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Migration, Mobility and Human Rights at the Eastern Border of the European Union - Space of Freedom and Security

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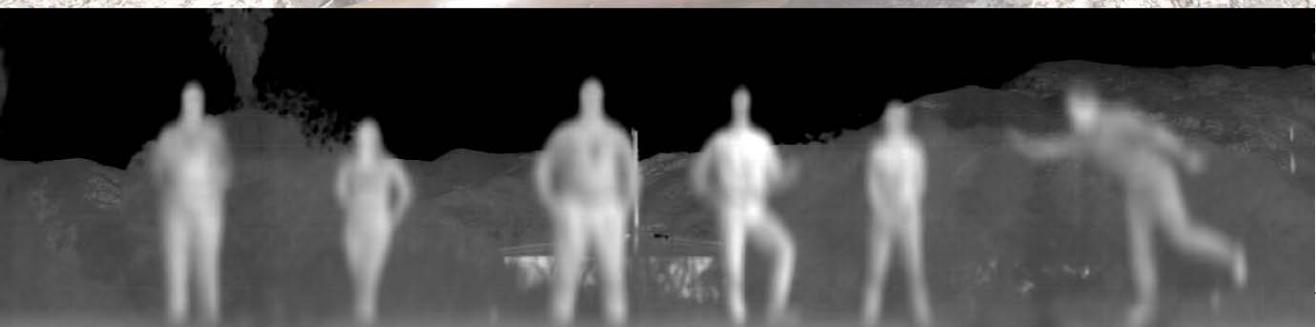
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Гранична зона
Border zone

SCHENGEN
Schengen

**Migration, Mobility
and Human Rights at the Eastern
Border of the European Union
– Space of Freedom and Security**

Edited by Grigore Silași and Ovidiu Laurian Simina



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at the Eastern Border of the European Union**

– Space of Freedom and Security

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EUW Editura Universității de Vest
Timișoara, 2008

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From the Editors

This edited collection of migration papers would like to emphasise the acute need for migration related study and research in Romania. At this time, migration and mobility are studied as minor subjects in Economics, Sociology, Political Sciences and European Studies only (mostly at post-graduate level). We consider that Romanian universities need more 'migration studies', while research should cover migration as a whole, migration and mobility being analysed from different points of view – social, economical, legal etc. Romania is part of the *European Migration Space* not only as a source of labourers for the European labour market, but also as source of quality research for the European scientific arena. Even a country located at the eastern border of the European Union, we consider Romania as part of the European area of freedom, security and justice, and therefore interested in solving correctly all challenges incurred by the complex phenomena of migration and workers' mobility at the European level. The waves of illegal immigrants arriving continuously on the Spanish, Italian and Maltese shores, and the workers' flows from the new Member States from Central and Eastern Europe following the 2004 accession, forced the EU officials and the whole Europe to open the debate on the economical and mostly social consequences of *labour mobility*. This study volume is our contribution to this important scientific debate.

Starting with the spring of 2005, the Jean Monnet European Centre of Excellence and the School of High Comparative European Studies (SISEC), both within the West University of Timișoara, have proposed a series of events in order to raise the awareness of the Romanian scientific environment on this very sensitive issues: migration and mobility in the wider European Space. An annual international event to celebrate *9 May - The Europe Day* was already a tradition for SISEC (an academic formula launched back in 1995 in order to prepare national experts in European affairs, offering academic post-graduate degrees in High European Studies). With the financial support from the Jean Monnet Programme (DG Education and Culture, European Commission), a first migration panel was organised in the framework of the international colloquium 'Romania and the European Union in 2007' held in Timisoara between 6 and 7 of May 2005 (panel *Migration, Asylum and Human Rights at the Eastern Border of the European Union*). Having in mind the positive welcoming of the migration related subjects during the 2005 colloquium, a second event was organised on 5 May 2006 in the framework of the European Year of Workers' Mobility: the international colloquium *Migration and Mobility: Assets and Challenges for the Enlargement of the European Union*. In the same period, the Jean Monnet European Centre of Excellence, SISEC and The British Council in Bucharest have jointly edited two special issues of *The Romanian Journal of European Studies*, no.4/2005 and 5-6/2006, both dedicated to migration and mobility.

Preliminary versions of many of the chapters of this volume were presented at the above mentioned international events. The papers were chosen according to their scientific quality, after an anonymously peer-review selection. The authors debate both theoretical issues and practical results of their research. They are renowned experts at international level, members of the academia, PhD students or experienced practitioners involved in the management of the migration flows at the governmental level.

This volume was financed by the Jean Monnet Programme of the Directorate General Education and Culture, European Commission, throughout the Jean Monnet European Centre

of Excellence (C03/0110) within the West University of Timisoara, Romania, and is dedicated to the European Year of Workers' Mobility 2006.

