclusions:

- The individual consulates of the EU Member States demonstrate permanent results in the field of multiple, long-term visas delivery. Particularly, the consulates of Hungary, Poland, have been taking the first place for two years now in delivery of multiple visas, while the consulates of Greece and Czech Republic continue to give out the minimum of such visas.
- The specific share of those who has the potential right to apply for long-term visas in accordance with VFA is 55% (diagram #10), and the real part of such visas (over 5 months) – is near 20%. As the mentioned privilege does not spread on those, who comes to EU for the first time or after prolonged interval, or had refusals in recent past, or the conflict with EU laws, the approximate amount of holders of such visas must be 30-40%.

3. Visas Free of Charge.

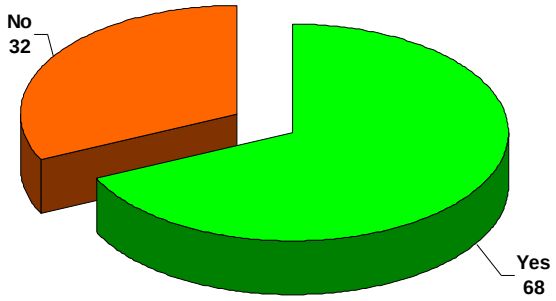
The Article 6 of VFA.

The followings tendencies were found out by research:

- The minor increase (from 28 to 32%) of amount of visas issued free of charge.
- About the third of those, who paid for a visa, paid more than 35 Euros limit, set by the VFA. The share of this category increased from 16 to 22% of all respondents that testifies the growth of market of paid intermediary (outsourcing) services.

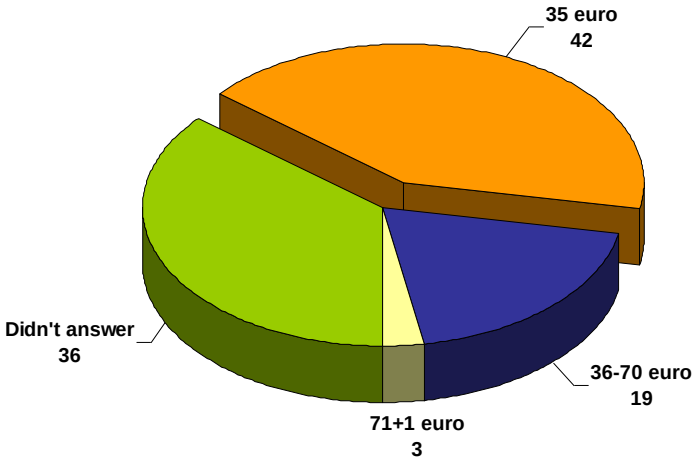
13. HAVE YOU PAID FOR A VISA?

(% of all polled)



14. WHAT AMOUNT WAS PAID FOR VISA IN TOTAL?

(% of all polled)



Main conclusions:

54% of respondents refer themselves to the privileged categories, set by VFA Article 6, which potentially may apply for visas free of charge (the real part is smaller because not all privileged people go to EU countries with the aim of study or professional practice, for example). Nevertheless, there is a possibility of increase the share of free visas from 32% to the level of 40-45%.

4. The Processing Term of Visa Applications

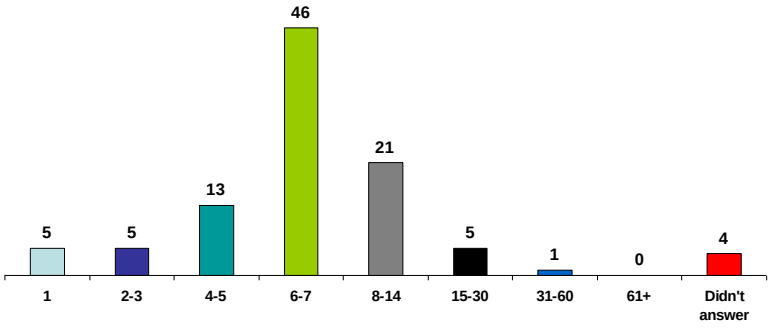
The Article 7 of the VFA.

Main conclusions:

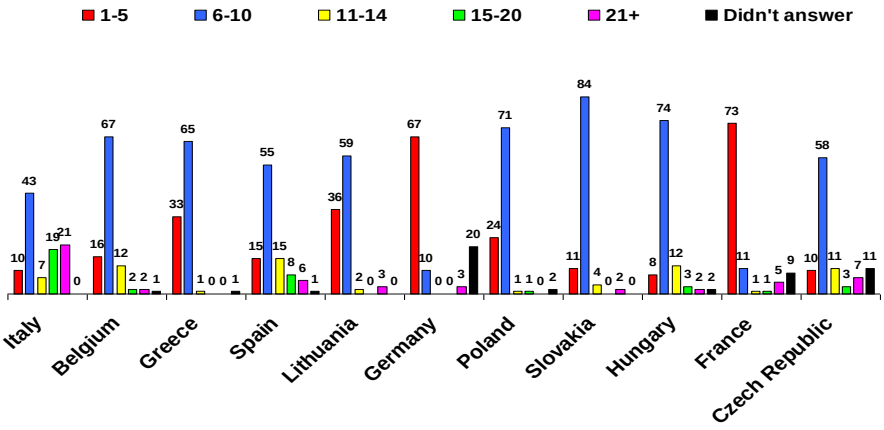
- About 15% of applicants were waiting for a decision of consulate longer than 10 days, established by the Agreement.
- The applicants from consular establishments of Italy, Spain and Czech Republic wait for decision the longest period of time.

15. HOW MUCH TIME PASSED (IN DAYS) FROM THE DAY OF SUBMITTING DOCUMENTS TO THE CONSULATE ?

(% of all polled)



16. HOW MANY DAYS PASSED FROM THE DAY OF SUBMITTING DOCUMENTS TO THE CONSULATE?



5. DOCUMENTS' REQUIRMENT

The followings tendencies were found out by research:

- The absence of significant changes according to documents (the number and the content), which are required from the applicants.
- Each additional document (to the main list of documents) must be submitted personally.

RECOMMENDATIONS BY "EUROPE WITHOUT BARRIERS"

According to the comparative analysis of independent monitoring data conducted by "Europe without barriers" we, indicating certain progress, came to the conclusion that the further constructive potential of the Visa Facilitation Agreements is either exhausted, or is getting closer to the exhaustion.

While the abolition of visa regime for Ukraine and other East Europe countries is considered as rather longer-term perspective, new steps are needed towards real liberalization of Schengen visas issuance.

- It is necessary to continue negotiations on improving the mechanism of the VFA by bringing restrictions to the list of documents that may be required to prove the evidence of "strong connections with the motherland."
- The requirements of applicants' documents (especially the private and commercial documents,) that have no relation to the purpose and content of most of the planned trip should be limited, except special cases.
- The number of possible exceptions to the rules that allow consulates to delay the proceedings or require potentially inexhaustible list of documents should be minimized.
- The norm, which would allow the applicants to submit visa application via faxes or scanned documents, should be provided, especially regarding the documents from abroad.
- The option of going over the visa procedure without a personal interview and a visit to the consulate, for example, by submitting documents by mail should be provided.
- It is important to step aside from requirement to prove the necessity of the future multiple visits to the EU (for multiple entry visa) by the applicant, if previous visa history of the applicant indicates his/her real need for regular visits to the EU Member States.

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MIGRATION POLICY OF UKRAINE IN THE CONTEXT OF THE EUROPEAN INTEGRATION PROCESS

Abstract
Ukraine is located on the crossroad of migration flows acting as a "borderguard" on the Easten "entrance" of Europe and on the Western "exit" of Eurasia. Taking into consideration such geographical position, migration policy of Ukraine has to deal with two, at least most important, agendas: the "transit" problem of legal and illegal migration of non-Ukrainian citizens from outside its territory to the territory of third countries, mainly in the EU; and migration of Ukrainian citizens to the EU and other countries. As far as the last one basically deals with visa procedures of third countries, the focus in this article is made on the issue of "transit" migration and acute issues of readmission in the context of relations between EU and Ukraine; though a special section on labor migration from Ukraine into EU will be discussed.

Key words: migration, EU, Ukraine, borders, readmission, illegal migration.

Theoretical implications on "social" background of migration in Ukraine and outside

Migration is always the process to deal with citizens, people, frontiers, and borders; as well as inclusive and exclusive policies; as well as economic prosperity and poverty; as well as outside identification and self-identufucation. The migration policy's problem of Ukraines also touches upon its unstable internal space and geopolitical environment. There is an urgent call from outside – mainly from the side of EU – for delimitation of Ukrainian "social space" by certain rules and procedures to regulate process of migration which is streaming from the East to the West and from the South to the North. Why is there such urgent call to strengthen, for example, national borders of Ukraine to hamper, for example, illegal migration? As it flows out, currently we have to deal with an unstable geopolitical and social space of Borderland Europe, which is associated with the "gray zone" and poses a big migrational problem both for countries of Borderland Europe, like Ukraine, Moldova, and Belarus, and those which are around.
In a wide theoretical sense, being always "on the edge", Ukraine falls into the conceptual model of Borderland Europe, meaning the territories that lie between the enlarging EU and Russia, or of their overlapping peripheries. Such approach was underlined in Michael Emerson's "The Elephant and the Bear". As it was stated, the regions of Borderland Europe fall into several categories: integrating peripheries, divided peripheries and overlapping peripheries (Emerson 2001, 3). First means states that aspire to integrate with one or the other of the two empires. Second – states that are divided between Western and Eastern orientations and are looking towards both empires at the same time. Third means entities, where communities from one of the empires find itself marooned or enclaved within the other empire. The peculiar situation with Ukraine shows that it has been absorbing all

three categories at the same time, what gives its foreign and domestic policies lack of strategy and clearness in the future development. On the conceptual level of Borderland Europe, Ukraine at the moment is a divided periphery which looks for the status of integrating periphery through overcoming the syndrome of overlapping periphery. The only qualitative feature, which collects all this conditions into one, is the concept of "instability". The last one theratens and challenges the one, who is "stable" – in this case is EU.
As it flows out, being in "between" of two sectors of values and on the edge of "stability" and "instabilty" – all this requires the clear policy of identification: are you, Ukrainians, part of Europe with a certain set of values, or part of the post-Soviet space, which is sharing different values? As Russian researcher Andrey Makarychev indicates, "it is appropriate to refer to the authoritative opinion of Rob Walker, who believes that the key issues of contemporary international relations run into regulatory in nature category of the border: "We" are here, "you" – there, "they" are somewhere else. We can admit "you" to "us", and "they" will be sent home. Everyone should know their place, not only in the hierarchies of status, class and social order, but also in territorial space" (Makarychev 2007). It was not a surprise, that EU from early 1990-ies openly expressed its interest and concern to some security issues, which have been threatening security both of Ukraine and the EU.

Borders to divide, or borders to connect? Culture of "us" and "others"

The "border issue" became on the top of such discourse. The European Union with its Common Foreign and Security Policy has been making a huge impact on the security measures, especially after the last enlargements. The EU appeared to be even more dramatic contributor into security situation in the Central and Eastern Europe, than NATO. It is the EU, not NATO, which constituted new boundaries in Eastern Europe during the process of May 1, 2004 enlargement, closed the borders between the new EU members and the new EU neighbors, including Ukraine. A security concern of the EU towards Ukraine is natural. They are not just members, but both share the common border on the Poland-Romania axis. Any border, even within the process of European integration should be protected and such a protection is among the top concerns of the EU countries, especially when the security agendas are connected to someone, who is on the other side of a border.
This actualizes the issue of delimitation and demarcation of the border with the definition of "us" and "them", order and disorder ("materialized" examples of constructing the wall on the border: the Great Wall, the Berlin Wall and the wall being built in Israel in some areas along the border with Palestine, and the U.S. wall for Mexican-American border; also Saudi Arabia in September 2007 announced its intention to build a "security wall" on the entire border with Iraq). Modern well-known philosopher Slavoj Zizek believed Modern West needed a "secure fence to shield the pain of others and we can enter into a relationship only when there is a guaranteed distance" (Zizek and Daly, 2004, 118).
In fact, any society faces a deep interdependence of state's politics and national culture. The culture is one of the fundamental grounds for state's internal and external policies. The cultural identity is in the core of any political change in the state and it plays extremely important role in the interstate conflicts: the cultural identity can stimulate conflict and broaden it or, quiet the contrary, can be estimated as a peacemaking factor. The historical climax of the universal conflict is inevitably resulting and expresses itself in the clash of cultures – in the clash of civilizations famous model.
The United Europe faces the clash of cultural identities today. The national cultures of European countries are the main obstacles on the way for further political integration. More and more citizens of the European Union do not want to feel yourself only just like the Europeans but do want to remain French, German, Danish or British. The cultural concept of the United States of America

where all the citizens genetically linked to the different parts of the world are proud to be Americans does not fit the modern European society. The way to overcome the cultural boundaries in Europe and the first step to do so could be seen in the cultural regionalization. People from the one region are much closer to each other than from the distant parts of Europe in the both distance and cultural meanings. For example, people from Italy, Greece or Spain are the Mediterraneans. Finns, Estonians or Swedes are the Baltics. Both groups do not have much in common to feel yourself under the same nominal cultural (and even political) identification – the Europeans. So, we can see the cultural frontiers in Europe, but they become much noticeable on the meeting-point of the European regions, much more then in between separate country-neighbors. The positive features of the cultural regionalization should be taken into account on the hard way to the common European citizenship. The convergence of the intra-regional cultures and the deepening of the inter-regional cultural interaction can lead to the formation of the pan-European cultural core which could soften the cultural differences and negative attitudes towards each other.
As far as EU is not admitting Ukraine as part of "itself" because Ukrainian political elites are not ready to show they are Europeans, the post-bipolar "Berlin Wall" has a chance to be constructed on the Western borders of Ukraine to deliminate "us" from "them".

Migration policy of Ukraine: the EU-Ukraine concerns

The threat of infiltration of illegal migrants from Asia and Russia through the Borderland, and in particular, through the territory of Ukraine to the EU, due to the incomplete process of socio-political transformation, accumulates the necessary conditions for the adaptation of such relatively new phenomenon, as "antropoflow" (Shedrovitsky, Gradirovsky, and Mezhyev 2002), part of which is the migration processes. The scope of problems, connected to "soft" or non-strategic security issues, seems to be among the current priorities of the EU defensive policy and the Department of Justice and Home Affairs. For example, it is estimated that some 500 thousand illegal immigrants arrived to the EU states in 2000 compared to about 40 thousand in 1993; the influx of immigrants to Western Europe, both legal and illegal, has increased by 20 times within the last decade, and Ukraine is seen as one of the key transit territories; some 60-70% of illegal migrants are reported to arrive to countries of Western Europe through Ukraine (Andreeva and Titova 2001). Such tendency shows the increased instability due to the number of international and national conflicts in Eurasia. The national interests of Ukraine and other European countirs are taking into account a strong need to facilitate a sustainable development of the peoples and decrease risks for instability and chaos in this dangerous zone. It is not accidentally, that one of the main features of the new security initiatives in Europe is to strengthen the borders militarily, financially and institutionally. A strong attention is given to the issue of combating corruption on the borders to ban illegal migration and illegal goods trafficking (for example, in April 2004 23 Polish frontier-guards were arrested for the bribes on the Peremyshl section of Poland-Ukraine border) (Podrobnosti – International News 2004). The EU is even ready to give additional funds to the EU neighbors to strengthen their borders all around its territory.
However, paradoxically, all this may lead to a new threat for Ukraine. Such "concern" of EU border issues is a double character. On the one hand, the border control on the west and the east of the country will become stronger. However, this control - restrictive in nature - is also aimed at law-abiding citizens of Ukraine, as the new EU countries closed their borders and imposed a visa regime for all Ukrainians. However, a serious threat to Ukraine is not even in this: when the western border of Ukraine becomes stronger with the help of EU and EU borderguards, the imbalance in the strength on the east of Ukraine occurs. This leads to the fact that, coming from the East, illegals are increasingly remain in Ukraine because of little chances of geting over the western border of Ukraine. For Russia, the problem of illegal migration is different – "antropoflow" moves from the

"unhappy" East to the prosperous West, and not vice versa. In fact, Ukraine is experiencing bilateral congestion, while the European Union and Russia faces probmes only from the one side. And the problem for Ukraine and Europe is not new. As the First Deputy Chairman of State Committee for State Border Protection Pavlo Shisholin in 2000 noted, "illegal migration, as a form of transnational organized crime in Ukraine has acquired menacing character. Over the last fifteen years, Ukraine has changed from the country to transit illegal migrants to the country to adopt them. This filtering does not meet the national interests of Ukraine" (Shisholin 2000).

The Ukrainian policy of readmission: the policy for EU?

Nevertheless, in the framework of the EU-Ukraine Cooperation Council that took place on June 18, 2007, the EU and Ukraine made a concrete step forward in their bilateral relations, signing two agreements on visa facilitation and readmission. The signature of these agreements followed the official start of the negotiations on a new Enhanced Agreement reflecting the strategic importance of developing EU-Ukraine relations. "I was very pleased that the agreements on visa and readmission had been signed - this means that Ukrainians will now be able to travel more easily while maintaining the efforts to clamp down on illegal migration", stated Vice-President Frattini, Commissioner responsible for the Justice, Freedom and Security portfolio. He added: "The EU and Ukraine can aspire to a qualitatively higher level in their relationship, and these agreements are particularly important in this perspective: facilitating people-to-people contacts can greatly help in increasing mutual understanding and improving our relations in all fields" (Frattini 2007). The agreement on readmission came into force on January 1, 2010. In fact, re-admission - this is the compromise which Ukraine accepted, taking on itself the responsibility for resolving the issue of the return of illegal immigrants and by accepring promises from the EU to introduce visa faciliatetion system simplified visa regime with Ukraine. Although the EU supports Ukraine in the fight against illegal migration with the money, but it is not enough. In 2007 there were 140 million euros allocated to Ukraine in the framework of the ENP "Ukraine - EU", 30 million euros was spent on the readmission program (Saakova 2007). In particular, the EU spent money on equipped places of temporary stay of illegal migrants - the so-called camp. In addition, initially the EU is funding the return of illegals to their homeland. Ukraine has agreed to accept on its territory not only deported Ukrainians, but also foreigners in transit through Ukraine. In the first two years of the agreement, Ukraine will receive an annual 2,000 illegal deportees from Europe (Saakova 2007). Only after the expiry of that period the quota increases and the illegal aliens Ukraine will have to send home by its own expense.

The key problem is that in fact 85% of illegal immigrants to Ukraine comes from Russia (Saakova 2007). According to the Director of the Department of Immigration, nationality and religion Michael Rusyn, in 2007 in Ukraine, about 15 thousand people were illegal (saakova 2007). Funds for illegals are not enough.The average monthly allowance for one illegal in special camp costs Ukraine more than $ 100 (Saakova 2007). The authorities are obliged to issue a foreigner visiting document and open necessary for his return visa. The ticket also pays Ukraine. The migrant is escorted by at least two persons in his journey. In general, one readmission of illegal migrant costs Ukraine more than one thousand dollars.

In 2007, according to the Department of Immigration, nationality and religion, on the deportation of illegal migrants wsere allocated only 3 million hryvnia, and thus only 600 illegal immigrants were able to go home (Saakova 2007). The rest have to stay in camps waiting for their turn to return to their homeland. The most famous refugee camp on the territory of Ukraine is near the town of Mukachevo. Formally, the detainees can not be kept there for more than 30 days, but many illegals here spend more than six months pending deportation, what does not meet standards, neither in EU, nor in Ukraine.

Labor migration from Ukraine to the EU: what should be done to "reset" migration policy

The economic crisis in the country, the democratization of social life (including ensuring freedom of movement), and existing needs of European countries in making cheap skilled labor from abroad led to the increase in international labor migration from Ukraine. As it flows out from the special report of 2008 (Kyrevina 2008), made by I. Kyrevina, who represents Lviv Branch of the National Institutite for Strategic Studies in Ukraine, the "negative aspects that contribute to migration abroad, are:

- higher standard of living of European countries (GDP per capita in Ukraine in 2006 estimated in $ 7.5 thousand. U.S., Italy - 29,8, Spain - 28.4, Portugal - 20.8, Poland - 14.5);
- Policies promoted by the EU in order to legalize labor migrants. Number of employees legalized is constantly growing, so in Italy the number of registered Ukrainian reached 117 thousand, and in Spain in 2005, recorded 20 thousand persons);
- Migration Policy in Central and Eastern Europe (especially the introduction of strict visa regime after EU accession, have increased migration flows from Ukraine)".

In addition to historical migration and family ties, the so-called "shuttle" migration has developing (value balance of migration in 2005-2006 registered in Poland - -52.9 thousand, Romania - thousands -4.7 persons; positive indicators observed in Hungary - 14.9 million people, Slovakia - 5.8 million people. Among them is the share of Ukrainian respectively under: Poland - 11% Romania - 16%, Slovakia - 17%) (Kyrevina 2008). This large share of labor migrants from Ukraine make its Western region residents. According to official statistics of the balance of migration is the Western regions of Ukraine in Lviv region - 407 persons, Volyn - 432 persons Transcarpathian - 805 persons, Rivne - 771 person (Kyrevina 2008).

Emigration labor outside the country is a result of the existence of competitive jobs. Thus, during 2006 there were 2.3 million jobs. However, only 5% of them offered wage over 160 euros, and almost 60% - wage less than 80 euros. Clearly, the majority of these vacancies and remain unfilled. Dominating the share of migrant workers - a promising young people at home can not get a decent salary (yes, the income of the population of Lviv region in 2005 amounted to less than 75 euros per person) and desirable job, and that is causing the outflow of migrant workers abroad in search of better conditions for self-realization and ensure future prosperity (Kyrevina 2008).

The consequences of international migration for Ukraine and for its individual regions are also positive. So the important social and economic role played by reducing tension on the labor market. Private transfers of labor migrants are used for private business, purchase and repair of housing, education of children. According to World Bank estimates, the amount of funds transferred to Ukraine is about 400 million dollars. U.S., more than half of private transfers of migrant workers from EU countries. An estimated amount of private transfers of migrants only a month are about 400 million dollars. U.S. is 5 billion dollars per year. Having obtained experience working abroad and improved professional skills, migrant workers open private businesses and attract part of the working population than reduce tensions on the domestic labor market (Kyrevina 2008).

I.Kurevina concludes, that legalization of employment of Ukrainian migrant workers abroad should be a priority in managing international migration and exercised by concluding bilateral agreements with countries of destination, while priority should be developed European countries. Thus, strengthening cooperation with the EU in the regulation of international migration processes, strengthening cooperation between countries of destination and origin of migrant workers, it is necessary to solve common problems in this sphere, including joint investment in small business development, based on the capital of migrant workers.

L. Khomich, who represents Odessa Branch of the National Institutite for Strategic Studies in Ukraine, suggests:

- "bringing legal framework and administrative capacity in line with international standards and modern requirements in the regulation of migration processes. Effective migration management requires not only effective implementation of visa and border control, but also the creation of habitat and illegal immigrants legal and regulatory procedures for the treatment of immigrants detained in the country. Requires coordination (with the procedure underway in the EU) and the refinement procedure expulsion of illegal immigrants, their children born in Ukraine and others.
- It should also be introduced a single electronic information system to account for migration, which would have included the registration of individuals at the residence, a system of identification of persons crossing the border, migrant workers, refugees, illegal migrants detained. Automated system of identification of foreign citizens who enter Ukraine and leaving the country. Introduce the use of biometrics. Development of procedures for conducting measures to amnesty for illegal immigrants to legalize, creation of appropriate legal frameworks.
- Operative tracking of migratory flows, identify migration channels, identifying criminal groups and travel agencies, commercial firms to foster channels of illegal migration, the cessation of their activities.
- Adjustment of the ethnic policy in connection with the complication of the ethnic population structure, formation of localized zones in Ukraine immigrants from different countries, the organization of cooperation with the newly established national-cultural centers, new diasporas.
- Approval of a new model of state management of migration in Odessa, Kharkiv, Crimea, which provides for implementation of these regions (and possibly only for the Odessa region, which has the largest number of illegal immigrants and most extensive interstate migration) pilot project to create a single coordinating body for migration management based on unification and restructuring of the relevant departments in the Ministry of Internal Affairs, including the Department of Citizenship, immigration and registration of persons, etc., Border Guard, units of the Ministry of Justice, Security" (Khomych 2009).

Does Ukraine have migration policy? Instead of a conclusion

Professor Ihor Mantsurov from the Kyiv Institute of economics affiliated with the Ministry of Economics of Ukraine who 11 years worked at the International Organization on Migration all over the world says in February 2010 that "there is no migration policy in Ukraine" (Mantzyrov 2010). The main problem – eastern and northern borders of Ukraine are transparent, while western are well equipped. At the same time, there is a solid juducual ground to say opposite. Migration policy must be build on Agreement between Government of Ukraine and Russia on readmission, Agreement between EU and Ukraine on readmission, Law of Ukraine "On state border of Ukraine", Law of Ukraiune "On assylum seekers", Law of Ukraine "On legal status of foreigners and persons without citizenship", Law of Ukraine "On immigration", Law of Ukraine "On free movement and free choice of place of living", Law of Ukraine "On the citizenship of Ukraine", Law of Ukraine "on the procedure of departure from and arrival to Ukraine of the citizens of Ukraine".

And finally, yet in September 17, 2008 the draft law № 3158 "On fundamentals of the state migration policy" was registered in Verkhovna Rada of Ukraine. The document provided an essential enlargement of rights of legal migrants in Ukraine and is a reply to the recent Council of Europe Ministerial Conference on migration. It suggests that legal migrants should be provided with freedom of movement, place of residence, as well as the right to leave Ukraine freely. Mr. Ivan

Popesku emphasized that the draft law is based upon the main decisions of the 8th Migration Council of Europe conference. On the other hand, the draft law envisages regulation of illegal migration. Finally, the Verkhovna Rada of Ukraine adopted the Bill on the State Migration Policy Concept as a Basis on February 16, 2010. The Bill (Reg. No. 5085-1) determines the fundamentals of the State migration policy of Ukraine and principles of its realization. The Draft Concept determines the following: terms, legal principles, goals and fundamentals of the State migration policy of Ukraine; basic principles of migration processes regulation; restrictions in the field of migration and responsibility for illegal migration; objectives of the public authority bodies concerning realization of the State migration policy of Ukraine; priorities of the State migration policy of Ukraine; information and financial support of the State migration policy; international cooperation in the field of migration.

In order to fulfil such positions and to have the effective migration policy, Ukraine has to be successful on the way of implementing those suggestions and recommendations of the experts which where discussed in previous section. And, of course, to be succesfull on the way of demoicratic and market reforms. Nevertheless, the EU border protection process and own migration policy may be much successful if it is developed in the way of non-constructing a new Curtain in Eastern Europe. That means, that the EU, as well as OSCE, Council of Europe and other European institutions should be interested in keeping on their involvement into migration policy of Ukraine. In case Brussels decides integration is ended after 2007 and only neighbors left the EU still will be interested to contribute into crossborder security as a peace moderator and crisis manager for a number of reasons.

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Part 3:

EU MIGRATION POLICY AND ITS IMPACT ON EU-PARTNER COUNTRIES COOPERATION - A VIEW FROM THE EU

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MIGRANTS, REFUGEES AND ASYLUM SEEKERS IN THE CONTEXT OF THE EUROPEAN UNION POLICIES: THE CASE OF GREECE

Abstract
Greece constitutes the external border of the European Union in its south eastern edge, while the number of undocumented border crossings in 2008 has risen to about 44,000, posing the question of security and/or securitisation of the national and the European borders. At the same time, the concept of security has been diminished to its political dimension alone, while the social conception of security is banished out of the collective associations of public opinion and the public discourse -- a deviation characterising migration policies and practices in Europe. Twentieth century Greece has been an emigration, as well as an immigration country. Immigrants at present, according to nationality, originate primarily from Albania, followed by Bulgaria, Romania, Georgia, Pakistan, Ukraine, Poland, and Russia, and increasingly from Asia and Africa. Greece has indeed seen the growth of the percentage of foreign residents from a modest 2,5% in 1990 to 10% in 2001, according to the national census and other estimates. Immigrant population has increased four times its size since 1991, from 270.000 to 1,15 million persons. Greek society and the state have been called to respond, adapt and formulate adequate policies through which to manage these transformations. The landscape of immigration policies in Greece is shaped by efforts to articulate long term state initiatives and planning, as well as by shortcomings, critical social exclusion, racism and challenges on border security. Only recently the debate on changing the legislation for acquiring citizenship on the basis of jus soli and not jus sanguine opened, as well as public deliberation on granting of citizenship to those migrants residing legally in the country over a period of five years, to the children of migrants born and educated in Greece, as well as on extending voting rights to migrants, creating thus a momentum for public consultation further complicated by the current economic and social crisis.

Keywords: 20th century Greece, migration, EU external borders, immigration policies, regularisation, citizenship, social, economic and political rights, integration, FRONTEX

The European Union context

The contemporary understanding of migration as a social, economic and political issue is informed by the delineation of fixed territorial boundaries between political units, namely the emergence of nation states understood as socially and culturally homogenous and cohesive entities. The media and political discourse often tend to represent migration as a 'crisis', as a 'new' and 'exceptional' phenomenon, limited in space and time, yet population movements have characterised the history of humanity in all periods. The 1950s until the 1970s in post-war period in Europe have been marked by continuing migration to the United States and Australia from the poorer southern European countries but also from large South-North population movements within Europe. Some western and northern European countries have also experienced incoming flows from Africa and Asia. Since the

1980s, East-West population flows within Europe have increased, particularly following the collapse of the Communist regimes in Central and Eastern Europe in 1989, while flows from developing countries to both northern and southern European countries have intensified.

Recent population flows are inscribed in a wider context of globalisation of capital and labour, marked economic disparities between sending and receiving countries, as well as in the authoritarian regimes of some of the former and the rapid development of transport and communication networks. The 1950s-1970s migrations were part of an industrial system of production, and migrant workers came to be integrated in a corporativist system of political bargain and representation. Since then migrations are characterised by their fragmented nature: they include new forms of flexible labour and/or slavery, insecure legal status (often undocumented), variable duration, new gender roles and multiple destinations. In the European context, these new forms of migration involve trajectories from East to West, influenced by the overall process of European integration and the Eastern enlargement of the EU, but also from Third World countries to EU member states. EU member states gradually started examining mutual co-operation in order to design and implement effective policies controlling and managing the so called migration flows, such as the development of a common immigration (and asylum) policy, the capacity to manage both legal and undocumented economic immigration, the effective socio-economic and political integration of populations of immigrant origin, the development of new concepts and practices of multicultural citizenship.

Currently, the main components of the EU's migration policy can be found in the Hague Programme (2005-2010) and the Stockholm Programme (2010-2014) adopted by the European Council, the 2008 European Pact on Immigration and Asylum, the 2005 Global Approach to Migration, the 2010 Council Conclusions on 29 Measures for Reinforcing the Protection of the External Borders and Combating Illegal Immigration, and the Regulation No. 810/2009 of the European Parliament and of the Council establishing a Community Code on Visas (Visa Code). Before the entry into force of the Treaty of Amsterdam in 1997 and the incorporation of the Schengen agreements into the acquis communautaire, the management of the EU's external border was mainly dealt with through the third pillar, and before the entry into force of the Treaty of Maastricht, through the Schengen mechanisms. Thus the domain has retained a strong emphasis on the policing dimension of border management and a persisting predominance of national actors. The logic that presided over the conclusion of the Schengen accord and application convention was that the lifting of internal controls should be accompanied by the reinforcement of controls at the external borders. As the EU merged into the Amsterdam treaty the Schengen agreement on borderless travel, border and immigration cooperation became legally-binding but still with a requirement for unanimity. EU leaders agreed on the Tampere programme, a detailed list of goals for EU asylum and immigration policies. In 2004, the governments added new goals, the Hague programme, while the member-states used a special passerelle clause in the Treaty of Nice to move decisions on asylum and immigration to qualified majority voting, except for legal migration. Since Justice and Home Affairs policies could be politically sensitive, initiatives in this area had to strike a careful balance between facilitating co-operation and preserving national sovereignty. Subsuming EU policies on immigration, asylum, border controls and crime, the Area for Freedom, Security and Justice was born in 2008, and a new package on border policies was produced. The Lisbon treaty states for the first time that member-states will support any EU country faced with a sudden influx of refugees. Yet it does not specify how this obligation would work in practice, while the treaty makes clear that member-states have an exclusive right to determine the numbers of foreign nationals admitted to their territory and that co-operation on integration is supplementary and not about the harmonisation of laws, even though after 2009 immigration and integration switched to

qualified majority voting. The European Parliament now has an equal say with national ministers in most EU legislation dealing with immigration, border and visa issues, while the Commission has legal standing to negotiate agreements with home countries to take back illegal immigrants. (Elvire Fabry and Gaëtane Ricard-Nihoul, 2008, 2009, Hugo Brady, 2008) Several countries keep their borders closed in every possible way, making use of the comparative advantage provided to them by community legislation and the provisions of the so-called Dublin II Treaty, according to which immigrants without documents are re-forwarded to the state through which they firstly entered the EU (Andrijasevic Rutvica, 2006). Despite years of discussion and initiatives, a real EU migration policy remains elusive as the member-states cannot agree on clear political objectives and thus a legal mandate for such a policy.

Europe's borders record roughly 300 million crossings per year at around 1,700 check points. The emphasis on control and surveillance remains an enduring trend in the formulation of the EU's Integrated Border Management model, where the predominance of national actors remains the rule. The EU's IBM concept speaks only about 'coherence' and 'coordination' between the member states and EU agencies and services. *"Proposals are mainly concerned with intensifying the surveillance of EU borders, and seem to lead to an upsetting of the current repartition of competences in relation to border management in the EU, between the member states and the Community. In the process, they also further marginalise considerations of the fundamental rights and freedoms of individuals, which should lie at the heart of EU preoccupations"* (Julien Jeandesboz, 2008, Didier Bigo & Julien Jeandesboz, 2009). Frontex, the 'European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union', is responsible for co-ordinating border management across most of Europe, while its tasks include coordinating joint patrols along the common external borders and assisting with return operations. Frontex is supposed to have a central role in the coordination of EUROSUR, the future European Border Surveillance System, while the Agency has negotiated agreements with Libya, Mauritania, Morocco and Senegal, allowing to divert boats in waters controlled by those countries in 2006 and onwards. Frontex, is the largest common investment on securing the EU's external borders, and its budget has grown rapidly from €6.2m in 2005 to €70m in 2008.

Migrants and migration policy in Greece

Twentieth century Greece has been an emigration, as well as an immigration country, particularly following the exchange of populations in the post Ottoman space and the establishment of homogenised nation states in the Balkans, as well as because of territorial enlargement through wars, treaties and bilateral agreements. The last two decades of immigration have significantly altered the social, cultural, economic, ethnic and religious characteristics of the population residing within Greece. According to statistical data derived from the 2001 census (NSSG, 2001), the Migration Policy Institute (M.P.I) (Kassimis and Kassimi, 2004) and ELIAMEP (Gropas and Triandafyllidou, 2005) the percentage contribution of immigrants to the indigenous (adjusted) population was presented to be 10.3%. Immigrants according to nationality, originate primarily from Albania, followed by Bulgaria, Romania, Georgia, Pakistan, Ukraine, Poland, and Russia. The majority of immigrants in Greece (56%) come from a single country that shares common borders with Greece - Albania (M.P.I. 2004). Thus these are people coming from the Balkan and Middle Eastern countries and the former Soviet Union, yet increasingly from Asia and Africa, Afghanistan, Pakistan, Bangladesh, Sudan and Somalia. Greece has indeed seen the growth of the percentage of foreign residents from a modest 2,5% in 1990, to 10% in 2001, according to the national census and other estimates. Immigrant population has increased four times its size since 1991, from 270.000 to 1,15 million persons. Most of them live in Athens (17% of the total population) and in Thessaloniki (7%).

The landscape of immigration policies in Greece is shaped by efforts to articulate long term state initiatives and planning, as well as by shortcomings, critical social exclusion, racism and challenges on border security. Faced with increasing and changing diversity, Greek society and the state have been called to respond, adapt and formulate adequate policies through which to manage these transformations. One witnesses more and more the fear of the society of seeing the social fabric destroyed by foreigners, often the work of active political entrepreneurs of xenophobia and the populist media. Greece has not adopted any integration model, or rather any form of cultural interaction, unlike other countries such as Great Britain, which has adopted multi-cultural models, or France where there is an assimilation model. Albeit in different ways, and bearing in mind their specific history, these countries have tried to establish a public debate, defining what was acceptable or not in the public sphere, as far as particular religious or cultural identities are concerned. Furthermore, they defined access to citizenship in term of jus soli, hence the contractual aspects of belonging to the national community. For a variety of reasons, these models are certainly not exempt from criticism. The fact remains that Greece has made no choices as far as cultural integration is concerned, addressing the subject of immigration only from public order and economic perspective. Only recently the debate on changing the legislation for acquiring citizenship on the basis of jus soli and not jus sanguine opened, as well as public deliberation on granting of citizenship to those migrants residing legally in the country over a period of five years, to the children of migrants born and educated in Greece, as well as on extending voting rights to migrants, creating thus a momentum for public consultation.

Regularisations and expulsions

A strict bureaucratic system for admission to enter the country for work purposes has led to hundreds of thousands of undeclared immigrant workers. Therefore, in 1997, 2001, 2002, 2005, 2006 successive legalisation programs took place in an effort to regularise irregular immigrants. During the years 2001-2004, due to long delays and administrative dysfunctions, residence and work permits were delivered to immigrants after their expiration date.

The first law that tackled the influx of foreigners into the country was law 1975 of 1991 entitled 'Entry and Exit, Residence, Employment, Expulsion of Aliens, the Procedure for the Recognition of Alien Refugees and Other Provisions'. The policy directives and terminology used, implied a proceduralist attempt at an exclusionary strategy by treating immigration as a temporary phenomenon and underlining a 'clearing' process as an absolute requirement, with the exception of refugees. The law responded to the need to be seen as imposing a strict access policy, in line with the Schengen Agreement (see Triandafyllidou, 2000). The presidential decrees 358/1997 and 359/1997 inaugurated the first immigrant regularisation programme, which took place in spring 1998, as the realisation of some sort of intermediate measure of work-related residence was becoming widespread in political, administrative and societal levels. In 2001, the government issued a new law (law 2910/2001) entitled 'Entry and Residence of Aliens in the Greek Territory. Acquisition of Greek Citizenship through Naturalisation and Other Provisions'. This law indicated a treatment of immigration as medium to long term, aimed to systematise the regularisation process and to respond to numbers that had increased since the issue of the first law. Yet, delays in the processing of applications made the law virtually impractical, as it engaged immigrants in a constant process of status verification and at a high cost. In 2001, the government also issued a three-year programme, the Action Plan for the Social Integration of Immigrants (for the period 2002-2005), including access to welfare services and the national health system, as well as measures towards social cohesion.

In August 2005, the Greek Parliament adopted a new immigration bill on 'Entry, Residence and Social Integration of Third Country Nationals in the Greek Territory' (3386/2005). The bill indicated a 'matured' discourse on integration models, in alignment with European migration policy directives (see Favell and Hansen, 2002). The bill was effectively targeting regularised immigrants, which constitute a minority, and has, on these grounds, been criticized for continuing to ignore the majority of the country's illegal immigrant population. In addition, by linking residence to work, and the former to 'naturalisation' in terms of language competences and familiarisation with Greek history, customs and traditions, the bill has been seen as indicative of a conditional inclusion as assimilation strategy. Since April 2007, a new law was passed (3536/2007) defining the premises for the establishment of a committee for the social integration of immigrants among other regulations.