Timișoara, December 2006

FOREWORD

Dr. Peter van Krieken

By finally inviting Bulgaria and Romania into the European House, the enlargement process has come to a relative standstill (with the judges still being out on Croatia, Turkey, Serbia and others). A Union with 27 members is a sizeable one and urges Commissions, Governments, academics and citizens to re-think the free movement principles.

It is herewith recalled that the Union is above all about the free movement of goods, capital, services and individuals. It is about competition, but also about social cohesion, inclusion and togetherness. Indeed, it is about building a stable, roomy and development-prone house, in which everyone will feel at home.

With 27 nation states on board, the migration debate should continue. Not just about the internal migratory movements, that is from one EU-member state to another, but also from outside the Union to one of the Union-states. That debate should include issues like education, productivity, demography, effectiveness and value-sharing. It is, after all, often forgotten that a migrant spends utmost 22% of his/her time working. The rest is about commuting, free time, religion, cultural identity, political interests, the Diaspora and sleep/recuperation.

With this in mind a collection of contributions on *migration, mobility and human rights* at the new Eastern border it is timely and highly welcome. The editors should be commended to have been able to get such a diverse, yet highly qualified group of experts. Paying attention to the European migration space and the often inherent law of the jungle, in spite of the many rules and regulations is worth the while. At least as relevant is to share Western European experiences. During the many enlargement discussions and debates, it was often implied that the EU was constantly setting good examples and that ‘best practices’ should be copied by the candidate countries. In fact, the ‘old’ EU was utterly incompetent when it came to migration as it had been governed and dominated by a ‘politically correct’ lobby. Sometimes, somehow true experts suggested the members-to-be not to follow the old EU-practices, but to learn from the many mistakes made, and to set new, pragmatic examples themselves.

Indeed the new EU-members often find themselves between Scylla and Charybdis, as the choices available are not necessarily believed to be as benefiting as hoped. Most fortunately, though, the EU has come, to some extent, to its senses and the related directives would in law and in fact appear to be quite realistic and workable. A proper European Migration Express is now in making and about to take off.

Yet, trafficking and illegal migration will continue to exist. Also, the debate on the need for migrants from outside the Union continues unabated, but it is now realized that the focus should be on the highly qualified ones, rather than the uneducated ones. The new Member States will hence be confronted with (a) EU-based migration (read: the departure of many of their most qualified sons and daughters to Western European EU-members); (b) a challenging demography; as well as (c) the influx of illegals or rather irregulars who may wish to test the new waters.

Many tasks and policy decisions would appear to be ahead of us, challenging ones indeed as basic human rights should always be upheld.

This Volume greatly contributes to the debate and the alternate solutions and is hence a useful source for academics, students, politicians and members of the executive alike.

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Dr. Van Krieken is an international law expert who already in 1976 published his first book on asylum (and desertion in the context of the Vietnam War). He pursued a distinguished career with UNHCR and later joined his Government and Webster University. Many of his publications focus on asylum and migration (e.g. the well reputed and widely used *Acquis Handbooks*) but also his *Terrorism and the International Legal Order* (2002) as well as his *The Hague, legal capital of the World* (2005) deserve to be mentioned.

**PART I: A SURVEY OF THE
EUROPEAN MIGRATION SPACE**

THE POST-ENLARGEMENT MIGRATION SPACE*

Paolo Ruspini¹⁾

This paper is a preliminary attempt to look at the link between the post EU enlargement migration space and the ongoing process of setting up a common EU immigration policy, which has entered its second phase with the 'Hague Programme' agreed upon in November 2004. Our main argumentation is built upon a series of juxtapositions resulting from the interrelation of the national and supranational level of the EU policymaking: 'enlargement(s) and restrictions', 'visible and invisible borders', 'pendulum and pillar' so as to define the area of Justice, Freedom and Security being implemented since the meeting of the European Council in Tampere in October 1999. The theoretical framework relies upon the 'pendulum model' developed by Helen Wallace while studying the EU policymaking process. The model shows how this process results in an uninterrupted oscillation between two dimensions of governance – national and supranational – particularly in the field of immigration where the prerogatives of national sovereignty are hard to be left behind. Our conclusive argument advances that the EU should involve all the qualified actors either from old, new members or neighbouring countries in an effective 'open method of coordination' while attempting at harmonising immigration and asylum policy.

Keywords: immigration, EU enlargement, borders, policymaking, European identity

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What is Europe? Is it a geographic, economic, political entity, a category of thought or rather the space of 'freedom, security and justice' for the movement of goods and citizens belonging to the European Union? In case of persons, is this movement indeed 'free', 'just' and 'safe' for all the citizens that live in this space?

Since its foundation the transnational experiment named European Union (EU), tried to provide political form to the far ancient idea of Europe. It made so through a set of rules opposing the entropy of the international system, setting up a common market and so continuing the process of political integration sanctioned by the Treaties. These rules generated a thick network, which grew up surprisingly, even out of size, by entangling 'goods and persons' and sometimes slowing down the overall growth of the system. The geopolitical space of the European Union has expanded or decreased because of the historical circumstances and the political willingness of the ruling coalitions of its member States.