In terms of naturalisation, Law 2130/1993 states that immigrants who wish to become Greek citizens have to be residents in Greece for more than ten years out of the last twelve, one of the longest residence requirements for naturalisation in Europe (Gropas and Triandafyllidou, 2005, p. 8). Nevertheless, as of 2001, the criteria of place of birth and of continuous residence being Greece have been set out for third country nationals to be eligible for Greek citizenship, prioritising with reference to the particular cases the jus soli - and jus domicili - over the jus sanguini approach towards the acquisition of citizenship and, thus reflecting an openness in the redefinition of Greekness (Chapter M, Article 58, Law 2910/2001; see Ventura, 2004; Triandafyllidou; 2000; cf. Gourgouris, 1996; cf. White, 1999 on whether the 'conferment' of legal citizenship indicates an openness to the 'otherness' of immigrants; cf Oger, 2005). Yet, these apply on top of the condition that the applicant shall be a major (18 years old) at the time of submission of the declaration of naturalisation.

Generally speaking, as regards Greek nationality[1] and citizenship the following apply: Greek nationality until now is acquired by: birth of Greek parents, on Greek territory if of no other nationality or no other nationality is claimed, by adoption from Greek parents provided the adopted child is under 18, by stateless and /or nationless ethnic Greeks domiciled abroad provided they have attained their 18th year of age, by aliens residing on Greek territory provided they have attained their 18th year of age through naturalisation. If the alien is not an ethnic Greek, a total of ten years of residence in Greece within the last twelve years before the submission of the application for naturalisation or five years of residence in Greece after the declaration concerning naturalisation are required. Naturalisation is completed by the taking of the oath of the Greek citizen by the naturalised person within a year from the publication of the naturalisation decision in the Official Gazette. The oath is as follows: "I swear to pledge allegiance to my country, to show obedience to the Constitution and the Laws and to conscientiously fulfil my duties as a Greek citizen". The children of the alien who is naturalised become Greeks if, at the time of completion of the naturalisation process, they are not married and they have not attained the 18th year of age.

Greek citizenship is acquired by: birth of Greek parents, on Greek territory if of no other nationality or no other citizenship is claimed, by stateless and /or citizenshipless ethnic Greeks domiciled abroad provided they have attained their 18th year of age, foreigners who are 18 years old, may acquire the Greek citizenship by naturalisation. If the foreigner is not of Greek ethnical descent she/he must have resided in Greece for a total eight out of the ten years before his application for naturalisation or three years after his declaration for naturalisation. The children of the foreign man

[1] All matters concerning nationality are within the jurisdiction of the Ministry of the Interior.

or foreign woman, who is naturalised, become Greek citizen, if during the completion of the naturalisation they are not married and they have not reached the age of 18 years.

In December 2009 the Presidential Council met to deliberate upon two items of legislation: i) the granting of Greek citizenship to second generation immigrants and to immigrants who were not born in Greece but have attended the first three grades of Greek primary school or six years of Greek schooling overall. At the age of 18, these children will be called to formally accept - and be given the right to vote and the obligation to serve the Greek army - or denounce Greek citizenship, ii) The granting of the right to vote in local elections to 220,000 ethnic Greeks and foreigners who reside and work permanently in Greece with special permits of indefinite duration as prescribe by EU law. This means that they will be eligible to take part in the next local elections in 2010.

Finally, it should be noted here that different categories were constructed for immigrants in Greece. Some of the immigrants from Albania and immigrants from the former Soviet Republics were considered to be of Greek ethnic origin and were treated as refugees or returnees. In particular, refugees from the former Soviet Union, namely Pontians[2], and Albanian citizens of Greek origin[3] were granted certain privileges in relation to the other immigrant populations in Greece (Triandafyllidou and Veikou, 2002), which on account of being based on ethnic origin, is seen as making the applicants themselves liable to discrimination (Gropas and Triandafyllidou, 2005, p. 8). Nevertheless, further distinctions were applied even between the two groups. Namely, co-ethnics from the former Soviet Republics were treated as 'returnees' or ‘repatriated’ Greeks and a preferential path to naturalisation was made available to them. Determining the status of co-ethnics rested on abstract ethnic, cultural (national consciousness), religious and genealogical criteria of belonging to the Greek ethnos (see discussion in Triandafyllidou and Veikou, 2002, p. 198; Sitaropoulos, 2006). Public discourse reflected this distinction in referring to Pontian Greeks as returnees, with a 'historical' - if anything - 'right to citizenship' (see Triandafyllidou, 2000). Albanians of Greek origin were treated as Albanian citizens, citizens of a different state, a status whose preservation has been encouraged while naturalisation of this group has been discouraged. Public discourse reflected this distinction in referring to Albanians of Greek origin as ‘almost Greeks’ (ibid; Triandafyllidou and Veikou, 2002; for a comparison of discourses for the above groups - Muslims of Thrace, Albanian Refugees and Pontians – see Figgou, 2002).

Administrative expulsions in Greece were on the rise over the last decade, since often the expelled immigrants returned into the country illegally, thereby increasing the numbers of illegal third country nationals. As official data show, during the years 1991-2005, the police implemented a policy of increasing administrative expulsions of immigrants, particularly Albanians, Data for 2006 indicated that about a half million of residence permits were in force, while the migrant population was estimated to range between 800,000 (the minimum of foreign residents recorded by the 2001 national census) and 1.2 million persons (the estimate made by various agencies, such as the

[2] People considered being descendants of ancient Greek settlers along the Black Sea coast (Euxinos Pontos) who constituted the vast majority of refugees from the former USSR in Greece. Pontians constituted one of the ancient Greek settlements along the Black Sea coast (Euxinos Pontos) after which they have been named. Their movement from the Black Sea Coast to Georgia and Caucasus took place mostly during the 19th century as a result of the economic policy and administration of the Ottoman Empire.

[3] In Albania 16,000 people speak the Greek language. The 128,000 Orthodox Christians who live in Albania constitute a minority. The majority of the Christians live in an area for which Greece has in the past put in territorial claims. This is the area called ‘Northern Epirus’ by Greeks, and ‘Southern Albania’ by Albanians.

government Migration Policy Institute). To those living and working legally, one should add the numbers of those arrested for remaining illegally and deported or ordered to leave the country within 30 days. Studies suggest that the majority 'disappear' into the immigrant networks and informal labour market of Athens and Thessaloniki despite their deportation orders. (Triantadyllifou, 2008).

Employment and social security

Furthermore, a series of irregular immigrant workers legalisation campaigns in the period 2001-2005 led to the increasing participation of migrants in the social security system, though a large number still remained employed in the grey economy. All regularisation programs provided amnesty to the employers. Workers were the only ones obliged to pay social security contributions. Yet not all of them met the requirements of the law and thus remained under an illegal residence status. The Law 3386/2005 provided the same scheme for regularisation of immigrants residing illegally, i.e. through the purchase of social security contributions, while, once again, the employers had no obligation to make social contributions. This legalisation programme as well failed to establish any pro-active measures and provided no particular incentive to employers to make the position of immigrant workers legal, nor helped immigrants to stay away from the grey economy (Pavlou 2004, 2006, Pavlou and D. Christopoulos). The Greek economy is marked by one of the higher percentages of informal activity and black labour among EU countries, estimated close to 40-50% of the GDP.

Success stories of immigrants as far as self-employment is concerned are reported, while there is also an increasing trend of legislative limitations and restrictions in their entrepreneurship (in order to be allowed to start a business, among various prerequisites provided by law n.3386/2005, is the requirement of a 60.000 € bank deposit), or concerning access to certain professions. The absence of a specific integration policy on immigration, the rather fragmentary measures and contradictory policies instead, even worse a migration policy that prolonged the perennial insecurity of the suspended immigrant status, preserved the precarious and vulnerable position of the immigrants in the labour market. The National Action Plan for Employment did not include immigrants as a target group. According to data provided in 2005 by the main social security fund for dependent contract workers, IKA,[4] the number of insured foreign workers represented 12.5% of the total number of insured workers, irrespective of nationality, while the majority (70.6%) were employed as unskilled and blue-collar workers. The Albanian nationals constituted 53.9% of the foreign workers. According to the Labour Institute of the National Confederation of Workers INE-GSEE,[5] the fact that migrant workers appear to be employed for fewer days (monthly average of 14.17 days in relation to 17.64 for Greek workers) and to receive lower salaries, means that the theory that immigrants save the social security system is incorrect. According to the Athens Chamber of Commerce figures, each ethnic group is strongly represented in specific types of business, while Albanians seem to be the most active in starting a business. Considering the small size of the Asian community, the highly disproportionate number of ethnic businesses run by Asians in Athens, i.e. Bangladeshis, Pakistanis and Indians in the catering sector, indicates that they are 'the most entrepreneurial' Triantadyllifou, 2008). Other research shows that about 50% of the Chinese community are self-employed businessmen (Tonchev, 2007).

[4] According to IKA Statistical Bullettin May 2005.and I.Georgakis, 'Immigrants are 12.5% of the insured at IKA', in: Ta Nea (28 February 2005).

[5] Robolis S, Romanias G., Margios V., Hadjivasiloglou I., Actuarial study about IKA – Insurance Fund for salary workers, Labour Institute of the Greek Confederation of Workers (April 2005)

Education and Health

The state intercultural education, serving the needs of the children of over a million immigrants, consists of providing language support by specialized teachers, and is implemented only in the twenty-six intercultural schools which are operating throughout the country. Measures for immigrant children in school do not challenge the structural and systemic role of the education system in the Greek society, which is still based on exclusion rather than inclusion and on ethnocentrism rather than multiculturalism.

In view of the lack of a policy for second and third generation of immigrants, in summer 2006 new provisions have been adopted through a ministerial decision for regularising those minors and adults who are students or graduates of Greek primary, secondary schools or Universities. Nevertheless, this regularisation aimed at integration into a migration management system still requiring continuous legal employment in order to remain in regularity. Yet, without a more generous citizenship policy the young migrants born in the country remain in limbo, and their issues are unresolved. The rapidly increasing participation of second generation immigrant children in education is accompanied by an ever larger dropout rate, which remains higher for immigrant children in relation to the total students' population in primary and secondary education, though it is not to attribute to school performance. Isolated incidents of exclusion and discrimination against them are recorded, mainly due to the strongly ethnocentric aspects of Greek education. There were two main issues during the past years, the prohibition of enrolment of children of undocumented immigrants, later on withdrawn due to the Ombudsman intervention, and the question of whether foreign students should carry the national flag during school parades, provoking until recently intolerant reactions at the local level every year.

Greece is a country with one of the lower rates of medical care in the EU as it is formally characterised by the limited access of migrants to health services. Migrants without legal status are officially excluded from the provision of public health, unless they are at immediate risk of loss of life, while their presence at public hospitals is supposed to be reported to the police. In practice, however, in most cases the medical staffs of public hospitals do provide medical services, irrespective of the residence status of the patient. Yet migrants are often not aware of the formal access to health services. Regularised immigrants are holders of similar rights to those of Greek citizens, yet are not eligible for regular disability and subsistence welfare programs, which are connected to Greek citizenship and/or ethnic origin.

Integration and public attitudes

As it presently stands, the Greek citizenship code does not provide access to citizenship to third country nationals; the common procedure is an application after 12 years of legal residence in Greece, supported by expensive fees (1500€), with no deadline or even an obligation of the state to provide an answer. Often a decade passes after the application date before a response is received. There are however isolated exceptions, notably in some municipalities in rural Greece, where non-voting consultative bodies representative of immigrant residents were created.

Migration into the main urban centres in the late 20th century featured large numbers of immigrants from neighbouring countries, notably Albanians, who now constitute more than half the migrants living in the capital Athens. This recent transformation of the city through migration is increasingly leading to the formation of secluded areas ,particularly in the historical city centre. Immigrants often live in basements or abandoned and old apartments, regenerating the housing market.[6]

[6] According to MMO-UEHR IMEPO survey (2004), the greatest cluster of non-EU immigrant population is in the Municipality of Athens, notably some 132,000 immigrants, 17% of local population.

Albanian nationals, who mostly speak Greek fluently and share a common Balkan historical background, appear to share residential space with Greeks. Migrants from Central and Eastern Europe and from less developed Asian and African countries concentrate in almost ghettoised communities, especially in the historical centre and in the outer zone of peripheral Attica's sprawling urban areas, where unskilled foreign workers settle. The most recent census shows that while 47.26% of the immigrant population lives in Athens, they hold only 37.36% of the valid residence permits, revealing a pattern of irregularity and fragile social links, particularly important as most migrants aspire to long-term settlement.

A major research project on integration policies throughout the EU, MIPEX (Migrant Integration Policy Index)[7] indicated Greece among the countries with the least favourable migrant integration policies in the EU, ranking lowest in citizenship, political participation, employment and family reunion policies. The contradictions between migration legislation and policy and the ongoing integration processes within Greek society cause tension, anxiety and uncertainty, increasingly noticeable in the media discourse. Media discussion on migration has changed over time, more or less reflecting the attitudes of the wider public and to some extent state policies in managing migration. In the early 1990s migration was considered an unwanted temporary condition and public attitudes were largely negative, xenophobic and discriminatory, leading to exclusion. Following 2000, after the first regularisation programme, the development of the Greek economy around the Olympic Games, where migrants played a major positive role, attitudes and the public rhetoric shifted to a utilitarian acceptance of the 'economic migrants', who started becoming more visible as making a positive contribution to the Greek society.

However, as recent surveys indicate (Public Issue-IMEPO, 2008), negative or defensive views towards migration persist, as more than half the population considers migration damaging to Greece, mainly because it threatens to alter the ethnic identity of Greeks (48%) and causing an increase in crime rates (71%). Only 23% of Greek nationals think that migration is beneficial; yet it is important to note is that the positive attitudes towards migrants were expressed by the younger generation (aged 18–34) and by people with higher education. Finally, following twenty years of intense migration, the public discourse started highlighting the unresolved citizenship and identity challenge of those young immigrants either born in the country or who came to the country as minors.

At the level of the state, the situation is still characterised only by sporadic efforts to combat racism and xenophobia, particularly amongst the forces. In 2007 Greece was condemned by the European Court of Human Rights in six cases for ill-treatment of migrants and minorities. "*The police is the public authority with which migrants often interact and sometimes fear the most. Racist violence in the past years was marked by the participation of police, border guards or port police officers as perpetrators of almost half of the alleged incidents which were unofficially reported."* (HLHR-KEMO, National Focal Point on Racism and Xenophobia. According to HLHR-KEMO, the National Focal Point on Racism and Xenophobia (RAXEN), 2007 was marked by a dramatic increase of racist crime against migrants (+175%).[8] Yet, no racist crime has been recorded as such by the police, even when reported widely by the media and unofficial sources. The most indicative

[7] www.integrationindex.eu. MIPEX is produced by a consortium of 25 organisations. Associate partners for Greece are the Hellenic League for Human Rights and the Greek Ombudsman. MIPEX is led by the British Council and Migration Policy Group (MPG). MIPEX produced a comparative analysis of 140 indicators of legislation and policy concerning the immigrants' integration in six areas: access to the labour market, long term residence, family reunion, nationality, political participation and anti-discrimination.

[8] www.hlhr.gr/press/PR-21-3-2008-HLHR-%CA%C5%CC%CFDay-R.pdf

example is the YouTube video[9] that showed the torture and humiliation of young immigrants by police officers. The recurrence of such incidents by the police mostly against immigrants over recent years has not lead to them being defined as racially motivated crimes, but as an issue of police violence in general. Civil society organisations, including Amnesty International and the Hellenic League for Human Rights issued press releases advocating the protection of victims and the end of impunity.[10]

Asylum seeking and borders

For a huge number of migrants, particularly those from Iraq, Afghanistan, Iran and Somalia, the escape route leads them across the Aegean sea to Greece. There are two main routes into Greece from Turkey, the one is across the Turkish-Greek land border in the northeast of the country, in the Evros river region, the other via the Mediterranean as undocumented migrants and refugees attempt to reach one of the Greek islands situated only a few kilometres away from the Turkish mainland. The islands in the North Aegean, particularly those of Chios, Samos and Lesbos are the main points of entry to the EU when arriving by sea. Over the years, the installing of the external borders of the EU has produced an appalling human cost, and especially in and around the Mediterranean. Many of the migrants died because of drowning and hypothermia, close to the same shores and coasts where European tourists enjoy the sun, while others have died because of suffocation and asphyxiation during their traveling in ships or trucks, mainly trying to cross from Patras to Italy[11].

The living conditions in the undocumented migrants and refugee reception and detention centres, especially in the Aegean Sea islands, Thrace region and the police departments throughout the country still remain unacceptable in many cases and degrading for human dignity, as depicted by a long list of international and national organizations. Well until 2008, the absence of any special treatment of minors and women or of the possible trafficking victims, as well as expulsion of unaccompanied minors were the norm, while only recently specific reception centres for unaccompanied minors have opened and operate, albeit too few. Two of the most pressing interventions were exercised by the Greek Ombudsman especially for the detention and expulsion of unaccompanied minors[12] and by the Commissioner for Human Rights of the Council of Europe. Asylum seekers are often being sent back to Greece from Germany and other European countries without their applications for asylum having been thoroughly examined. The legal basis for this is the European Dublin II Regulation under which the state through which the asylum seeker entered European territory is responsible for processing the asylum claim.

The Pro-Asyl 2007 report "The truth may be bitter, but it must be told: The Situation of Refugees in the Aegean and the Practices of the Greek Coast Guard", considers and analyses the human rights situation at the Turkish-Greek border, the practice of detention on the three Greek islands of Chios, Samos and Lesbos, and in part addresses the horrendous shortcomings of the Greek asylum system,

[9] The video showed two youths in the Athens Omonia police station being forced to slap one another on the face, while a police officer was kicking and hitting them with a wooden stick, ordering them to 'hit harder'. The police officers involved were suspended by the Public Order ministry, while the Athens public prosecutor brought criminal charges against them, http://athens.indymedia.org/features.php3?id=477.
As international institutions and organisations have pointed out, the general practice of the arrest, detention and expulsion of unaccompanied minors is the most acute problem of migrants' relationships with the police second only to the, less numerous, violent incidents of ill-treatment and torture.

[10] Ioanna Sotirhou, Διεθνής Αμνηστία: Να σταματήσει αμέσως η ατιμωρησία, in: *Eleftherotipia*, (19 June 2007), www.enet.gr/online/online_text/c=112,id=60380516.

[11] http://www.monde-diplomatique.fr/cartes/mortsauxfrontieres displays the geographical variation in the total number of the death-toll of the closure of the borders of the EU

[12] www.synigoros.gr/reports/SR-detention- xpulsionOCTOBER-2005.pdf

as it operates both in the country and at the border. According to the publishers' view, these critical findings have to be placed within a European context as the border visited is one of the external borders of the European Union:

"The European Union bears responsibility for what is happening there. The present asylum policy of the European Union gives the clear impression that its core objective is the protection of Europe from refugees rather than the protection of refugees. European member states wash their hands of the responsibility for refugees, while humanitarian dramas unfold at the borders of Europe, illustrating the decreasing commitment of EU Member states to guarantee even basic human rights standards. Consequently the solution of the problems outlined in this report lies not only with Athens but also with Brussels and in the capitals of the most influential EU member states, such as Berlin, Paris, and London.

EU regulations which state as a general rule that asylum seekers have to apply for asylum in the first EU member state which they enter create inhumane conditions for refugees and clearly illustrates an denial of solidarity with EU member states at the outer borders of Europe, such as Greece. The fact that in 2007 Greece, which is a seventh of the size of Germany, has registered more asylum seekers than Germany, clearly illustrates that Europe's asylum system does not operate on the basis of fairness and solidarity.

The countries in the centre of Europe 'protect' themselves more and more effectively against refugees. Refugees who manage to arrive in another EU country via Greece are being returned to Greece. The consequences of this policy are evident: While the EU countries which only have internal borders, particularly Germany, shirk responsibility for a humane refugee policy, the EU member states at the outer borders of Europe increasingly fend off refugees in a brutal manner. This leads to a double transfer of responsibility from the inner areas of the EU to the outer borders and from there to unsafe countries outside the EU."

Europe, migrants' integration and the deviation of the concept of security

Like elsewhere in Europe, there is a second generation of migrants growing up in Greece. There are Muslims, Hindus, Buddhists, of other confessions; amongst them there are those who live trying to respect their religious principles, while others become secularised, using their religious identity as a sort of compass for navigating the daily labyrinths of a society filled with uncertainties. They have very different behaviours, practices and religious experiences, primarily among the young, who actively interact with Greek society and belong to a generation with multiple identities. Furthermore, they live within a European context, supposedly characterised by religious pluralism and the individualisation of beliefs, at least at the level of treaties, often asking them to adapt to a largely fictional European model of individualism and self-ascription. Yet, at the south eastern edge of the European Union, where social ties, affiliations and often values are quite different to those in northern, western Europe, one often wonders how this so-called European model actually encompasses the lives even of the local communities. Anthony Marx and Michael Mann both contend that all over Europe the modern-nation state is based on processes of homogenisation, implemented by nationalising elites. Both accept no distinction between Eastern or Western Nationalism, Early or Late Nationalisms, civic or ethnic nationalisms. According to this perspective, the establishment of the nation-state requires an identifiable, more or less homogenised, demos/polity. In most historical cases, the line between demos and ethnos/nation however is blurred, while in our part of the world the millet system gave way to the creation of modern citizenship. At the same time, homogenisation for the nation-state is achieved by a range of strategies extending from gradual assimilation to forced expulsions and population exchanges. As

Europe excludes its many different others in various ways, it seems that the idea that there is more homogenised nation/polity(ies) that include the core group and exclude (albeit in different ways) peripheral groups in most EU nation states remains being the hegemonic view even in the construction of Europe even today.

Indicatively the issue of places of worship in Greece for non-Orthodox Christians, particularly of mosques, has been on-going for years. We would argue that the difficulty to accept the public visibility of Islam's religious and cultural symbols marking the presence of Muslims, unless this visibility is contained in a very specific geographical area, bears resemblance to Europe's difficulty in acknowledging the end of a stage when migrants start demanding real citizenship rights, demanding freedom of conscience, freedom to practice their religion and also freedom to dress according to their personal interpretation of their religion. Religion often becomes a political and cultural source for identifying migrants in their quest for acknowledgment, as they manifest their particular citizenship within the European public arena, ceasing to be foreigners and becoming citizens. Muslims for example, with their multiple attachments, including languages, ethnic groups, religions and oumma, disturb the national definition of citizenship awakening suspicion regarding their loyalty. The definition of the public sphere identifying with the pre-established national community can only create tension and exclusion in a world filled with migratory and transnational dynamics, be these religious, economic and cultural. Yet it is this process of sharing, thoughts, words, needs, assets and eventually values that constitutes possibly the only viable political option for Europe.

Policies and practices on migration in European societies presently best exemplify the systematic diversion of the collective associations with regard to key concepts of the rights-based idea. Primarily the concept and content of security is changing, a concept which refers to the nucleus of the guaranteeing functions of the system of government. Without an elementary sense of security there can be no community, because relations between individuals are abrogated, there can be no meaningful existence and effective use of rights by individuals as the very principle of the rule of law is integrally linked to the idea of the security of law, the need for predictability of the legal effects of the actions and omissions of individuals. The concept of security has been diminished to its political dimension alone, while the social conception of security is banished out of both the collective associations of public opinion and the public discourse. This self-evident version of security is today disregarded, neutralized and replaced by a vague abstraction of security of a penal and punishing character, whose direct victims are the socially weak or potentially suspicious. This diversion is also accompanied by the gradual discharging of the polity from its responsibilities concerning the social protection of its members, be it its citizens or not. Treating migration in terms of defence associated with police forces strengthens the insecurity of law, placing crucial population groups – not only migrant ones – under a permanent status of hostage and never-ending transition from legality to illegality with respect to residence and work. People break the law because they are not able to be legal in order to exercise elementary social functions. The lack of substantiated proposals offering a realistic and humane way forward with respect to the management of such situations, like the ones experienced today at the European borders and societies, means giving in to the logic that regards police as the sole public service that should be called upon to deal with the immigrants. Thus the uncontrollable population bleeding of Asia and Africa towards a Europe de facto displaying a clear inability to cope with the handling of this crisis creates a responsibility for European citizens vis-à-vis the extremely delicate balance of relations between immigrants and host societies in recent years within, in the periphery, as well as outside of Europe.

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GENERAL LEGAL ASPECT ON ASYLUM WITHIN EUROPEAN UNION AND ITALY. A COMPREHENSIVE PROPOSAL FOR A REGULATORY REFORM

Abstract
The present work aims at giving an overview of legal issues on asylum and immigration within the European Union with specific references to the Italian situation. This will be followed by a proposal for an organic law on asylum and subsidiary protection in Italy developed by CIR (Italian Council for Refugees). This work therefore, inspired by the ideas that emerge from the existing legislative framework, is intended to illustrate a new tool on asylum and immigration rights.
Key accentuations:

- *General legal aspect on asylum within European Union*
- *The Italian national legislation on asylum*
- *The Italian Regional legislation and initiatives*
- *The Italian Council for Refugees proposal for an organic law on asylum*

Key words: *migration, refugees, asylum, immigration policy, Italy, EU, legal aspects on asylum, national legislation, regional legislation, new proposal for a law*

To better understand the policies on immigration and asylum in the EU, we must go back to the changes introduced by the Treaty of Amsterdam, the Hague Programme of November 2004, the action plan of the Council and Commission of June 2005 and, more important, the Dublin Convention. These represent the general framework of the EU policy. In the Program and the Plan is the awareness of the link between immigration and the promotion of fundamental rights: these policies, in fact, regard vulnerable groups, for example asylum seekers, and their fundamental rights require a particular protection. This view explains the transformation of the European Monitoring Centre on Racism and xenophobia[1] in the Fundamental Rights Agency[2]. Equally important is the role of control and supervision allocated to national parliaments, especially regarding the activities of Europol and Eurojust, thus anticipating the provisions of Article 12 EU Treaty, as amended by the Treaty of Lisbon, above all that of Articles 69 and 70. In the Program, consisting of seven points, six relate to immigration and asylum: the policy on asylum and borders; the establishment of a Common European Asylum System; legal migration and combating undeclared work; the integration of citizens of third countries, partnership with countries of origin and transit for the adoption of measures of return and readmission, the management of migration, border controls, the adoption of a common policy regarding visas, to combat illegal immigration, with estimates of biometric identifiers in travel documents and integrated information systems.

1 Institute of Regulation 1035/95 of Council of the 2nd June 1997
2 Regulation 168/2007 of the Council of the 15 February 2007

The package comprises a proposal for a General Framework Directive[3], filed on October 23, 2007, which covers only subordinated work permits, conditional to the existence of an employment contract and to the verification of economic needs, as well as proposals on entry of highly skilled workers, seasonal employees, employees of multinational companies and paid trainees. In regards to the fight against illegal migration, cooperation falls mainly in the external dimension, but is not possible without a comprehensive approach that takes into account elements of attraction present in some countries rather than in others. For example, the inclusion of biometric data in the document that substantiates the work permit and residence is already effectively provided in the aforementioned proposal for a framework directive on general legal work, and certainly helps to significantly reduce the possible falsification of documents. Criminal sanctions for employers who employ illegal immigrants or undocumented persons appear appropriate. Together with the proposal in May 2007, the European Commission submitted two communications that effectively made clear the overall approach to the problem. The first communication was "Circular migration and mobility partnerships between the EU and third countries[4] ", and the second "Applying the Global Approach to Migration in areas of Eastern and southeastern Europe[5]". Africa and the Mediterranean are sensitive areas, for which a definition of "circulation" and true »mobility packages" is proposed with those third countries which are interested in cooperating in the fight against illegal migration. These can forge partnerships that give priority to their workers by simplified forms of access, entry visas and residence permits in relation to "shares" within the area of migration flows. Circularity represents the possibility for the employee to return to the country of origin and to reintegrate into the economy. The benefit for the Member State would consist in the use of foreign labour for a certain period, while the advantage for the third country would be represented by the value of the knowledge acquired by the worker in terms of professional knowledge and economic resources. On June 18, 2008, the European Parliament approved a compromise with the Council on the proposed directive of repatriation[6], establishing rules and procedures to be applied in Member States for returning nationals of third countries, including the obligations to protect refugees and human rights. Member States are free to apply more favourable measures. According to the compromise, the decision for repatriation must first establish a "reasonable period" for voluntary departure which has duration of between seven and thirty days. Furthermore, it is specified that Member States may use coercive measures to expel a third country national who opposes resistance. Such measures must be 'proportionate', they cannot exceed a "reasonable use of force" and should be implemented "in accordance with fundamental rights and with due respect and dignity of the physical integrity of the citizens". Member States may retain third-country nationals subject to return procedures "only in order to prepare their return and / or to carry out their expulsion." Detention should be carried out in special temporary detention centres, but if this is not possible and the only resort is a prison, then »the third-country nationals detained shall be separated from ordinary prisoners." In this view, and in light of the Commission Communication of 17 June 2008, the European Council decided to formally adopt the European Pact on Immigration and Asylum. It has five key commitments: 1. To organize legal immigration taking into account the priorities, needs and reception capacities of each Member State and to encourage integration, 2. Fighting illegal migration, including ensuring the return to their country of origin of illegal foreigners 3. Strengthening the effectiveness of border controls, 4. Building a Europe of asylum, 5. Creating a global partnership with countries of origin and transit so as to encourage the synergy between migration and development.

As for legal immigration, the European Council considers that each Member State will decide the conditions of admission of legal migrants in its territory and will establish the number in light of all

3 COM (2007) 638
4 COM (2007) 248 n. 6
5 COM (2007) 249 n. 7
6 COM(2005)0391 – C6-0266/2005 – 2005/0167(COD)

the needs of the labour market, taking into account the impact it can have on other Member States. In regards to fighting illegal immigration, the European Council reaffirmed its commitment to the application of three principles: 1. The strengthening of cooperation between Member States and the Commission with the countries of origin and transit in the framework of the Global approach, 2. The requirement for foreigners staying illegally in the territory of the Member States, to leave this territory, focusing on voluntary repatriation, 3. The obligation for all States to readmit their nationals who are staying illegally in the territory of another State.
In relation to border controls, each Member State must control its own border. The conditions for issuing visas before the external border must be part of this management. In any case, the Council stressed the need to generalize without delay, by 1 January 2012, thanks to the Visa Information System (VIS), the issue of biometric visas, to strengthen cooperation between Member States consulates, to divide evenly, if possible, their assets and build gradually on a voluntary basis common consular services dealing with visas. It is within this context that the decision was taken to give the agency FRONTEX[7] the means to exercise fully its mission of coordinating the control of EU external borders, to deal with crisis situations and conduct, and at the request of Member States to supply the necessary temporary or permanent operations. The Schengen Information System (SIS) is considered fundamental, even as a database on a large scale (with a total volume – in December 2007 - of 22,450,781 data, of which 1,142,988 individuals) which acts as a common information system containing evidence of persons and property, used by competent authorities in the context of police cooperation and judicial cooperation in criminal matters and in controlling people at external borders or national territory and for the issuance of visas and residence permits.
The creation of a second generation Schengen Information System (SIS II) was determined taking into account the need to introduce new data in the system (biometrics), new types of alerts and new functions (e.g. by linking records) and to widen access to reports from authorities at the national or Community level and to respond to the need to integrate new Member States. Going back to asylum rights, the European Council has reaffirmed that any persecuted foreigner is entitled to assistance and protection in the European Union under the Geneva Convention and other relevant treaties. Moreover, there are still great differences between Member States regarding the granting of protection and forms of the latter. Even if the issue falls within the competence of each Member State, the Council called for the completion of the institution (provided by the Hague Program) of the Common European Asylum System, maintaining a dialogue with the United Nations High Commissioner for Refugees . The aim is to introduce at the latest by 2012, a single asylum procedure involving common safeguards, and to adopt a uniform status for refugees.
Finally, in regards to the need of creating a global partnership with countries of origin and transit, the Council highlighted the opportunities for concluding EU or bilateral agreements with these countries that delineate a legal framework that regulates legal migration. It is necessary to promote "circular migration" that enables migrants to participate in the development of the country of origin. Member States should encourage the adoption of specific financial instruments that encourage the transfer of remittances by migrants to their country, whilst stimulating the "two-way mobility" that could also be beneficial for the EU countries.

The Italian national legislation

Italy continues to be the only EU member state not to have an organic law on asylum, although the Italian Constitution is one of the more advanced in recognizing protection to those fleeing from the violation of fundamental freedom rights. The asylum legislation has always been reflected in the

7 The European Agency for the Management of Operational Cooperation at the External Borders is a community and agency that is a body of European public law, provided with legal rights, whose board is composed of one representative from each Member State and two Commission representatives. It carries out technical, scientific and operational management

provisions of laws relating to general immigration. The ambiguity in this overlap between asylum and immigration laws dates back to 1990 when the so-called Martelli Law was approved. Its Article no. 1 provides a concise framework of the asylum process. Although the rest of the law was repealed in its entirety, that article is still in force and, in fact, has been supplemented and amended. As a matter of fact, in 2002 the parliament approved the so-called Bossi-Fini law[8] that chose to intervene heavily on the existing framework regarding asylum, rather than providing a comprehensive reform of procedures for the recognition of refugee status.
The legislation introduced four large novelties regarding asylum:
1. The establishment of identification centres, within which all asylum seekers are compulsorily detained whilst awaiting the outcome of the examination of their application. 2. The double asylum procedure: simplified for asylum seekers detained in identification centres and ordinary for asylum seekers "at large", outside of the identification centres. 3. The establishment of seven territorial commissions for the recognition of refugee status (in Gorizia, Milan, Rome, Foggia, Syracuse, Crotone, Trapani). 4. Lack of a suspension appeal against the refusal for recognition of refugee status. Furthermore, Law 189/2002 provided the establishment of a National system of protection for asylum seekers and refugees together with a national fund upon asylum policies. In general terms, the rules are worsening the existing policies and seem to have political goals, aimed on the one hand to render ineffective the rights of asylum and on the other to claim the absolute discretion of the administration which is not bound by procedures or controls regarding the legality of their actions. In dealing with the national legislation on asylum, it is necessary to mention "constitutional asylum". In a legal case of the late nineties (cause: Ocalan vs. Board of Presidency), the Court of Rome stated that the right to asylum under Article 10 of the Constitution is configured as a subjective right, awarded to the foreign citizen who cannot practice democratic freedom in the country of origin as guaranteed by the Italian Constitution, stating that this right should be recognized even in the absence of ordinary laws that give effect to the constitutional principle. This distinction is important when one realizes that Italy is still lacking a law in regards. The status of refugee is therefore different from that of the person entitled to asylum. In the first case the condition is well-founded fear of persecution, in the second lies the foundation of the inability to exercise democratic freedom, established by the constitution itself. For the recognition of the refugee status, persecution must be reported, whether actual or feared, that is personal and direct. For recognition of asylum rights, an investigation must be conducted regarding the inability of the person to enjoy and exercise in their home country, constitutionally recognized freedom rights. In other words for the recognition of refugee status a requirement is demanded that is not necessary for the establishment of asylum rights: the existence of reasonable grounds for believing that the foreign citizen will suffer persecution in the country of origin. In order to gain the recognition of asylum rights on the other hand, it is sufficient to objectively lack democratic freedom rights in the country of origin

The regional legislation

The Italian Constitution gives the State the exclusive legislative powers in immigration and legal status of foreigners. At first glance it may seem unusual therefore to deal with regional regulations on asylum. The picture, however, is more complex. In general principles, it is up to regions to accomplish policies of acceptance and social integration of foreigners, including via the adoption of appropriate legislative measures, in contrast to all forms of discrimination, promotion of programs aimed at the exploitation of different cultural and linguistic identities. Therefore, it is possible to see how regions can contribute significantly to ensure the effective exercise of asylum rights. The regions have been unaware of this role in the past (made even more evident by the lack of a national

8 Law 30 July 2002, n.189

organic law) and have only recently begun to familiarize with it. Only a few of them have specific provisions of a law on the subject, underestimating the importance and impact that the political and social inaction has effectively led to. The first region to use this instrument was Emilia Romagna. The Regional Law No 24 March 2004 no. 5, aims to overcome the logic of episodic and sector intervention by trying to achieve, by means of the implementation of a single three-year plan of action, an action strategy complex. The autonomous region of Friuli Venezia Giulia started a similar path in 2004 in order to obtain a regional law on immigration. The route chosen was to adopt a method of "participatory" development of the regional law, carrying out meetings with all the social and institutional bodies. This resulted in the establishment of the Regional Law No 4 March 2005 n. 5 "*Standards for the reception and social integration of citizens and of foreign immigrants*", Article 2 states that "*this law is addressed to the citizens of countries outside the European Union, stateless persons, asylum seekers and refugees in the region*". The main and most important innovation is the choice of equipping the law with an entire chapter, consisting of seven articles, which provides measures for unaccompanied minors, social protection programs, support for alternative measures, sentences and initiatives of return and reintegration in the country of origin together with measures to combat discrimination. The law also provides an article concerning the adoption of extraordinary measures to host special events as well as an exceptional item to create "security programs for asylum seekers and refugees." In this law the emphasis on the status of asylum seekers and refugees is very high and regional interventions are expressed in great detail. Furthermore, recognizing the important role regarding the experience of territory reception projects implemented by local authorities under the national program for asylum, the region offers support to the operations of reception and protection made by the municipalities. An interesting experience regarding the implementation of integrated interventions at the regional level in support of acceptance and protection of asylum seekers and refugees is given by the so-called regional "Protocols" for the protection of asylum. Again this experience was initiated by Emilia Romagna. The idea of the protocol is to provide the territory with a regional plan of action that brings together, in a programmatic table, the regional administration, local authorities, other institutions, agencies and organizations representing the interests and unions. The protocol is designed to harmonize interventions in support of asylum seekers and refugees in the region, to support joint training courses for operators, to complete a monitoring presence, to agree on procedures for the adoption of specific protection, promote the dissemination of public awareness regarding the rights of asylum.