* This paper first appeared in Italian as "*Da dieci a venticinque: il nuovo spazio europeo*", in Fondazione ISMU, *Decimo Rapporto sulle migrazioni 2004. Dieci anni di immigrazione in Italia*, Milan: Franco Angeli, pp. 317-330.

In more than forty years of its recent history, Europe was a divided entity reproducing variables of political thought and socio-economic systems in contrast one with the other: East and West, planned economy and free market, totalitarianism and democracy. They are dichotomies, to a great extent, refuted from the historical overthrows of more recent years¹. The collapse of the Soviet paradigm in 1991 and the following gradual reunification of the European continent have not only altered forever a vision of the world, but they have also sparked movements of populations for long appeased and thus put in discussion migration regimes and impermeability of European borders. At the beginning of this process, Western European migration scholars were wrong footed, sometimes lacking knowledge and explanatory instruments to comprehend the migration dynamics generated from until then a little studied or even ignored reality. The intellectual curiosity, instilled by the ongoing epochal upheavals, has however prevailed on stereotypes and widespread misknowledges. The exchanges of scientific experiences, proceeding simultaneously with the stages of European integration, have therefore intensified from one side and the other of the two, only little before, distant worlds. The idea that mooted this paper is to look at the transformations of the EU migration space in the time that, from the 1980s, covers the 1990s to reach the decisive appointment of 1st May 2004, the day that sanctioned the fifth and more imposing EU enlargement. The last date is actually a starting point for the continent that urges to look beyond and try to identify the empirical form and political features of the new migration scenario of the enlarged EU.

1 'Enlargements' and 'restrictions' in the European Union

The path of European integration is not linear at all. Within its history, the European Union has undergone accelerations followed by slowing downs in the process of formation of a common economic and political space. It is actually true that this path, though still far from being completed, has never been arrested and from a certain point has begun a self-reproduction by generating new political and institutional forms, which are subject of the deep interest of IR scholars, particularly those of the 'neofunctionalist' school. Social phenomena and political processes, often complementary, supplied propulsion to the enlargement of the common European space: the processes of globalisation and economic interdependence on one side and the evident impossibility to adopt national immigration policies without externalising the control of the borders from the other. Europe, or better the European Union, has become therefore, unwillingly or aware, for some States a miraculous 'panacea' and for

¹ Exceptions are not missing if one thinks about Belarus of Alexander Lukashenko.

others an improvident solution by which to mitigate the malaises and the breathlessness suffered from the systems of national governance. Naturally, the characters of ineluctability and pragmatism at same time of the last statement, do not certainly aim to diminish the propulsive role of the ideas and the ideological afflatus lavished in time by the advocates of European integration. Scope of this writing is not to philologically reconstruct any development of European integration in the migration sphere, but instead to put forward some reflections and reading clues. However, to the ends of a correct analysis, some contextualization is necessary.

The 1980s, starting point of our discussion, saw an acceleration of the political union with the introduction of the concept of ‘variable geometry’ and the publication of the ‘White Book’ of Delors Commission, which includes detailed proposals for realizing a common market. After the accession of Greece in 1981, which brought to 10 the EU member States, Spain and Portugal acceded as well in 1986. The same last year the European Single Act has been enacted. It modifies the Treaty of Rome by introducing the ‘qualified majority voting’ for the harmonization of legislations. This Act, strongly wanted by Kohl and Mitterand, opened the road to the creation of a big common market without frontiers expected for the 1st January 1993 (Motta, 2003). The Delors Plan, adopted in 1989, prepared the setting up in three stages of the Economic and Monetary Union, while the Schengen Convention, which includes the total abolition of the border controls, has been signed on 19th June 1990. The last aim was reached only in 1993, after the signature of the Treaty of Maastricht (7th February 1992) that sanctioned the freedom of movement for persons, goods, services and capitals.

Leaving for a moment this historical reconstruction, the developments of the European integration process have been distinguished by two enlargements to three southern European countries only five years one from the other and by the signature of the Schengen Convention that closes the 1980s and smoothes the way for the important institutional turning points of the 1990s. It is interesting to notice that the economic situation of Greece, Spain and Portugal at the time of their EU accession and its difference with the member States was not so dissimilar compared with that between the EU-15 and the new Central and Eastern European (CEE) members in 2004. Certainly, one should proceed with caution in making comparisons between socio-economic models characterized by such a different historical experience. In the case of CEE countries, these models have been shaped for long by planning mechanisms historically absent in the West. In any case, a calculation only ‘apparently’ suggested by fears classifiable as irrational, urged then as now to raise distinctions and restrict the freedom of movement of workers from the new member States for subsequently re-negotiable transitional periods so as to protect from imbalances the labour markets of the old member States. How