In regards to the general framework of the Italian law on asylum and refugee status it is important to mention that the legal institutions find their sources of discipline in the first place in the Republican Constitution, and therefore in ordinary laws and in laws of implementation and enforcement. Specifically, Article 10 paragraph 3 of the Italian Constitution provides the definition of asylum rights, which foresees protection for foreigners who cannot enjoy in the country of origin democratic freedom rights such as those insured by the Italian State. Article 117, in the new formulation introduced by the Constitutional Law No. 3 of 18 October 2001, motivated in particular to regulate the regional autonomy law, retains exclusive jurisdiction to the state in regards to asylum and protection of foreigners. The main ordinary sources that regulate the status of refugee, consist primarily of two acts ratifying international conventions: the law of 24 July 1954 No 722, ratification of the Geneva Convention of 28 July 1951 relating to the Status of Refugees, and the Law No 23 December 1992 523, ratification of the Dublin Convention of 15 June 1990 concerning the State responsible for examining an asylum application lodged in one of the states of the European Community. The Italian Parliament intervened with an emergency legislation, established by Decree Law No 30 December 1989 416, of which only the first article remains in force, substantially supplemented and amended by the Law No. 30 July 2002 n. 189. A clear concept of asylum and a precise distinction of the refugee status was developed thanks to the jurisprudence. The refugee status, as we have seen, differs from that of the person entitled to asylum because it

requires, as a determining factor, the assumption of a well-founded fear of persecution[9]. Therefore, in order to obtain the recognition of refugee status, a requirement is necessary that is not needed to establish the right of asylum, namely the existence of at least reasonable grounds for believing that the foreigner will suffer persecution in the country of origin; instead for asylum rights it is sufficient to objectively lack democratic freedom rights in the country of origin. The substantially most complete discipline is contained within the Geneva Convention, implemented by the Italian Law No 24 July 1954 n. 722. The case law of the State Council stated that the position itself as a refugee is posited as a "species" in respect to the "genus", constituted by asylum rights and, in fact, in the rules of the Italian law the two juridical figures are often used promiscuously: see for example the cited Article 7 of the Legislative Decree No 7, April 2003 n. 85 bearing, the heading "asylum applications" which then refers in the text only to the procedure for recognition of refugee status under the Geneva Convention. But above all, consider Article 1 of Law n.523/92 that defines the asylum application as one that aims to obtain the recognition of refugee status. The foreigner to whom the position of refugee is recognized enjoys special protection specified by the Italian law within the general framework of the asylum institution. The contents of this protection may currently be considered unified. Regarding the area of application, the right to asylum, and therefore to the refugee status, concerns non-EU citizens. This is because within the European Union there is a uniformity of constitutional protection regarding democratic safeguards, and because Article 1 of the Consolidated Law on Immigration (D. Legs No 286/98) essentially qualifies a foreigner as a citizen of a State not belonging to the European Union and stateless. The Court that had clearly distinguished the case of asylum from that of the refugee status, also had to specify, before the entry into force of the Single Text on immigration, how the contents of protection were different, considering only the refugee protection had been provided in detail in the Geneva Convention, having thus to state that the contents of asylum rights were basically those of not being expelled from the Italian State[10]. This, was obviously because there was, and there still is, a primary legislation that gives effect to the constitutional provisions on asylum. However, the Consolidation Act on Immigration (D. Leg. July 25, 1998 No. 286) contains general provisions which, while not making explicit reference either to the right of asylum or refugee status, supports the view that the Italian law has essentially unified concrete protection of foreigners resident in its territory. The article gives the foreigner on the territory all the rights in civil subjects which are attributed to Italian citizens: equal treatment in employment, right to participation in public life, equal access to justice and relations with the government. It demonstrates a unification of protection even in the first paragraph of art. 5, which states that foreigners may reside in Italy only once they have a residence card or residence permit. Significant innovations have been introduced recently for the procedure regarding the recognition of asylum: Chapter II of Law n.189 July 30, 2002, amends the legislation on immigration and asylum, intervening heavily upon the existing framework, contained in the Law of February 28, 1990 No. 39. A so-called simplified procedure has been placed alongside the ordinary procedure. The latter is the responsibility of the Quaestor of temporary permits and of the collection of documents and investigative measures, and of special commissions for the final recognition of status. The simplified procedure covers cases of detention, which essentially relate to cases where the foreigner is not entitled to stay and must be expelled. While in fact a foreigner who has lived legally can obtain a transitional residence permit from the Quaestor for the time concerning examination of his/her application for asylum, he/she who is not entitled to stay, and requires the recognition of asylum may be, in principle, retained only for the time necessary to define the permissions to stay within the state, if surprised in terms of illegal residence. Detention is implemented in the so-called identification centres, or temporary stay and assistance.

9 Supreme Court. Section 1st civil, 9 April 2002 n.5055
10 Regional Administrative Court of Friuli Venezia Giulia Region. 23 January 1992 n.15

The Central Commission for the status of refugees[11] becomes transformed in the National Committee for asylum, which is assigned the duty of guiding and coordinating the regional committees and decision making powers of revocation and termination of granted statuses. Here again it emerges how the Italian legislature considers as an essentially unique institute that of asylum rights and refugee status, considering that under the heading "asylum" it inserts rules governing the application for the recognition of the refugee status. The jurisdiction for the protection of asylum and the recognition of refugee status has undergone ups and downs over time. The jurisdiction of ordinary courts of law on asylum has been simpler, configured as individual rights and emerges directly from Article. 10, Section 3 of the Constitution.
As for the recognition of refugee status, this is done through an administrative procedure[12] which is provided expressly by means of the jurisdiction of administrative courts. Court jurisdiction of the administrative judge was also expected against the measures of expulsion regarding denial and revocation of residence permits.
Then the Law 40 of 1998 repealed that provision. In this situation, the Supreme Court stated in joint sections the jurisdiction of ordinary courts. The State Council stated instead that jurisdiction always had to be held by the administrative courts. This conflict was resolved by the legislator[13] that provided that appeals against the acts of the territorial committee responsible for the recognition of refugee status were to be submitted to the territorially competent court settlement. The appeal against the refusal of a residence permit must be submitted to the administrative court whilst the appeal against the deportation order issued by the prefect of the jurisdiction is held by ordinary courts. The appeal against the deportation order issued by the Minister of the Interior for public and state security reasons must be submitted to the administrative judge.

The Italian Council for Refugees proposal for an organic law on asylum.
In the context of the debate regarding the Bossi - Fini reform and in the absence of an organic law, the subject of refugees and asylum seekers must be a central issue. With this objective, the Italian Council for Refugees (CIR) has organized a confrontation with parliamentarians to promote an organic law on asylum. These are the highlights: a simplified single procedure for all, abandoning thus the path of accelerated procedures, the introduction of the possibility to seek asylum at foreign diplomatic representatives, with the aim of reducing the amount of people arriving in Italy irregularly, the introduction of a project of refugee resettlement that provides protection to refugees located in third countries. A series of socio-economic integration programs for foreigners. Specifically, the fundamental aspects of the proposed CIR are:
Article 2 (Holders of asylum rights) 1. The right to asylum in the territory of the Italian Republic belongs to: a. a foreigner who is denied the effective practice of democratic freedom rights in the country of origin, which is instead guaranteed by the Italian Constitution. b. the foreigner who, rightly fears persecution because of race, religion, nationality, political opinion, gender, sexual orientation, membership of a particular social group or nationality, who is outside the country of nationality or, if stateless , who was habitually resident, and will not or cannot, because of that fear, return to that country or use its protection. 2. For the purposes of this Act, the one who is entitled to asylum rights is a refugee. Article 3 (Holders of subsidiary protection) 1. The foreigner or stateless person is entitled to the right of subsidiary protection when he/she is ineligible for asylum but when there are reasonable grounds for believing that if returned to the country of origin, or in the case of statelessness to the country of residence, the foreigner would face a real risk of suffering serious harm and cannot or will not, because of the risk, benefit from the protection of that country.

11 Artricle 2 of the regulation of which DPR 15 May1990 n.136
12 Disciplined by the law, Art..5 of the Decree-Law n. 416/89
13 Article 32 of the law n. 189 /2002

The innovative elements in the proposal are: (1) the implementation of Article 10 paragraph 3 of the Constitution, (2) The convergence between the constitutional concept of asylum and the definition of refugee in the Geneva Convention, by means of definitions both on the "effective exercise of democratic freedom" and on "acts of persecution". These definitions literally reflect the EU directives (Article 4), (3) The definition of subsidiary protection or humanitarian status, including the status of those holding such a protection[14], (4) The transposition of Community legislation Implementing the "more favourable terms" and the exceptions provided by the same EU directives when the rules are inconsistent with the approach of the law and the Constitution. (5) The introduction of a resettlement project of refugees on a quota of three years, anticipating the planned EU resettlement scheme (Article 7), (6) The different composition of the National and Regional Committees for a decision on asylum with the objective of greater professionalism and perfect political and institutional independence[15]; (7) A fair and efficient asylum procedure in the form of a single procedure, waiving accelerated procedures. The validity of the request for asylum and aspects related to the so-called safe countries of origin and safe third countries will be jointly assessed together with the merits of the same claim[16], (8) The introduction of the possibility to seek asylum abroad, at diplomatic representatives, with the objective of reducing the number of people forced to arrive in Italy in an irregular way and risking their own lives (Article 12 paragraph 3); (9) The system of reception of asylum seekers, which incorporates the positive aspects of the current system (involvement of municipalities and associations always with national coordination and monitoring). Renouncement of any form of detention while still providing the availability of asylum seekers throughout the procedure. The distinction between first reception centres for a maximum period of 15 days and second reception centres[17]; (10) The right to remain in Italy awaiting trial for first degree for those who submit application to the Court after the refusal of their request (Article 17) (11) The provision of effective programs of integration administrated locally, but coordinated and monitored centrally by the same facility responsible for measures of reception[18] (12) The extension of the rights of refugees and persons enjoying subsidiary protection (Articles 18 and 19), (13) The development of the work of institutions of protection; their participation in the implementation of the law with their respective financial recognition (Article 24) and finally (14) Expectation of bilateral and multilateral programs to promote protection of refugees in regions of origin and to combat the causes of exodus of refugees (Article 23).

Final Considerations

The final reflections are at two levels: at the EU level, the European Parliament, the Council, Commission and Member States must adopt the necessary decisions to implement the pact and reach a common policy on immigration and asylum starting from 2010, when a further phase of the Hague program will be launched. Of particular importance is the decision on behalf of the European Council to organize, at its own level, an annual debate on immigration and asylum, starting from a report that the Commission is invited to submit annually to the Board. It is noteworthy, finally, to point out the appeal to meet the needs related to immigration and asylum policies, and to the implementation of a global approach in regard to the subject of migration, with the allocation of adequate financial resources. In this sense, therefore, the pursuit of a common immigration policy represents an ambitious goal, both legally and politically: the subject has in fact been "communitarised" only in recent years and only partially because, as mentioned above, the fields

14 Articles 3; 18; 19; 20
15 Articles 8 an 9
16 Articles11 and 12
17 Articles 10; 12 and 14
18 Articles 10 and 20

related to security and public order are still the responsibility of Member States, even if these remain competitive.

At the Italian level, Italy could, for the first time in its republican history, implement the constitutional right of asylum through an Act of Parliament that could finally enable a coherent and organic management of various aspects relating to foreign people in need of international protection. For many years, the UN High Commissioner for Refugees and all the associations and organizations involved have hoped to adopt an organic law on asylum. The promoting bodies of this initiative are appealing to the Parliament, the Government and the public so that this opportunity is not polluted by restrictive considerations. Asylum has always been an expression of humanity and solidarity with those who are persecuted in their own. In no way can it be considered a tool to combat illegal immigration. We recall the definition of the person entitled to asylum within this new proposed law: the term "gender", "sexual orientation" and "membership of an ethnic group" are elements that can lead to the recognition of refugee status; the decentralization of the recognition of refugee status, independence and autonomy of local committees, the rules on family reunification and the right to work for asylum seekers, although the six month deadline, that has to elapse before it is possible to establish a regular working relationship, is too broad. The risk is a law containing other elements, such as those dealing with procedural guarantees, which require a different approach to ensure compliance with the law to universal principles of international protection and with our Constitution. For example it appears essential to put forward an effective appeal to the court against the refusal to grant the right of asylum[19].

The applicant should be allowed to remain in Italy during the time awaiting the decision of the court. The court must be able to order the issuance of residence permits for asylum as a precautionary measure. It is accepted that it is indeed a requirement for an applicant to ensure his/her availability throughout the procedure. Nevertheless he/she must be aided to meet this obligation through a reception system in appropriate facilities. However, this does not justify why the person submitting their own asylum application to the competent authority is withheld in special centres and subjected to a simplified procedure that offers a lower level of procedural guarantees. The vast majority of refugees in Italy and across Europe arrive in the country of asylum without a passport, visa or other requirements for legal entry. This fact cannot possibly lead to widespread suspicion that the person intends to make an instrumental use of the asylum. The automatic link between the institution of "detention" and the application of the "simplified procedure" as currently configured does not seem to give sufficient procedural guarantees for asylum seekers. Regarding assistance and reception measures, it is hoped that the text be amended so as to ensure a dignified reception to all applicants and to adequately transpose the recent European Union Directive on minimum conditions of reception.

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19 In the various EU countries, the percentage of refugees who obtains this status only in a second instance, that is after an initial denial of the application, varies between 30 and 60 percent

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RECOMMENDATIONS TO THE EU AGENCIES, AUTHORISED GOVERNMENTAL BODIES OF THE EU MEMBER STATES AND BRIDGE PARTNER COUNTRIES ON MANAGEMENT OF MIGRATION, ASYLUM, EXTERNAL BORDERS AND VISA REGIME

BRIDGE Expert Conference on Migration, Asylum, EU External Border Management and Visa Regime,
held in Chisinau, Republic of Moldova,
28 - 29 April 2010

Considering the Hague Programme (2005-2010) and the Stockholm Programme (2010-2014) adopted by the European Council, the 2008 European Pact on Immigration and Asylum, the 2005 Global Approach to Migration, the 2010 Council Conclusions on 29 Measures for Reinforcing the Protection of the External Borders and Combating Illegal Immigration, and the Regulation No. 810/2009 of the European Parliament and of the Council establishing a Community Code on Visas (Visa Code), we the participants of the BRIDGE Expert Conference on Migration, Asylum, EU External Border Management and Visa Regime, held in Chisinau , Republic of Moldova on 28-29 April 2010, state that:

1. international migrations are development opportunity for both, sending and destination countries;
2. reciprocity between EU and third countries should be the underlying rule in managing common migration issues;
3. economic and family related immigration will help to address the structural imbalance of European labour markets in specific sectors (tourism, catering, private care, construction, agriculture)
4. security of borders should not be linked to the management and policies of regular migration flows.

Starting from the considerations above **we recommend to the relevant EU agencies and national govermental bodies to**:

1. foster training programmes and the transfer of know-how in countries of origin of migrants to limit as much as possible the damages of brain drain processes;
2. enhance the co-operation on migration issues within the ENP and Eastern Partnership framework;
3. provide for a global approach concerning FDI and infrastructural programmes in ENP;
4. promote a welfare system reform following a holistic approach to integration that ensures the labour market insertion of newcomers and their social and cultural participation in society;
5. foster as much as possible the role of the new EU diplomatic service to co-operate with other EU competent bodies on the building of a common EU policy, and to set up a common EU Consulate Service for issuing VISA and residence permits related to EU labour markets;
6. further promote the negotiation of new mobility partnerships with third countries, focusing mainly on the sustainable development of the countries themselves;
7. create a European labour market's database both managing supply and demand of skilled and unskilled workers;
8. manage the quota system also at the EU level and not only at a national/regional one;
9. create a network of universities dealing with scientific migration and exchange of researchers with the creation of a database which should provide for all exchange and research opportunities;
10. to develop a fair burden sharing in readmission agreements in order not to further destabilize the origin and transit countries;

11. ensure common research programmes and projects between high education institutions using innovative IT tools and providing fees for researchers in third countries calculated on EU standards in order to avoid brain drain phenomenon;
12. enhance a common responsibility for the maintenance and the costs of the temporary detention centres at the external borders of the EU, inside and outside the EU borders;
13. amend and improve the EU legal framework regulating asylum and border management issues, particularly Articles 35 and 39 of the Council Directive 2005/85/EC on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status (Asylum Procedures Directive) and Article 13.3 of the Regulation No. 562/2006 of the European Parliament and of the Council Establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) in order to bring these provisions in line with international human rights standards and the EU fundamental rights;
14. consider and accelerate national procedures for accession or ratification of the 2005 Council of Europe Convention on Action against Trafficking in Human Beings in respective EU Member States (Czech Republic, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Lithuania and Sweden) and BRIDGE Partner Countries (Belarus, Russian Federation and Ukraine);[1]
15. favour the liberalization of the EU visa regime for the ENP countries.

Since the abolition of visa regime for Eastern European Countries remains rather long-term perspective, new steps are needed to further liberalize issuance of Schengen visas. In this respect, the following measures and actions should be taken:

1. continuing negotiations on improving the mechanism of the VPA by bringing restrictions to the list of documents that may be required to prove the evidence of "strong connections with the motherland";
2. limiting the requirements of applicants' documents (especially those of private and commercial nature) that have no relation to the purpose and content of most of the planned trip, except in special cases;
3. minimizing the number of possible exceptions to the rules that allow consulates to delay the proceedings or require potentially inexhaustible list of documents;
4. providing normative framework which would allow the applicants to submit visa applications via faxes or scanned documents, especially regarding documents from abroad;
5. providing an option of going over the visa procedure without personal interview and visiting consulate, for instance, by submitting documents by mail;
6. stepping aside from requirement to prove the necessity of the future multiple visits to the EU (for multiple entry visa) by an applicant if his/her previous visa history indicates his/her real need for regular visits to the EU Member States;
7. raising awareness of citizens of neighbouring Eastern European Countries about the features of the EU visa policy;
8. introducing elements of positive visa practices developed in some EU Member States, such as cancel visa fee for the national visa;
9. supporting internal reforms in the field of document security, migration, readmission, civil order and fundamental human rights in order to ensure and promote visa-free regime between the EU Member States and neighbouring countries in Eastern Europe.

Chisinau, Republic of Moldova,
28 - 29 April 2010

[1] Status as of 1 May 2010.

APPENDIX:

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EU – PC MIGRATION IN FIGURES

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LIST OF ABBREVIATIONS

ERBD	European Bank for Reconstruction and Development
UN	United Nations
EU	European Union
EU27	27 member states of European Union
GDP	Gross domestic product
HDI	Human Developing Index
IOM	International Organization for Migration

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INTRODUCTION

Since 1990 East European Countries have experienced huge transformation of their societies (unfortunately some changes were extremely painful, e.g. introduction of market economy) with the huge impact on national labour markets. Literally, over the night, has the fall of the massive industrial production forced people to search for the job abroad.

Before 1990 the international migration in Eastern Europe was strictly limited however after 1990 the migration increased in almost all directions. During the last 20 years two main routes of international migration in Eastern Europe have shaped. In recent years Russia has become most desirable country of emigration particularly for citizens of Former Soviet Republics. The second major flow of emigrant is orientated toward EU particularly Germany, Italy and Poland. Belarus and especially Moldova and Ukraine are mostly emigrant countries and countries of transition for international migrants on their way to EU. Each of the country is facing the problem of migration from their perspective which is highly specific due to the different politic, economic, cultural, social circumstances.

The aim of the present paper is to present in short most important migration trends in Belarus, Moldova, Russia and Ukraine. In order to do so paper contain also some basic demographic and economic data concerning these countries which help to understand and explain present migration trends. It is important to stress that paper is based on official data available at World Bank, Eurostat, European Bank for Reconstruction and Development, United Nations, International Organisation for Migration and therefore mainly on officially registered migration flows. Due to fact that the majority of migration flows are unregistered/illegal the conclusion in the paper are based upon different sources of data, estimations and predictions.

PART I: BASIC DEMOGRAPHIC AND ECONOMICAL DATA

To understand better the present situation in migration flows we need to overview some basic demographic and economic data for selected countries in last decade.

1. DEMOGRAPHIC DATA

Table 1: Population[1] numbers in selected countries since 1999.

geo/time	1999	2001	2003	2005	2007	2009
Belarus	10045237	9990435	9898590	9800073	9714461	9671912
Moldova	3649930	3635112	3618312	3600436	3581110	3567512
Russia	147539426	146303611	145166731	143474219	142220968	141903979
Ukraine	49544808	48663609	47823108	47100462	46465691	45963359

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/setupModifyTableLayout.do (1 March 2010).

Figures show decrease of population since 1999 in all four countries. In absolute numbers the decrease of the population was most significant in Russia more than 5,5 millions followed by Ukraine almost 3,6 millions; Belarus 0,4 millions and Moldova around 82.000 people. On the other hand decrease of the population in percents demonstrate completely different picture. Ukraine is country which suffered the biggest decrease of population. In ten years the population of the Ukraine is smaller for more than 7%; followed by Russia and Belarus around 4% and Moldova around 2%.