this decision was groundless has witnessed by the scarce migratory flows once the freedom of movement for workers of the three Mediterranean Countries was sanctioned (van Selm and Tsolakis, 2004). On the contemporary level, the groundlessness of restrictions seems instead witnessed by all the projections, sector studies and econometric calculations carried out before the 2004 Eastward enlargement. However, past and recent estimations have not been enough to prevent a sort of ‘domino effect’ in urging the member States to apply the restrictions on the eve of the May 2004 enlargement. The ‘invasion syndrome’ and recurrent use of hyperbola like “big-bang” borrowed from astrophysics, inexorably unmask the hypocrisies of national immigration policies and the selfishness of member States when their own prerogatives of national sovereignty are at stake.

In our opinion, it will be more interesting to look at the eventual reproduction of return migration scenarios, as in the case of Greece, Spain and Portugal when the internal economic conditions became competitive compared with those of the destination countries. They are hypotheses to be verified on the ground of the characteristics of the CEE migratory regimes and the logics of the pre- and post-enlargement scenario.

One observation is to be added on the openly evident contrast between the EU set standards that advocate for the freedom of movement for all the workers who live and reside in the Union, and the distinctions exercised from the Member States by repositing the transitional periods. They seem to deny and contradict the freedom of movement in selective terms, i.e. when the Union has been enlarged to countries whose economic development is inferior to the member States average and the related migratory potential ‘apparently’ turned out only increased by virtue of projections based on their history of emigration countries. It is actually worth remembering that, when in 1995 Austria, Finland and Sweden acceded the Union, the need to adopt restrictive measures did not appear, as well as in 2004 as far Malta and Cyprus are concerned.

There is moreover to be noticed a sort of myopia in writing analysis and forecast only on the basis of wage differentials. It is worth remembering that migration is in fact a more complex phenomenon. The migratory potential, i.e. the intention to carry out a migratory project, sometimes does not materialize because of the existence of a multiple series of factors as the characteristics of the job market², the absence of well-established ethnic networks or the presence of cultural and linguistic barriers in the countries indicated as probable destination (Kaczmarczyk, 2004). In this regard, we fully share the statement of Claire Wallace (1999) according to: “*Being poor is not enough to become a migrant*”.

² One should not neglect that labour migration is first of all demand driven.

Saying this, the partial negation of the Treaties' postulate, which has sanctioned the freedom of movement, throws a gloomy light on the EU Charter of fundamental rights (i.e. the nucleus of the European Constitution) and raises questions on the compatibility of any unborn political union with criteria of democratic inclusion typical of a federal structure.

2 'Permeability' and 'impermeability' of the enlarged EU borders

The 1992 is an important year in the creation of a united Europe. With the signature of the Treaty of Maastricht, the member States allow the European project to take a qualitative leap towards the political unification. The European Union is actually born only at that time. The three communitarian pillars of the Treaty put again forward the supranational cooperation in the fields provided for by the Treaties of Rome and Paris and they sanction it in the Common foreign and security policy and Justice and home affairs. Therefore, in the 1990s and until the turning point of the end of the decade, the intergovernmental cooperation between member States crystallized in a definitive shape. The intergovernmental character of this cooperation has been sealed from the acknowledgment of immigration and asylum as matters of "common interest" and not of "common policies" (Geddes, 2003). The existence of the unanimity rule slowed down the adoption of decisions and limited the role of the EU institutions.

In 1993, when the Treaty of Maastricht entered in force, the summit of the European Council in Copenhagen gave start to the EU enlargement by establishing the convergence criteria to accede the Union³. It is the beginning for the CEE countries of a slow process of adaptation of their migratory legislations, so as to respect the parameters included in the *acquis communautaire*. As a matter of fact, it is often question of inventing from scratch migratory policies until then only focused on the management of emigration and exit controls (Kępińska, Stola, 2004). From the beginning of the 1990s, the countries of this region, following the southern European experience, became countries of immigration and emigration at same time, sometimes reversing the net migration (Ruspini, 2003a).

In the EU migration space a 'Copernican revolution' took place in the middle of the '90s, which would have soon transformed the global migration regime of the continent. In 1995, for example, ten years after its signature the Schengen Convention entered in force, covering common external borders, common rules in visas and asylum, controls of the external borders and free movement of persons. The 'Schengen Information System' (SIS) has been established to match freedom and security. It is directed to the collection and

³ The 1993 Copenhagen European Council created a framework for the EU enlargement by spelling out the principle of conditionality based on three crucial requirements for accession: the development of democracy (with emphasis on human and minority rights), the existence of a functioning and competitive market economy, and the capacity to implement the *acquis communautaire*.

exchange of personal identification data and the description of lost and stolen objects. Limited to the five 1985 founding States (France, Germany and Benelux), the Schengen space has progressively extended to nearly all the EU member States (with the exception of the United Kingdom and Ireland). Thus, also the southern European member States, part of that Mediterranean model born at the beginning of the 1980s by grouping common migratory characteristics and experiences, followed paths not dissimilar from those of the CEE countries to adapt their mechanisms of borders control. The reactive character of many of these legislative dispositions has been not always thought an optimum method for implementing suitable, and not imposed by historical contingencies, immigration policies (Kępińska, Stola, 2004).

The need to satisfy parameters fixed from the above, at the EU level, and missing the advice of the directly interested countries, has pushed on several occasions to postulate policies that often do not adequately hold into account the historical characteristics of the region and the displacement of ethnic minorities outside the borders of origin as a consequence of population movements in the past century. The management of CEE ethnic minorities cannot therefore be conceived on the basis of the Western European experience, because the terms rarely coincide and the range of rights which the minorities of the region aspire and those that the governments of their countries of origin would be willing to grant are much wider compared to the Western European standards (Górny, Ruspini, 2004). Perhaps in the EU enlargement process, it would have been useful to set up *ad hoc* meetings and exchanges of experiences at the EU level between all the actors concerned with the policy-making process, immigrant communities and ethnic minorities from Eastern and Western Europe included. In this way, experts of the candidate countries would have been effectively involved in the immigration policy formation. This kind of active involvement would have certainly worked as a stimulus to facilitate the search for solutions and compromises in the diplomatic controversies happened during the enlargement process.

The above observations do not aim at disclaiming the role of the 'reactive' element in spurring the formation and harmonization of member and candidate countries immigration policies. This is certainly a first goal, though not definitive, however important, when so different starting premises are considered. The alleged facts testify also the influence that politics, and not only the market rules, carry out in shaping the migratory flows and space of that singular model of supranational political integration that is the European Union. Not always this (re)shaping has happened in the righter and wishful direction, so as to match the general with the specific interest of immigrant groups and ethnic minorities. At any rate, it is already an important success that this policy-making process has started.

On the basis of what is set out above, it is therefore self-evident the role that the Schengen acquis or the convergence criteria play in shaping the EU borders. At the beginning of the 1990s, CEE citizens have enjoyed an unexpected freedom of movement towards the West generated by the removal of the exit controls. Many, taking advantage of the concession of temporary permits, stayed in Western European countries, in particular where the geographic proximity, the historical and cultural ties and the economic attraction of the labour markets made the stay reasonable and wider the employment possibilities. The joint mix of absence of exit controls and adoption of liberal immigration policies by several western European countries made therefore possible and even sparked the migratory flows towards the West.

Moreover, in the decade that goes until the beginning of the 1990s, the CEE migration space worked nearly exclusively by internal rules, in other words the population movements were mainly restricted to the region, as a direct consequence of the lack of exit controls and passport visas for acceding the West. These dynamics were functional to Western Europe. The region acted, in fact, as 'buffer zone' between East and West and so it was until 1st May 2004. The Schengen barrier played for long the role of propeller for CEE migratory flows. These flows were circular, 'incomplete', triggered by the exploitation of wage differentials at the time of the transition of the CEE economies and the contemporary backwardness and progressive decline of the bordering former-Soviet republics.

An 'epos' made of peddlers, small 'entrepreneurs', asylum seekers, ethnic networks and not always legal trades between bordering regions of Eastern Europe was born, whose fascination of study and research has remained untouched although the time goes by. Therefore, what at first was temporary mobility slowly began a transformation in settlement implying stable stay. The index of mixed marriages between Poles and Ukrainians, for instance, increased as a result of the prolonged stay and the new Eastern flows, thus demonstrating the importance of this particular kind of flows in the overall migratory typology originating from the former Soviet Union (Górny, Kępińska, 2004).

Soon the CEE countries will show characteristics and profiles similar to Western Europe in their way of experiencing the migratory phenomenon. Castles and Miller (1993) identified the constant factors associating countries that reached various stages of their immigration experience so as to include:

- A dynamic process of migration, which transformed the temporary entry of workers and refugees into permanent settlers who form distinct ethnic groups;
- The economic and social marginalization of the immigrants;
- Community formation among immigrants;
- Increasing interaction between immigrant groups and the local population;
- The imperative for the state to react to immigration and ethnic diversity (Castles, 1995: 293).

They are stages that the two authors have found, in different way, in all the Western European countries, and that the globalisation of migratory dynamics is gradually exporting to the CEE region. They are hypothesis to be verified on the ground of the enlarged migration space being synthetically analysed herein. In this space, delimited by new borders, different migratory experiences will tend more and more to converge until the similitudes as listed by Castles and Miller will prevail over the differences.