Table 2: Natural increase/decrease of population by year in selected countries in last ten years.[2]

geo/time	1999	2002	2003	2004	2005	2006	2007	2008
Belarus	-49052	-57912	-54688	-51121	-51349	-41705	-29367	-26003
Moldova	-2814	-6147	-6608	-3396	-6994	-5550	-5077	-2930
Russia	-929627	-935305	-888525	-792925	-846559	-687066	-470323	-362007
Ukraine	-349962	-364223	-356819	-334002	-355875	-297724	-290220	-243871

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=demo_gind&lang=en (1 March 2010).

Table 2 is an illustrative presentation of the worrying situation of rapid decrease of population on four selected countries. Figures show that there was no positive/increase of population. The only encouraging data is that the decrease is of the population in last ten years is slowly decline. Except in case of Moldova where the opposite tendency is perceived. Decrease of population is getting bigger and bigger despite smaller decrease in 2008.

Table 3: Proportion of population aged 0-19 years in selected countries since 2006.

geo/time	2006	2007	2008	2009
Belarus	23,3	22,6	22,0	21,5

[1] Number of inhabitants in a given area as of 1st January of the year in question (or, in some cases, on 31st December of the previous year). The population data may be based on data from the most recent census, adjusted by the components of population change (the number of births and deaths, and the net result of migration into and out of the territory concerned).

[2] The diff erence between the crude birth rate and the crude death rate.

Moldova	28,1	27,7	26,7	25,8
Russia	23,2	22,5	21,9	21,4
Ukraine	22,1	21,5	21,0	20,7

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=demo_pjanind&lang=en (1 March 2010).

Table 4: Proportion of population aged 65 years and more in selected countries since 2006.

geo/time	2006	2007	2008
Belarus	14,6	14,6	14,5
Moldova	9,8	10,3	10,3
Russia	13,9	14,0	13,8
Ukraine	16,2	16,4	16,2

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=demo_pjanind&lang=en (1 March 2010).

Table 5: Life expectancy at birth[3] in selected countries.

geo/time	1992	1995	1996	1999	2002	2005	2006	2008
Belarus	:	:	68,600	67,900	68,000	68,800	69,400	70,480
Moldova	:	:	66,670	67,440	68,130	67,850	68,400	69,360
Russia	67,800	64,500	:	:	:	:	66,600	67,880
Ukraine	69,300	67,220	66,900	68,300	68,300	68,000	68,100	68,270

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=demo_gnsiind&lang=en (1 March 2010).

Data from Tables 3 and 4 confirming the fact that population in Europe in getting older and Belarus, Moldova, Russia and Ukraine in not deviating from this trend. Proportion of younger population is getting smaller while other age clusters is getting bigger especially middle age cluster. Comparing to EU27 the percentage of population aged 65 and more in considerably lower (EU27 -17%) while the proportion of younger generation is similar. This data could be explained by the data of life expectancy which are lower in all four countries comparing to EU member states. The life expectancy data is improving but the tendency is not strong enough.

2. ECONOMIC DATA

Following extended economic growth after year 2000 all four countries has been seriously affected by the global financial and economical crisis in years 2008-2009. Global crisis has influenced on countries in different ways but the GDP in 2009 has fallen considerably in all countries e.g. up to 14% in case of Ukraine (see Tables below).
National economies ware under pressure due to different reasons which resulted into macroeconomic instability, increase of unemployment, decline of export etc. For example: Belarus economy was at most affected by decline of export revenues especially from Russia and Ukraine and less trough financial channels; Moldova and Ukraine economies were hit very hardly as their industrial production decline up to one third during 200, and Russian Federation economy was under pressure due to the fall of the price of natural resources (oil, gas, metals) and huge capital outflow.

[3] The average number of years a person would live if age-specific mortality rates observed for a certain calendar year or period were to continue.

Due to the severity of the economic decline of national economies also the forecasts of international financial institutions shows that the recovery of national economies will be slow and could take up to five year and more to reach the levels before crisis.

Table 6: Selected economic indicators (GDP per capita, Share of industry and agriculture and external debt) in Belarus, Moldova, Russia and Ukraine.

Belarus	**2003**	**2004**	**2005**	**2006**	**2007**	**2008** *Estimate*
GDP per capita (in US dollars)	1.809,9	2.361,4	3.096,9	3.810,2	4.672,5	6.234,2
Share of industry in GDP (in per cent)	30,8	32,7	33,1	32,2	31,6	28,1
Share of agriculture in GDP (in per cent)	10,2	10,3	9,8	9,3	8,8	8,4
External debt/GDP (in per cent)	23,4	21,3	17,1	18,4	28,1	24,6
Moldova	**2003**	**2004**	**2005**	**2006**	**2007**	**2008** *Estimate*
GDP per capita (in US dollars)	547,5	767,3	882,6	1.003,7	1.282,1	1.766,0
Share of industry in GDP (in per cent)	20,5	20,5	19,1	18,0	19,1	19,5
Share of agriculture in GDP (in per cent)	18,3	17,5	16,4	14,8	10,0	8,9
External debt/GDP (in per cent)	97,5	72,5	69,6	74,3	76,3	67,9
Russia	**2003**	**2004**	**2005**	**2006**	**2007**	**2008** *Estimate*
GDP per capita (in US dollars)	2.975,8	4.103,1	5.328,0	6.928,8	9.102,6	11.806,9
Share of industry in GDP (in per cent)	27,4	31,5	33,7	32,9	31,8	30,6
Share of agriculture in GDP (in per cent)	6,3	5,7	5,2	4,8	4,7	4,8
External debt/GDP (in per cent)	43,1	36,1	33,6	31,7	36,4	28,8
Ukraine	**2003**	**2004**	**2005**	**2006**	**2007**	**2008** *Estimate*
GDP per capita (in US dollars)	1.057,3	1.376,4	1.843,7	2.317,1	3.094,6	3.930,8
Share of industry in GDP (in per cent)	27,2	25,8	27,2	27,6	27,5	27,3
Share of agriculture in GDP (in per cent)	10,9	10,8	9,2	7,5	6,6	6,8
External debt/GDP (in per cent)	47,5	47,3	46,0	50,6	57,6	56,4

Source: EBRD http://www.ebrd.com/country/sector/econo/stats/ and http://www.ebrd.com/new/pressrel/2009/091015_forecasts.pdf (2 April 2010).

All countries in the region succeeded to increase their GDP per capita for almost three times in last five years. The gap between economically strongest (Russia) and weakest country (Moldova) in 2003 is getting bigger and bigger. The share of industry in GDP is remaining stable while share of

agriculture is gradually getting smaller with the highest decrease in Moldova (from 18% in 2003 to 10% in 2007).

Table 7: Unemployment[4] rates per year in selected countries from year 2003.

	2003	**2004**	**2005**	**2006**	**2007**	**2008** *Estimate*
Belarus	3,0	1,9	1,5	1,2	1,0	0,8
Moldova	7,9	8,1	7,3	7,4	5,1	4,0
Russia	7,8	7,9	7,1	6,7	5,7	7,8
Ukraine	9,1	8,6	7,2	6,8	6,4	6,4

Source: EBRD http://www.ebrd.com/country/sector/econo/stats/ (2 April 2010).

Despite opposite expectation the unemployment in selected countries is lower comparing to EU members states with the average unemployment rate of around 8% in the same period. With regard to these data week employment opportunity could not be one of the important sources for emigration but we should not be misled. These data include just officially registered people without those people who are working abroad (legally or illegally) and would be unemployed in case they stay at home trying to search the job at national labour market (case of Moldova).

Table 8: Inflation[5] rates per year in selected countries from year1997 in per cent.

	1997	**1998**	**1999**	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008** *Estimate*	**2009** *Projection*
Belarus	63,9	72,9	293,7	168,6	61,1	42,5	28,4	18,1	10,3	7,0	8,4	14,9	13,2
Moldova	11,8	7,7	39,3	31,1	9,6	5,2	11,6	12,5	12,0	12,8	12,4	12,8	0,0
Ukraine	15,9	10,6	22,7	28,2	12,0	0,8	5,2	9,0	13,5	9,1	12,8	25,2	16,1
Russia	14,7	27,8	85,7	20,8	21,6	16,0	13,6	11,0	12,5	9,8	9,1	14,1	12,3

Source: EBRD http://www.ebrd.com/country/sector/econo/stats/ (2 April 2010).

In spite of the fact that the inflation rates in selected countries are still double digit, countries manage to cut down the inflation rates from their highest values between years 1998 and 2001.

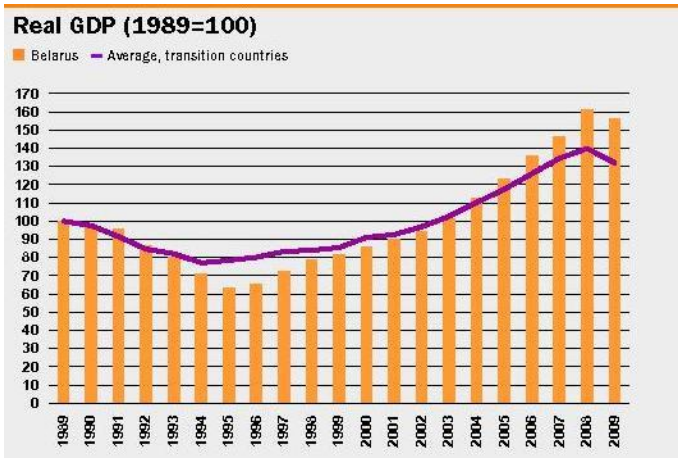
Table 9: GDP growth per year in selected countries since 1997 in per cent.

	1997	**1998**	**1999**	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	Estimated level of real GDP in 2008 comparing to 1989
Belarus	11,4	8,4	3,3	5,8	4,7	5,0	7,0	11,4	9,4	9,9	8,2	10,0	-3,0	161
Moldova	1,6	-6,5	-3,4	2,1	6,1	7,8	6,6	7,4	7,5	4,8	3,0	7,2	-8,5	55
Ukraine	-3,0	-1,9	-0,2	5,9	9,2	5,2	9,6	12,1	2,7	7,3	7,9	2,2	-14,	70
Russia	1,4	-5,3	6,4	10,0	5,1	4,7	7,4	7,1	6,4	7,4	8,1	5,6	-7,5	108

Source: EBRD http://www.ebrd.com/country/sector/econo/stats/ (2 April 2010).

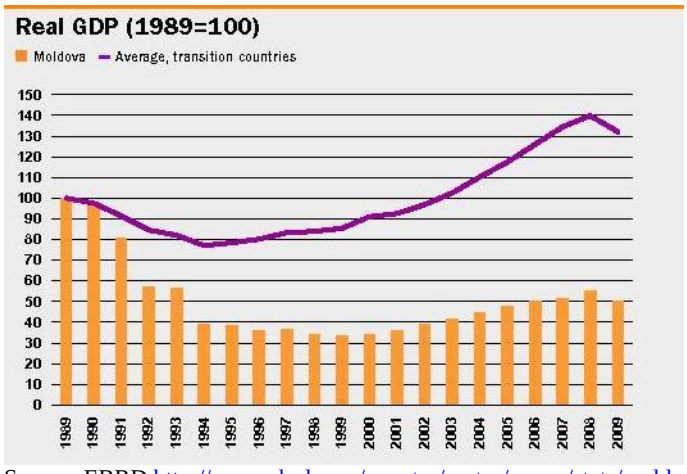
Figure 1: Real GDP increase/decrease since 1989 in Belarus.

[4] The share of unemployed persons in the total number of active persons in the labour market (the labour force).
[5] Change in annual average retail/consumer price level.



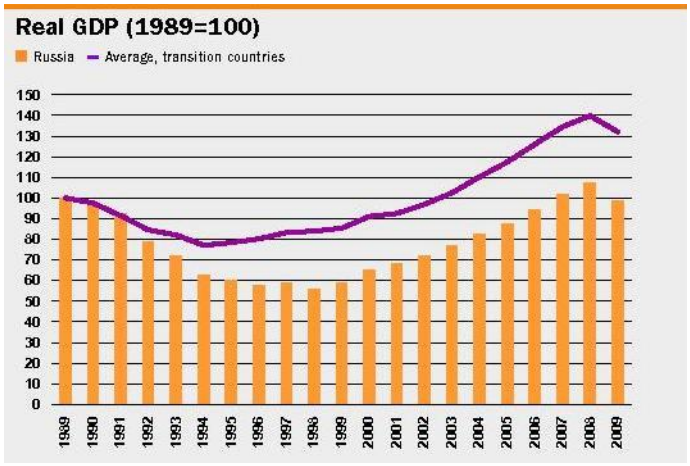
Source: EBRD http://www.ebrd.com/country/sector/econo/stats/belarus.pdf (2 April 2010).

Figure 2: Real GDP increase/decrease since 1989 in Moldova.



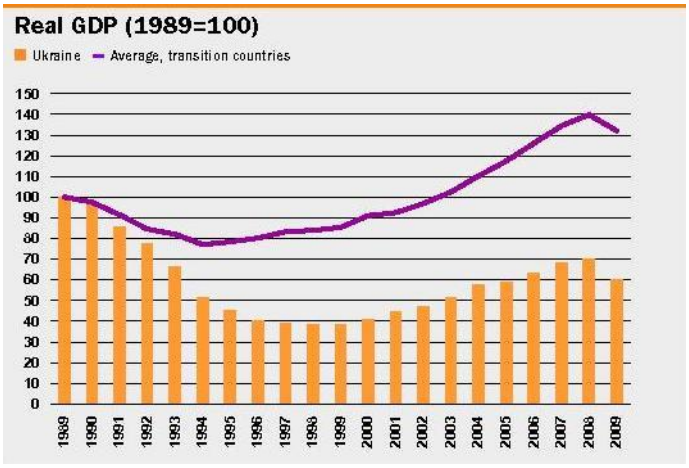
Source: EBRD http://www.ebrd.com/country/sector/econo/stats/moldova.pdf (2 April 2010).

Figure 3: Real GDP increase/decrease since 1989 in Russia.



Source: EBRD http://www.ebrd.com/country/sector/econo/stats/russia.pdf (2 April 2010).

Figure 4: Real GDP increase/decrease since 1989 in Ukraine.



Source: EBRD http://www.ebrd.com/country/sector/econo/stats/ukraine.pdf (2 April 2010).

Table 11 and Figures 2-5 illustrate the economic development of Belarus, Moldova, Russia and Ukraine in since 1989. All countries faced hard decline of national economies after 1989 and they reached their bottom in years 1998-99 (except Belarus 1995). Especially perceptible was the economic decline in Moldova (bottom on year 1999 with 30% of the GDP from 1989). Similar to decrease in Moldova was also decrease in Ukraine (bottom in 1998 with 40% of the GDP from 1989). Slightly better was situation in Russia where the bottom was reached in 1998 (60% of the GDP from 1989). Similar bottom has experienced also Belarus but the curve has changed already 1995. Comparing to the average transition countries only Belarus has maintained the similar rates of GDP growth per year all other countries especially Moldova and Ukraine reached considerable lower rates of growth comparing to other transition countries in other words only Belarus has reduced the gap in last 20 years while economic development in other countries especially Moldova was not so successful.

Since 1990 UN (United Nations Development Programme) calculates also HDI – Human Development Index[6] which in case of selected four countries has in 2007 indicated as most developed country Belarus with HDI 0.826 (68th out of 182 countries) followed by Russian Federation 0.817 (71st), Ukraine 0.796 (85th) and Moldova 0.720 (117th out of 182 countries).[7]

[6] HDI – Human Developing Index is an index combined of indicators of life expectancy, educational attainment and income.

[7] http://hdrstats.undp.org/en/countries/ (9 April 2010).

PART II: MIGRATION DATA

1. GENERAL DATA

As it was explain above the population is decreasing in all four countries. The reasons are multilayered therefore let us see the impact of migration. Data from tables 5, 6 and 7 show that migration (emigration and immigration) have considerable effect on population final numbers. In last ten years Belarus and Russia are benefiting from migration. In each year since 1999 (except year 2003 in Russia) the amount of immigrants in both countries are higher than number of emigrants. The surplus is varying and it was the lowest around 2003 after that the numbers are increasing. The opposite trend is noticed in case of Ukraine and especially Moldova. While the negative trend in Ukraine was changed into positive in 2005 the negative trend in Moldova is still remaining. These data are in parallel with the economic power of individual country. Stronger economies (Russia and Belarus) are attractive for immigration while Moldova's week economy is pushing people abroad.

Table 10: Total number of emigrants[8] in selected countries since 2004.

geo/time	2004	2005	2006	2007	2008
Belarus	12510	11082	8498	9479	9268
Moldova	7166	6827	6685	7172	6988
Russia	79795	69798	54061	47014	39508
Ukraine	46182	34997	29982	741454	22402

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=demo_gind&lang=en (1 March 2010).

Table 11: Total numbers of immigrants[9] in selected countries since 2004.

geo/time	2004	2005	2006	2007	2008
Belarus	14642	13031	14124	14155	17413
Moldova	3522	3187	3653	3833	4772
Russia	178734	195688	186380	286970	281614
Ukraine	38567	39580	44227	758292	37323

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=demo_gind&lang=en (1 March 2010).

[8] People leaving their country of usual residence and effectively taking up residence in another country. According to the 1997 United Nations recommendations on statistics of international migration (Revision 1), such a person is a long-term emigrant if he/she leaves his/her country of previous usual residence for a period of 12 months or more.

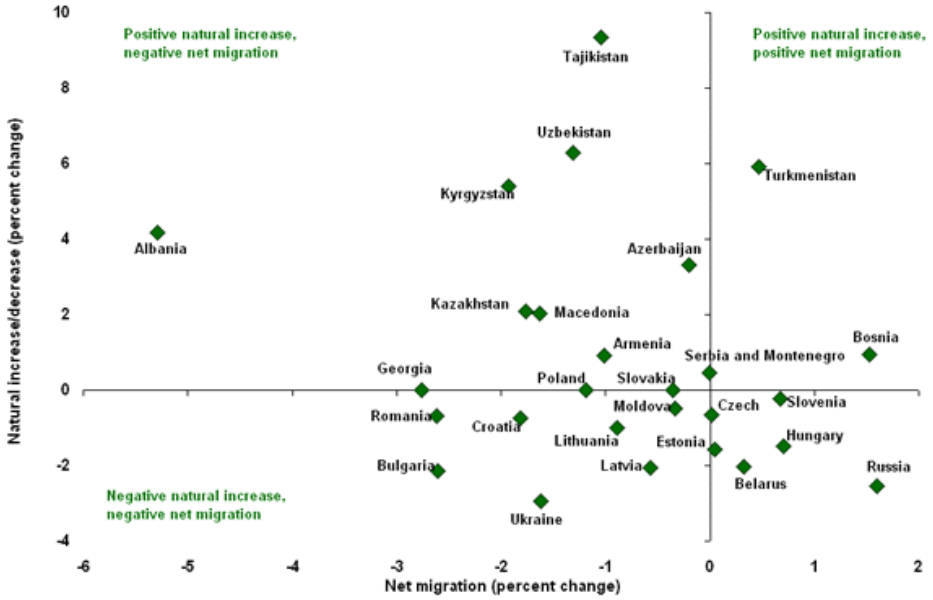
[9] Persons arriving or returning from abroad to take up residence in the country for a certain period, having previously been resident elsewhere. According to the 1997 United Nations recommendations on statistics of international migration (Revision 1), such a person is a long-term immigrant if he/she stays in his/her country of destination for a period of 12 months or more, having previously been resident elsewhere for 12 months or more.