In our opinion, it is not so much the next migratory convergence to debate, but the identity of the European migration space and its borders. The reshaping of this space and the Eastward shift of the EU border has actually generated dynamics of inclusion and exclusion to be observed with careful attention. In this regard, our opinion diverges from whom, by declaring the superiority of the market laws on politics, support the ‘uninterrupted’ porosity of the EU border without making any distinction between the time before and after the EU enlargement (Favell, Hansen, 2002). There is nothing to object as far the porosity of the borders in the fifteen years before the enlargement. We are instead convinced that the migration dynamics and regional networks have suffered meaningful consequences because of the EU enlargement, and they require political interventions to face the process of borders reshaping and the ongoing mechanisms of enclosure. In other words, we argue that factors of inclusion and exclusion generated by the 2004 enlargement created ‘visible’ borders, like the one between Poland and Ukraine, and equally ‘invisible’ borders, as those generated by the simultaneous existence of wage differentials and the new boundaries of entry and mobility. The differences of socio-economic development, though inherent to the expansion processes, endanger the cohesion and social tissue of culturally and geographically similar communities and the well-established exchange and mobility practices between borders. As a matter of fact, it is not only question of East-West borders, but of North-South geopolitical spaces, as remarked few months before the Eastward enlargement, by some Maghreb colleagues complaining the insufficient attention reserved to the Southern side of the Mediterranean by the EU processes of ‘inclusion’. There are not doubts that the process of European integration is made of tight interdependent variables (Wallace H., 2001), but one should not forget that the meaningful, though not complete, solution of the East-West difference with the EU enlargement, leaves the North-South difference unsolved.

Though mistrusting the porosity of the CEE borders, we cannot imagine Europe like a ‘Fortress’. More realistically, we hope that the Union will do its best to re-establish an absent or forever lost socio-economic equilibrium. For example, the EU aim would have be to prevent that the bridge demarcating the border between Narva in Estonia and Ivangorod in

Russia, two urban agglomerates making up a single city until 1st May 2004, increases again (Visetti, 2004) metaphorically becoming a deep moat between Catholicism and Orthodoxy, European Union and Russia.

3 The ‘pendulum’ of Helen Wallace and the ‘pillar’ of Justice and home affairs

The pendulum fluctuates attracted by two opposite magnetic fields. In the same way, Helen Wallace (1996: 13) sharply noticed the fluctuations resulting from the shifts in interests and loyalties in the process of policy coordination of the EU field of Justice and home affairs. These fluctuations happen during the policy formation/harmonisation between the national and transnational/supranational dimension. The European institutions on one side and the national level governance on the other (with the minor ‘magnetic fields’ of the regional and local dimension) are two opposite poles in competition for the overall field decisional spaces. The probabilities that one or the other dimension prevails and the policies are adopted depend on the strength of the two magnetic fields. If both sides are weak, no coherent policy will emerge either at supranational or national level.

The ‘pendulum’ of Helen Wallace is based on a series of premises, which we have indirectly pointed out, like the political inadequacy of the national States, the impact of globalisation and the specific features of the European region (Apap, 2003). The pendulum movements illustrate with precision the opposite tensions under way during the process of European integration: its progresses at times regular, other times irregular, the fluctuations and the immobility. This metaphor is also useful to illustrate the contrast, which became more and more intense from the second half of the 1990s, in the creation of the EU immigration and asylum policy between the intergovernmental and supranational dimension. A contrast that, in the light of the structural characteristics of the model, does not anticipate a definitive solution in favour of one or the other dimension, but rather a continuous fluctuation with sometimes the prevailing of one, sometimes of the other, depending on the historical circumstances and the political and economic interests at stake.

In this context, some more precise information is necessary so as to contextualise the fluctuations in this field of policy. After the entry in force of the Treaty of Maastricht, the 1990s saw the 1996-97 European intergovernmental conference that prepared the Treaty of Amsterdam. On 2nd October 1997, the treaty was signed and on 1st May 1999 entered in force. The European Union became ‘a space of freedom, security and justice’. Justice and home affairs acquired a wider field of action and more specific objectives, the European institutions a more balanced role and a more effective and democratic method of work had been planned

(CE, 2002a). Moreover, the European Commission acquired wider prerogatives and a new Title (IV) included in the Treaty, gathered freedom of movement, immigration and asylum. The Schengen agreements were integrated in the legal frame of the *acquis* of the European Union. Aims to be achieved are “free movement of persons” (EU and third country residents) and “security through the fight of crime and terrorism” (art. 2 of the Single European Act). The introduction of a scoreboard, the so-called “Scoreboard to Review Progress on the Creation of an Area of Freedom, Security and Justice in the European Union” should guarantee the periodic control of the work in progress.

It is the beginning of the ‘communitarisation’ of the immigration policies. The praxis of intergovernmental consultation seems definitively to fade on the horizon. In fact, in five years from the entry in force of the Treaty of Amsterdam (2004), the decisions on immigration and asylum will have to be adopted only with qualified majority. Besides, the European Council will have to assure the effective freedom of movement, the control of the borders and the implementation of all the other measures in the field of immigration and asylum (Geddes, 2003). In October 1999, a special European Council gathered in Tampere with the aim to make the EU into ‘an area of freedom, security and justice’. One of the priorities of the Tampere Council is the EU invitation to elaborate a common policy on asylum and immigration. The aim of the common policy in these specific fields implies the creation of “a harmonized and common way for immigrants and asylum seekers to obtain entry to all EU States” (CE, 2002b). The main intervention areas to reach these goals have been carefully listed (for instance, Górný, Ruspini, 2004: 251).

In short, with the signature of the Treaty of Amsterdam and the following meeting of the European Council in Tampere, a new institutional revolution seemed to overturn from the foundations the European institutions and to start an unprecedented acceleration in the EU process of decisional coordination in the field of asylum and immigration. Unfortunately, things are not exactly in this way. The subsequent European Councils, in the years from 2001 to 2003, showed slowing downs (Laeken) in asylum and immigration policy, followed by the determination to go on (Seville) or again by the acknowledgment of the progresses made with the approval of so long waited directives like the one on ‘family reunification’ or ‘the status of third-country nationals who are long-term residents’ (Thessaloniki). In fact, what is clear from the analysis of the documentation produced in these and other venues is the member States’ determination not to abdicate from their own prerogatives of national sovereignty by keeping the control of a sensitive field as immigration. The resounding declarations of principle included in these documents often clash with the daily practices of the national governments, so as to urge the European Commission more than once to invite the member States not to

adopt legislations in the migratory field that might, to a certain extent, contrast or hinder the ongoing supranational harmonization.

The metaphor of the Wallace ‘pendulum’ thus seems to find in these statements and in the contradictory results listed so far, a reason of being and a true confirmation. In spite of the harmonization efforts, it is therefore legitimate to argue that the progresses in this area are, at the end, the result of a combination of intergovernmental and supranational political decisions (Jordan, Strâth and Triandafyllidou, 2003).

On 1st May 2004, the conclusion of the first imposing phase of the process of the EU enlargement with the accession of 10 new member States took place at the same time with the entry in force of the Treaty of Amsterdam. The enlargement, with the revision of the borders and the external relations of the Union, had raised hopes in the setting aside of another piece of the member States sovereignty and the intensification of efforts for the common policy formation even in areas like immigration and asylum policy (Ruspini, 2002). In fact, the number of directives adopted in this field is, all in all, scarce in comparison with the legislative proposals put forward since Tampere, while the decisional mechanisms, at the moment, have not been changed as originally expected. The inability of the European Convention to impose the qualified majority voting on national States as *condicio sine qua non* in some sensitive decisional fields of the new European Constitution⁴, showed unavoidable repercussions on the expected deadline for the entry in force of the Treaty of Amsterdam. The agreement reached by the European leaders on the so-called ‘The Hague Programme’ during the 4th and 5th November 2004 summit in Brussels, fixed the new 2010 deadline for the adoption of common policy solutions in the field of asylum and immigration.

The approval of this new agenda has allowed the adoption of qualified majority decisions in the field of border controls, illegal immigration and asylum starting from 2005. The area of legal immigration remains instead subject to the unanimity rule and the right of veto until the European Constitution will not be approved. There is a predominant feeling that counterbalances, slowing downs and distinctions on principles will be able to influence future political choices and they will allow the ‘pendulum of Wallace’ to fluctuate again.

4 Forms and features of the post-enlargement migration space

Being the first phase of expansion of the EU migration space concluded, it will be interesting to notice how the new post-Tampere agenda will be put into practice and which impact will have in the construction of the common immigration policy. In this context, we limit our

⁴ Adopted from the 18th June 2004 Intergovernmental conference, the new European Constitution should enter in force on 1st November 2006.

suggestions to few remarks on the migratory phenomenology of the enlarged EU and to the identification of variables providing some interpretation for the future scenario. It is, in fact, not easy at all to make forecast in the migration field since those variables at stake are often of multiple nature. Moreover, our estimations are suffering from the influence of contingent factors, as the observation of the migratory dynamics of the just concluded enlargement, and they still lack of suitable elements for a wider vision. To make clarity, first of all, we will try to focus on a series of points.

- The EU migration space has been enlarged and it will be enlarged again to Southeast;
- The ‘buffer zone’ between East and West moved further eastwards;
- The borders are not porous as before, at least in this EU border zone;
- Russia and the former-Soviet republics are still lacking suitable laws and infrastructures to carry out the role of ‘buffer zone’ for long covered by the CEE countries before the EU enlargement;
- Migrants coming from the former-Soviet republics and the extremities of the Asian continent travel in the huge geographic spaces of Russia and the Soviet former-republics looking for a landing place in the West;
- Centrifugal migratory dynamics (towards the West) are added to centripetal dynamics (towards the ‘core’ of Russia) making the overall Eurasian migration space extremely fluctuating.