Table 12: Net migrations[10] in selected countries since 1999.

geo/time	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Belarus	23295	12131	9085	5561	5160	2132	1816	5626	4676	8145
Moldova	-3046	-4673	-3673	-3353	-4269	-3603	-3506	-3276	-3330	-2261
Russia	280329	372017	288975	452702	-110001	98939	125891	154483	258193	257148
Ukraine	-79896	-78385	-53233	-53571	-24210	-7615	4583	14245	16838	14921

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=demo_gind&lang=en (1 March 2010).

Figure 5: Natural increase (decrease) and net migration in the Eastern European Region (2000-2003) in per cent.



Source: World Bank http://siteresources.worldbank.org/INTECA/Resources/257896-1167856389505/migration-pop-slide5.htm (9 March 2010).

Also this graphic presentation confirms the above mentioned conclusions that Belarus, Moldova, Russia and Ukraine have faced decrease of their population. In the period 2000-2003 the decrease was most significant in Ukraine caused both by natural decrease and negative net migration. Belarus and Russia have part of their natural decrease of population compensated by positive net migration otherwise the decrease would be (in case of Russia) even more extensive comparing Ukraine. Four discussed countries are sharing the faith of whole Eastern Europe region which is under pressure of population decrease.

[10] The difference between immigration into and emigration from the area during the year (net migration is therefore negative when the number of emigrants exceeds the number of immigrants). Since most countries either do not have accurate figures on immigration and emigration or have no figures at all, net migration is generally estimated on the basis of the diff erence between population change and natural increase between two dates (in Eurostat database, it is then called corrected net migration). The statistics on net migration are therefore affected by all the statistical inaccuracies in the two components of this equation, especially population change.

Table 13: All valid residence permits on 31 December 2008 in selected EU countries.

Destination/origin country	Belarus	Moldova	Russia	Ukraine
Belgium	1355	730	12785	2735
Bulgaria	120	600	1765	765
Czech Republic	4495	11095	29010	139800
Germany	15865	10360	163140	114565
Estonia	1575	105	96655	5535
Ireland	1065	2400	2480	3675
Greece	1285	11275	12560	20515
Spain	2630	13420	30880	65400
France	2165	2835	21675	6675
Italy	6510	100710	30095	174445
Cyprus	1260	5195	14075	6800
Latvia	2065	405	30120	3410
Lithuania	5860	340	12120	2930
Hungary	185	310	5225	19350
Malta	10	35	455	195
Netherlands	805	190	5185	1510
Austria	920	695	5265	4080
Poland	:	470	1830	10395
Portugal	1015	21065	6180	52470
Romania	50	15920	620	1275
Slovenia	65	300	575	1330
Slovakia	150	115	1485	4725
Finland	480	95	34290	2425
Sweden	1080	215	6915	2405

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=migr_resvalid&lang=en (1 March 2010).

Germany is most desirable country of residence for Belarus and Russian citizens, Italy for Moldovan and Ukrainian citizens. Beside Germany and Italy also Czech Republic, Spain, Portugal, Greece and Baltic states are attractive residence destination for citizens from these four countries.

Table 14: First residence permit due to family reason in selected EU countries in 2008.

Destination/origin country	Belarus	Moldova	Russia	Ukraine
Belgium	80	70	350	175
Bulgaria	35	80	380	130
Czech Republic	125	310	1780	3235
Denmark	20	5	160	135
Germany	655	200	2975	695
Estonia	40	10	665	125
Ireland	45	65	100	100
Greece	45	350	630	395
Spain	135	1000	1535	2505
France	135	170	1050	450
Italy	330	3215	1415	3625
Cyprus	0	15	120	45
Latvia	215	40	765	320

Lithuania	0	15	300	135
Hungary	30	20	440	1605
Malta	15	5	175	75
Netherlands	85	40	515	265
Austria	55	35	315	275
Poland	645	65	565	3340
Portugal	40	1710	280	2455
Romania	15	2940	85	160
Slovenia	5	20	40	60
Slovakia	20	5	85	165
Finland	35	5	1885	125
Sweden	135	25	725	325

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=migr_resfam&lang=en (1 March 2010).

Table 15: First residence permit due to educational reason in selected EU countries in 2008.

Destination/origin country	Belarus	Moldova	Russia	Ukraine
Belgium	10	20	130	40
Bulgaria	15	130	30	80
Czech Republic	90	40	665	245
Denmark	90	60	335	2580
Germany	160	90	1790	540
Estonia	0	0	0	0
Ireland	5	30	80	35
Greece	5	40	120	75
Spain	35	35	340	110
France	40	225	980	260
Italy	75	105	265	150
Cyprus	60	130	510	335
Latvia	25	0	25	5
Lithuania	240	15	20	40
Hungary	25	55	185	880
Malta	0	0	25	5
Netherlands	20	35	265	105
Austria	25	30	115	70
Poland	860	80	305	1650
Portugal	5	10	20	20
Romania	0	1400	5	55
Slovenia	0	0	10	5
Slovakia	0	5	30	30
Finland	5	5	850	30
Sweden	65	40	325	350

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=migr_resedu&lang=en (1 March 2010).

Tables 13 and 14 present number of first residence permit in 2008 due family reasons (Table 13) and educational reasons (Table 14) issued by selected EU countries. Data on first permit due to family reasons are in line with data from Table 12 only Poland deviate from this finding as Poland has issued relative high numbers of first permits. Denmark, Germany and Poland are most attractive countries for students studying abroad As well as Romania for students from Moldova.

Figure 6: Some major migration routes in the Former Soviet Union.

Source: World Bank http://siteresources.worldbank.org/INTECA/Resources/257896-1167856389505/migration-pop-slide1.htm (16 April 2010).

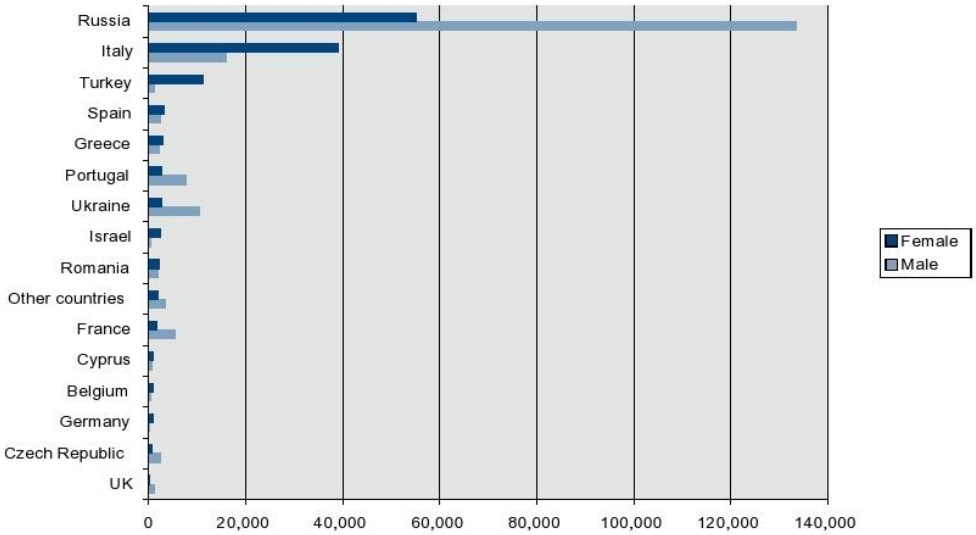
Migration flows in Former Soviet Union are extensive and dynamic. In general two migration trends are in the emerged in this region: migration flows from former Soviet Republics to Europe and to Russia.

2. MOLDOVA

According to IOM Reports on Migration in Moldova[11] more than 700 000 people has emigrated from Moldova in 2005 representing almost 17 % of Moldova population or almost one quarter of Moldova economically active population. Main countries of emigration of Moldovans are: Russia, Ukraine, Turkey, Italy and Romania.

Figure 7: Main countries of destination of Moldovan migrants in 2006 (by gender).

[11] Alin Chindea, Magdalena Majkowska-Tomkin, Heikki Mattila, Isabel Pastor: Migration in Moldova: A Country Profile 2008, International Organization for Migration (IOM), 2008, http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=7&products_id=491 (8 April 2010).



Source: Figures from the CBS-AXA Survey 2006 in Lücke, Matthias, Toman Omar Mahmoud, and Pia Pinger (2007) Patterns and Trends of Migration and Remittances in Moldova, International Organization for Migration in IOM report; http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=7&products_id=491 (8 April 2010).

With the new millennium emigrant destination of Moldovan emigrants has shifted from Israel, Germany and United States to Russia, Ukraine and EU especially in Italy. Russia was in 2006 the most interesting country for Moldovan emigrants (around 200 000) followed (far behind) by Italy (around 50 000) and Ukraine, Turkey and Italy (around 15 000 each). Gender division of Moldovan migrants are 60 % to 40 % in favour of men. Moldovan men are most likely to emigrant to Russia, Ukraine and Portugal while Moldovan women are most likely looking for job in Italy and Turkey beside Russia. Moldovan migrants will most likely find job in construction (around 50 %), services (20 %), trade, transport and housekeeping (around 10 % each) and less likely is job in industry and agriculture.

Table 16: Number of immigrants from Moldova in selected EU countries in years 2004-2006 (if data available).

geo/time	2004	2005	2006
Czech Republic	:	1672	2377
Denmark	23	29	36
Germany	:	1065	839
Ireland	:	:	:
Greece	:	:	1295
Spain	2637	2283	2771
France	:	:	593
Cyprus	239	211	106
Latvia	:	11	34
Lithuania	:	13	29
Luxembourg (Grand-Duché)	:	5	3
Hungary	:	:	34
Malta	:	:	:
Netherlands	:	62	56
Austria	560	425	277
Poland	:	:	18
Portugal	:	:	2646
Romania	:	1917	4349

Slovenia	:	65	83
Slovakia	:	36	42
Finland	13	9	11
Sweden	:	23	37
United Kingdom	:	0	:

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=migr_immiagec&lang=en (2 April 2010).

Official data of Eurostat shows rather different picture, the number (official number) of Moldovan migrants in EU are countries considerably lower than numbers obtained by field research. These numbers confirm the fact that the majority of labour migrants from Moldova in EU countries are working illegally.

3. RUSSIAN FEDERATION

Despite other expectations Russia was in 2006 second largest immigrant country after United States (38,9 millions) and before German (10,1 millions) and Ukraine (6,8 millions). Russia was host to more than 12 millions peoples (8,4 % of total population) majority of them coming from Former Soviet Republics (Ukraine 3,5 millions, Kazakhstan 2,5 millions, Belarus, Uzbekistan, Azerbaijan less than one millions, followed by Georgia, Armenia, etc.) and only half of million people is coming for countries other the Former Soviet Republics (China, Turkey, Vietnam, North Korea, etc.).[12]

[12] Alin Chindea, Magdalena Majkowska-Tomkin, Heikki Mattila, Isabel Pastor, Migration in the Russian Federation: A Country Profile 2008, International Organization for Migration (IOM), 2008 http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=7&products_id=494 (8 April 2010).

Table 17: Foreign workers in Russia (main countries of origin) in years 2004-2006.

	2004		2005		2006	
	No.	%	No.	%	No.	%
Total	460,364	100.00	702,500	100.00	1,014,013	100.00
From CIS countries (total)	221,862	48.19	343,665	48.92	537,722	53.03
Including: Azerbaijan	9,844	2.14	17,302	2.46	28,319	2.79
Armenia	17,000	3.69	26,169	3.73	39,760	3.92
Georgia	3,789	0.82	4,314	0.61	4,928	0.49
Kyrgyzstan	7,988	1.74	16,228	2.31	32,981	3.25
Moldavia	22,689	4.93	30,613	4.36	50,958	5.03
Tadzhikistan	23,282	5.06	52,602	7.49	98,736	9.74
Turkmenistan	304	0.07	1,499	0.21	704	0.07
Uzbekistan	24,101	5.24	49,043	6.98	105,061	10.36
Ukraine	108,615	23.59	141,777	20.18	171,292	16.89
From other countries (total)	238,502	51.81	358,835	51.08	476,291	46.97
including: Afghanistan	2,521	0.55	2,874	0.41	3,840	0.38
Bulgaria	2,268	0.49	1,815	0.26	1,547	0.15
Bosnia and Herzegovina	1,583	0.34	2,084	0.3	3,667	0.36
Vietnam	41,816	9.08	55,554	7.91	69,076	6.81
Germany	1,506	0.33	2,132	0.3	3,094	0.31
India	2,109	0.46	2,729	0.39	3,802	0.37
Italy	758	0.16	909	0.13	1,097	0.11
China	94,064	20.43	160,569	22.86	210,784	20.79
Korea (PDRK)	14,736	3.2	20,057	2.86	27,666	2.73
Korea Republic	466	0.1	968	0.14	1,321	0.13
Latvia	1,158	0.25	1,176	0.17	1,128	0.11
Lithuania	4,429	0.96	3,894	0.55	3,428	0.34
Poland	1,328	0.29	1,432	0.2	2,141	0.21
Serbia and Montenegro	7,504	1.63	9,777	1.39	13,661	1.35
Great Britain	1,449	0.31	2,168	0.31	3,193	0.31
United States	1,943	0.42	2,859	0.41	3,724	0.37
Turkey	48,007	10.43	73,695	10.49	101,407	10.00
Philippines	112	0.02	692	0.1	2,559	0.25
Finland	1,259	0.27	1,290	0.18	1,264	0.12
France	1,137	0.25	1,614	0.23	2,576	0.25

Source: Federal Migration Service in IOM report
http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=7&products_id=494 (8 April 2010).

Due to this high number of immigrants Russia is benefiting from migration flows in her territory as Russia is also big emigrant country. In 2005 11,5 million Russian citizens have lived abroad (around 8 % of total population).
Main country of destination of Russian emigrants are Ukraine (3,6 million in 2001), Kazakhstan, Belarus, Israel, Germany (660,000 in 2006), Uzbekistan, United States (340,000 in 2003), Latvia, Moldova, Estonia.

Table 18: Russian emigrants by country of destination in years 1997-2006.

	1997	2000	2001	2002	2003	2004	2005	2006
Departures from the Russian Federation, Total	232,987	145,720	121,166	106,685	94,018	79,795	69,798	54,061
of which to:								
CIS countries	146,961	82,312	61,570	52,099	46,081	37,017	36,109	35,262
Azerbaijan	4,302	3,187	2,170	1,704	1,771	1,336	1,274	1,366
Armenia	2,578	1,519	1,362	1,114	1,098	654	620	686
Belarus'	18,928	13,276	11,175	8,829	7,016	5,671	6,034	6,318
Georgia	3,286	1,802	1,339	964	939	740	691	593
Kazakhstan	25,364	17,913	15,186	13,939	14,017	12,504	12,437	11,948
Kyrgyzstan	6,296	1,857	1,333	1,080	959	656	473	605
Moldova	5,715	2,237	1,660	1,385	1,234	907	786	636
Tajikistan	2,474	1,158	993	827	922	549	434	424
Turkmenistan	1,532	676	352	272	251	168	125	112
Uzbekistan	7,370	3,086	1,974	1,400	1,130	717	595	648
Ukraine	69,116	35,601	24,026	20,585	16,744	13,115	12,640	11,926
to non- CIS countries	86,026	63,408	59,596	54,586	47,937	42,778	33,689	18,799
Australia	297	176	184	144	146	167	209	167
Afghanistan	146	25	18	7	17	2	11	11
Bulgaria	668	180	163	133	156	160	124	116
Germany	48,363	40,443	43,682	42,231	36,928	31,876	21,458	8,229
Greece	886	314	204	190	186	157	155	139
Israel	12,873	9,407	4,835	2,764	2,048	1,733	1,745	1,408
Canada	1,333	841	812	725	701	783	628	552
China	1,222	658	156	151	86	154	456	196
Cuba	89	27	15	6	8	8	2	3
Latvia	636	365	311	256	259	226	211	223
Lithuania	1,162	376	262	293	268	282	213	228
Poland	376	135	84	80	72	57	76	84
Syria	256	54	60	66	58	55	54	42
United States	9,087	4,793	4,527	3,134	3,199	2,919	4,040	3,109
Turkey	356	104	96	80	88	60	85	78
Finland	923	1,142	980	1,110	737	910	737	695
Sweden	151	195	148	162	151	158	110	132
Estonia	702	385	402	321	351	265	225	270
Other countries	6,500	3,788	2,657	2,733	2,478	2,806	3,150	3,117

Source: Goskomstat website in IOM report
http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=7&products_id=494 (8 April 2010).

Table 19: Number of immigrants from Russian in selected EU countries in years 2004-2006 (if data available).

geo/time	2004	2005	2006
Czech Republic	:	3300	4675
Denmark	500	519	353
Germany	:	23078	17081
Ireland	:	:	:
Greece	:	:	2967
Spain	7354	7752	8041
France	:	:	3495
Cyprus	1007	1233	290
Latvia	:	223	803
Lithuania	:	294	396
Luxembourg (Grand-Duché)	:	94	127
Hungary	:	:	283
Malta	:	:	:
Netherlands	:	742	742
Austria	6500	3909	2438
Poland	:	:	138
Portugal	:	:	852
Romania	:	1	16
Slovenia	:	88	63
Slovakia	:	220	342
Finland	1939	2081	2146
Sweden	:	959	1393
United Kingdom	:	1490	:

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=migr_immiagec&lang=en (2 April 2010).

Detailed overview of both tables shows some differences in numbers. Sources of the data for the Table 18 prepared by IOM experts were national statistics of Russia, while source for data in Table 19 was Eurostat. It is impossible to assert that data in both Tables are not reflecting the true facts as in many cases migrants are not willing to register departure in county of origin as well as arrival in county of destination due for fear of undesired consequences. Nevertheless both Tables confirm the fact that most desirable EU countries for Russian emigrants are Germany followed by Spain, Austria, Czech Republic, Finland, France (Eurostat).

Russian emigrants are mainly labour emigrants and an average labour migrant is man with secondary vocational education and mostly his stay abroad will last up to six months (for details please see tables below).

Table 20: Russian emigrants abroad by gender.

	2005	2006	2007 (as of June)
Total	60,926	65,747	39,074
Male	50,722	52,185	30,243
Female	10,204	13,562	8,831

Source: Federal Migration Service in IOM report
http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=7&products_id=494 (8 April 2010).

Table 21: Russian emigrants abroad by educational status.

	2005	2006	2007 (as of June)
Total	60,926	65,747	39,074
Higher professional education	20,880	20,901	11,916
Secondary vocational education	23,786	23,381	13,379
General secondary education	15,821	20,857	13,705
No general secondary education	439	608	74

Source: Federal Migration Service in IOM report
http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=7&products_id=494 (8 April 2010).

Table 22: Russian emigrants abroad by duration of employment.

	2006	2007 (as of June)
Total	65,747	39,074
Up to 6 months	43,834	27,180
6 months - 1 year	14,949	9,728
1-2 years	1,651	258
2-3 years	1,843	373
3 years and more	3,470	835

Source: Federal Migration Service in IOM report
http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=7&products_id=494 (8 April 2010).

On the other side also the numbers of refugees and asylum seekers is considerably high in year 2006 almost 160,000 Russian citizens were staying abroad as refugee and more than 20,000 Russian citizens were asylum seekers. Most Russian refugees is living in United States and Germany while most Austria is most desirable country for asylum.

Table 23: Russian citizens as refugees and asylum seekers abroad.

Country of asylum	Refugees	Asylum seekers (pending cases)
Total	159,381	20,670
United States	86,914	680
Germany	25,347	506
Austria	8,723	6,977
Poland	6,024	1,814
France	5,945	1,914
Belgium	5,425	730
Other countries	21,003	8,049

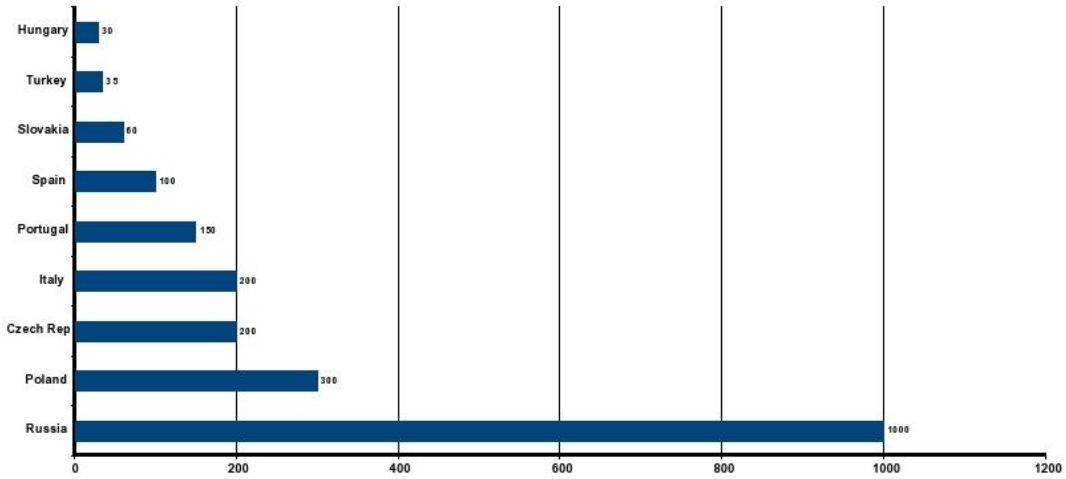
Source: UNHCR 2006 in IOM report
http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=7&products_id=494 (8 April 2010).

4. UKRAINE

Ukraine is transition country, country of origin and destination country for migrants. Despite great variety across source Ukraine is fourth country on the World regarding the number of international migrants. In 2006 Ukraine has 6,8 million of international migrants (14,7 % of the Ukrainian population which is one of the highest percentage).[13] The largest number of international migrants is from Former Soviet Republics (Russian Federation, Moldova, Uzbekistan, Azerbaijan etc., apart from Former Soviet Republics migrants are coming also from China, Jordan, India, Iran, Vietnam, etc.

In spite of huge number of international migrants, Ukraine is today mainly perceived as country of emigrants. In 2005 around 6 millions (13 % of population) Ukrainians were abroad majority as labour migrants. About 66,000 people were abroad as refuge or asylum seekers (2006). Main countries of destination for Ukrainian emigrants are Russia, United States, Poland, Israel, Kazakhstan, Moldova, Germany, Belarus etc.

Figure 8: Number of Ukrainians working abroad in 2002 (in thousands of people).



Source: Karpachova, N. (2003) On the Status of Observance and Protection of the Rights of Ukrainian Citizens Abroad: Special Report of the Ukrainian Parliament Commissioner for Human Rights (in Ukrainian), Intertechnology, Kiev in IOM report http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=41_42&products_id=492 (8 April 2010).

Table 24: Number of immigrants from Ukraine in selected EU countries in years 2004-2006 (if data available).

geo/time	2004	2005	2006
Czech Republic	:	23875	30150
Denmark	791	1225	1650
Germany	:	10881	7514
Ireland	:	:	:

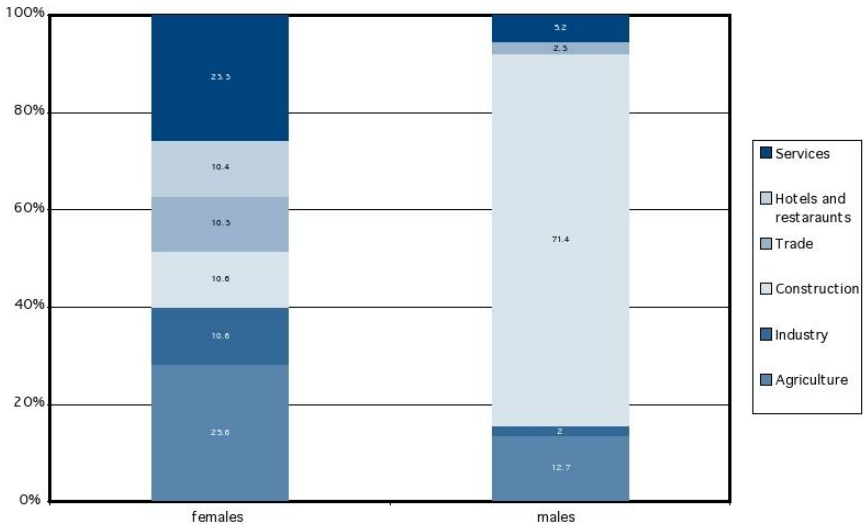
[13] Alin Chindea, Magdalena Majkowska-Tomkin, Heikki Mattila, Isabel Pastor, Migration in the Ukraine: A Country Profile 2008, International Organization for Migration (IOM), 2008, http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=41_42&products_id=492 (8 April 2010).

Greece	:	:	3290
Spain	11851	10015	10736
France	:	:	1110
Cyprus	321	367	137
Latvia	:	56	76
Lithuania	:	251	294
Luxembourg (Grand-Duché)	:	58	38
Hungary	:	:	2365
Malta	:	:	:
Netherlands	:	411	350
Austria	1335	1314	1017
Poland	:	:	609
Portugal	:	:	7063
Romania	:	27	38
Slovenia	:	372	357
Slovakia	:	597	1007
Finland	121	127	141
Sweden	:	299	424
United Kingdom	:	3001	:

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=migr_immiagec&lang=en (2 April 2010).

According to the Figure 8 Russia is far most attractive destination for emigrants from Ukraine (1 million in 2002), followed by Poland, Czech Republic, Italy and Portugal. Table 24 present number of Ukrainian citizens living in EU (2004-2006) where according Eurostat data most attractive country is Czech Republic followed by Spain, Germany, etc.
Despite variety of sources[14] Russia is far most important country for Ukrainian labour emigrants followed by EU countries on the second place.

Figure 9: Sectors of employment of Ukrainian labour migrants abroad (in per cents)



Source: Libanova, E., and O. Poznyak (2002) International Labour Migration of the Ukrainian Population, Kyiv)

[14] Alin Chindea, Magdalena Majkowska-Tomkin, Heikki Mattila, Isabel Pastor, Migration in the Ukraine: A Country Profile 2008, International Organization for Migration (IOM), 2008 (page 22-23) http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=41_42&products_id=492 (8 April 2010).

in IOM report http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=41_42&products_id=492 (8 April 2010).

Majority of Ukrainian men working abroad finds job in construction (three quarters), around 10 % of men works in agriculture, while only in rare cases Ukrainian men finds job in trade, industry, hotels and restaurant industry or other services (less than 10 % altogether). Majority of Ukrainian women working abroad finds job in agriculture and services (quarter each) other sectors (industry, construction, trade and hotel and restaurant industry) is presented by 10 % each.

5. BELARUS

Data on migration in Belarus are difficult to attain and vary from source to source. According to the data of the Word Bank and the Eurostat the Belarus in a net positive migration country. But for example source of World Bank[15] quoted that in 2005 that the number of emigrants (almost 1,8 million people) are bigger than number of immigrants (almost 1,2 million of people). Russia, Poland and Ukraine are top three countries of destination for Belarus emigrants as well as countries of origin for immigration to Belarus.

Table 25: Number of immigrants from Belarus in selected EU countries in years 2004-2006 (if data available).

geo/time	2004	2005	2006
Czech Republic	:	732	782
Denmark	75	49	50
Germany	:	2400	1647
Ireland	:	:	:
Greece	:	:	606
Spain	664	539	525
France	:	:	335
Cyprus	73	56	30
Latvia	:	32	60
Lithuania	:	329	647
Luxembourg (Grand-Duché)	:	32	22
Hungary	:	:	16
Malta	:	:	:
Netherlands	:	123	88
Austria	361	405	262
Poland	:	:	210
Portugal	:	:	134
Romania	:	0	0
Slovenia	:	16	12
Slovakia	:	29	44
Finland	28	44	43
Sweden	:	137	301
United Kingdom	:	0	:

Source: Eurostat http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=migr_immiagec&lang=en (2 April 2010).

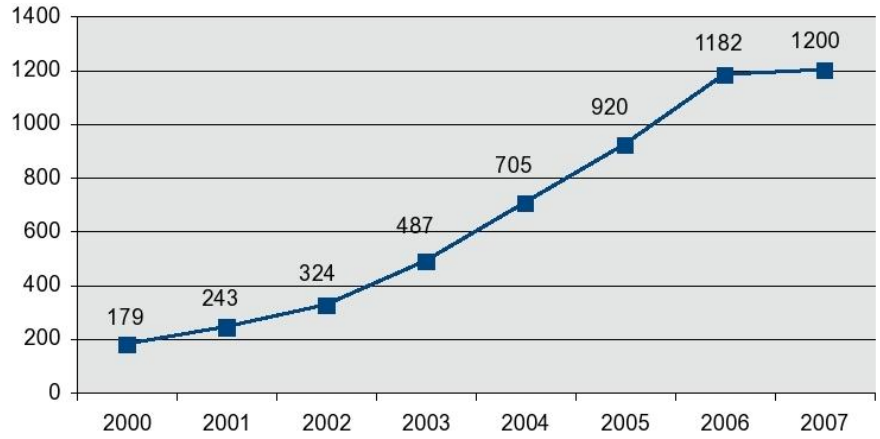
[15] Report on Belarus; http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/Belarus.pdf (15March 2010).

REMITTANCES

Remittances[16] are important source of income for households particularly in developing countries, but not just households also national accounts (GDP) are benefiting to a great extend as well. Analytical studies have shown that the flow of remittances is the least influenced by economic downturn and remains a stable source of income. Remittances have been identified as the third pillar of development as their volume is second to foreign direct investment and higher than overseas development assistance. Analytical studies have shown that remittances contribute to poverty reduction in home countries.[17]

The remittances flow to the Eastern Europe and Central Asia region has is constantly increasing and for example in 2004 the total amount was over 15 billions of US Dollars. Our four selected countries have some indicative characteristics in this regard.

Figure 10: Remittances to Moldova 2000-2007 (in millions of US Dollars).



Source: World Bank Migration and Remittances Factbook 2008; estimates for 2007 in IOM report; http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=7&products_id=491 (8 April 2010).

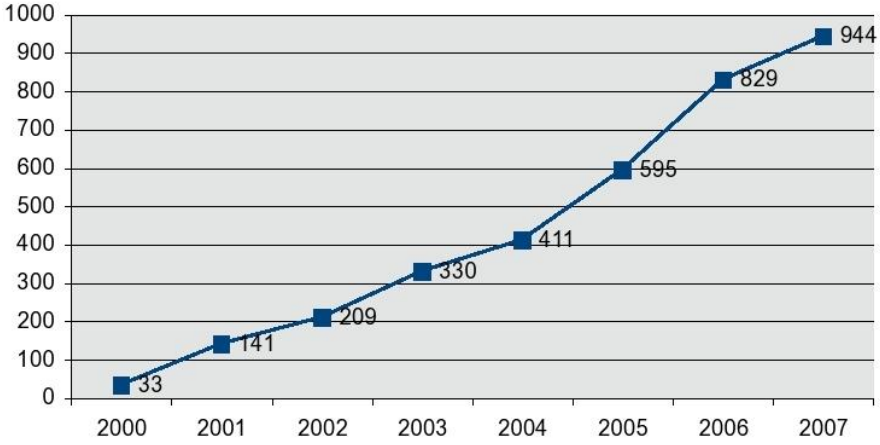
Moldovan national economy is heavily dependent on remittances inflow as are one of the most important drivers of Moldovan economic growth. Since beginning of the 1990's the amount of remittances is increasing (from 87 millions in 1996 to 179 millions in 2000 and to 1,200 millions of US Dollars in 2006). According to the World Bank ration of remittances to GDP after 2005 is one of the highest on the World (see also Figures 12 and 13). After late 1990 remittance financed over 50% of Moldovan trade deficit and represent more than 30 % of the Moldovan export.[18] It is necessary to add that above mentioned numbers and data are related to official data and there is several unofficial channels for transfer of money therefore the numbers and percentages are most likely to be even higher.

[16] Remittance is transfer of funds from the migrant the related household in the home country, independently from the source of his/her income (be it wages and salaries, social benefits or any other current transfer) and the funds are to be spent in home country.

[17] Alessandra Alfieri , Ivo Havinga and Vetle Hvidsten:Definition of Remittances and Relevant BPM5 Flows, United Nations Statistics Division, United Nations Department of Economic and Social Affairs, 2005; http://unstats.un.org/unsd/tradeserv/TSG%2002-05-Paris/tsg0502-16.pdf (28 March 2010).

[18] Alin Chindea, Magdalena Majkowska-Tomkin, Heikki Mattila, Isabel Pastor: Migration in Moldova: A Country Profile 2008, International Organization for Migration (IOM), 2008, http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=7&products_id=491 (8 April 2010).

Figure 11: Remittances to Ukraine 2000-2007 (in millions of US Dollars).



Source: World Bank Migration and Remittances Factbook 2008; estimates for 2007 in IOM report; http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=41_42&products_id=492 (8 April 2010).

In case of Ukraine data on remittances flows are vary from source to source. According to the Word Bank Ukrainian households have received in recent years similar amount (in total) of remittance from their members abroad as Moldova's but the impact on national economy is much smaller. The amount of almost 1 billion of US Dollars in 2007 present less than two percents of national GDP (see Figure 12). Other sources[19] indicate that the amounts are up to six times higher (up to 9 percents of GDP) in this case Ukraine will become top remittance-receiving developing country. Nevertheless the dependence of Ukrainian economy on remittances will not reach the Moldavian dependence in the near future.

Table 26: Remittances to Belarus 2000-2007 (in millions of US Dollars).

Remittances in million US Dollars	2000	2001	2002	2003	2004	2005	2006
Inward remittances flows	139	149	141	222	256	370	334
Outward remittance flows	58	77	68	65	82	94	93

Source: http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/Belarus.pdf (8 April 2010).

Also in case of Belarus the data are incomplete and could be misleading. Only source is World Bank which estimates around 330 millions of US Dollars of funds sent to Belarus in 2006, this present rather small impact on national economy (1 % of BDP in 2004). This data embrace only officially recorder remittances and it is expected that true numbers are much higher.

Table 27: Remittances in million of US Dollars to and from Russia (2000-2006).

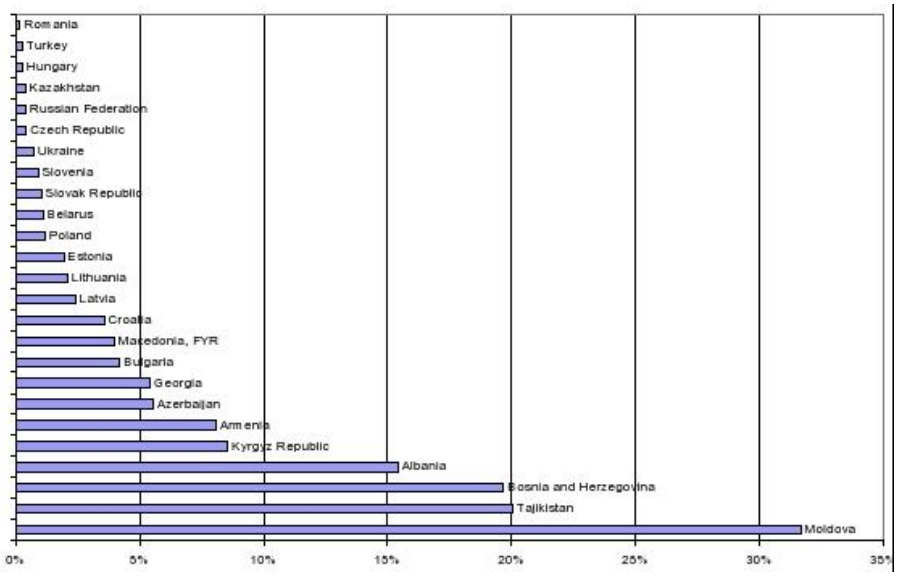
Remittances in million US Dollars	2000	2001	2002	2003	2004	2005	2006
Inward remittances flows	1,275	1,403	1,359	1,453	2,668	3,117	3,308
Outward remittance flows	1,101	1,823	2,226	3,233	5,188	6,989	11,438

[19] Alin Chindea, Magdalena Majkowska-Tomkin, Heikki Mattila, Isabel Pastor: Migration in the Ukraine: A Country Profile 2008, International Organization for Migration (IOM), 2008, http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=41_42&products_id=492 (8 April 2010).

Source: World Bank in IOM report;
http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=7&products_id=494 (8 April 2010).

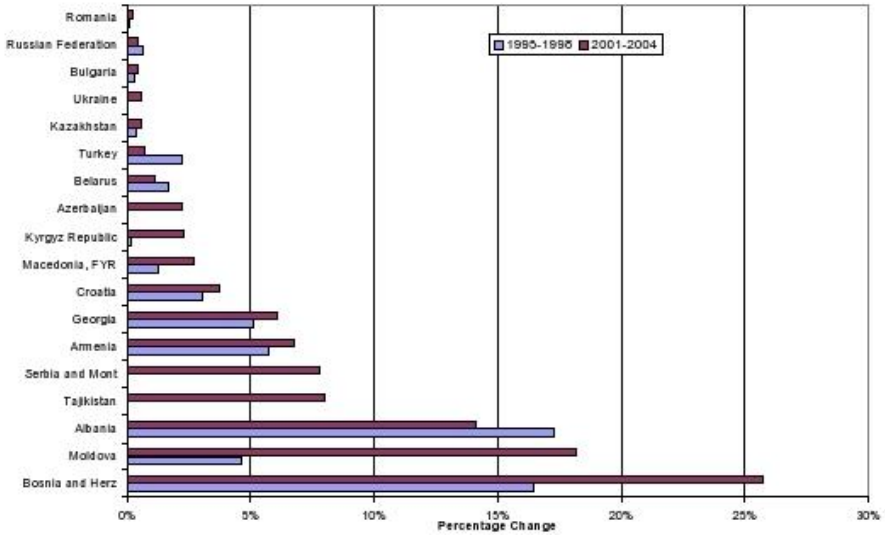
Officially recorded data (3,3 billion of US Dollars) of remittances in 2006 present small impact on Russian national economy (less then 0,5 % GDP) nevertheless the impact is getting gradually bigger. On the other side Russia is the only country where the amount of outward remittances exceeds the level of inward remittances recent years by almost three times in 2006.

Figure 12: Remittances in % of GDP in Eastern Europe and Central Asia Countries (in 2004).



Source: World Bank: Balance of Payments Statistics Yearbook in Remittances in the CIS Countries - A Study of Selected Corridors;
http://siteresources.worldbank.org/ECAEXT/Resources/publications/454763-1190042265575/FINAL_RemittancesStudy_July23_1.pdf (28 March 2010).

Figure 13: Growth rate of remittances in selected Eastern Europe and Central Asia countries (1995-1998; 2001-2004).



Source: World Bank: Balance of Payments Statistics Yearbook in Remittances in the CIS Countries - A Study of Selected Corridors;
http://siteresources.worldbank.org/ECAEXT/Resources/publications/454763-1190042265575/FINAL_RemittancesStudy_July23_1.pdf (28 March 2010).

Figures 12 and 13 confirm the fact that Moldova is heavily dependent on inward remittances flow. Both the growth and recent years and remittances as percentage of GDP are one of the highest on the world. To some source in 2008 only Tajikistan (46 %) and Tonga (39 %) have higher percentage of GDP as Moldova (34 %).
Unfortunately experts believe that world economic crisis will cut the total amount of remittances in following years and as well the growth rate will slow down. This decline will have huge impact on countries which are most dependents on this flow of funds. Especially Moldova and to some extend also Ukraine could face economic crisis due to the increased trade deficit and luck of new funds.[20]

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