In this context, the demographic and economic differentials between border regions of the post-Soviet universe spark the migratory flows. The absence of controls in entry and the strict controls in exit towards the West, sometimes transform the transit in the post-Soviet space in stay of indefinite length. According to the most reliable estimations, 4/5 million immigrants are irregularly present in the territory of the Russian Federation (Ivakhniouk, 2003). It is an irregularity-settling tank that should raise greater interest from the EU side.

At the southern borders of the European continent, the Mediterranean Sea separates opposite poles of economic development. The Maghreb presses to tighten closer cooperation ties with the countries of the north side of the Mediterranean, while migrants coming from sub-Saharan Africa try desperately to move towards the Schengen space (Barros, Lahlou, et al., 2002). The Maghreb countries are therefore assuming characteristics of transit typical of migratory phenomenology already known in other geographic areas of the European continent.

Which is the EU answer to these described dynamics? The concession of ‘facilitated transit’ permits for settling controversies like the one involving the Kaliningrad region, enclave between East and West of the enlarged Union, or to allow the Russians of Ivangorod

to visit their neighbours of Narva, are only extemporaneous solutions for controversies of small or medium size intensity. These solutions certainly represent best practices to face similar cases in other EU zones, but their complexity and limited operational sphere show undoubtedly several limits.

In our opinion, the ‘neighbourhood policy’ prepared for the EU enlargement still show too many vague characteristics. The Union has planned *ad hoc* budget lines for implementing these policies by taking advantage of the experience accomplished with other financial instruments like Phare, Tacis and MEDA (CEC, 2004). In any case, it is not only a problem, though important, to identify and display adequate financial instruments for policy implementation. As a matter of fact, our impression is that these overall policy proposals of the European Commission, which should smooth the way for the neighbourhood policy, still lack a real vision. They do not seem able to avoid the methodological superficiality and scientific vagueness of expressions like “ring of friends” to define the countries bordering the European Union. It is actually not always question of “friends”, if one, for instance, think about the strongly authoritarian regime of Alexander Lukashenko in Byelorussia and his scornful and definitely little conciliating attitude towards the EU but also towards Russia.

The existence of an unstable and uncertain world on its doorstep should press the EU to face in terms of actual politics, and not only of economics, the challenges and problems of the “neighbourhood”. In the area closer to our interests, i.e. immigration policy, one should think from now about multilateral solutions that effectively involve all the parts interested in the policy-making process. A solution could be to use the “open method of coordination” (CEC, 2001) for the EU immigration policy not only in ‘horizontal’ way, i.e. by involving all the actors at national level in the setting up of immigration policy, but also in ‘vertical’ way by involving the non-governmental and international organizations, the migrant associations and the ethnic minorities operating at transnational level. This coordination should take place by stimulating at the same time the participation in the process of harmonization of actors of all the interested countries, either old, new EU members or neighbouring countries that probably will not become members in a near future.

The challenge of new enlargements is waiting: the expected 2007 one to Rumania, Bulgaria and possibly Croatia and the one to Turkey whose accession date has still not been fixed. Turkey seems to raise more problems, because of its demographic potential and above all its identity characteristics of a Muslim country in between East and West. It is worth remembering that, only few years ago, the fear that some million Turkish citizens residents in Germany for long could acquire the double nationality and therefore make fully weigh their electoral power, forced the adoption of a compromise model in reforming the citizenship law.

The new law adopted for the first time some elements of *jus soli*, but the hypothesis of a double passport originally included in the reform supported by the red-green coalition, has been rejected. In the following years, advocated by the Christian-democratic and social Christian party a new debate started on the country identity and the concept of *Leitkultur*, as ‘dominant culture’ whose roots date back, according to the exponents of the two parties, to the Christian tradition of Germany.

The German case is only one example. Other western countries are living equally strong conflicts on issues of identity that the events following September 11th have particularly exacerbated. The conditions of immigrant communities and ethnic minorities living in the European Union became harsher. The multicultural practices are constantly put in discussion and face more and more difficulties in being really implemented (Rex, 2004). The Turkish issue is added to this composite picture, forcing the European Union to rethink itself, its identity and borders. Finally, only when the debate on the European identity will be entirely exhausted, the practical problems of the national and supranational political spheres could aspire to a suitable solution.

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THE SOCIAL CONTEXT OF EUROPEAN EAST-WEST MIGRATION

*Liliana Hiriş**

This paper puts economic migration in a social perspective and constructs a framework that accommodates the various interests and externalities of international mobility at the level of a destination country. It thereby elaborates on the concept of positive effects of social networks, correlated with potential negative wage effects and agglomeration diseconomies in areas receiving immigrants. At the same time, the paper particularises the analysis to the case of one EU enlargement country, Romania. The findings in these case point to the crucial role of social networks in the choice of destinations in the EU. They also allow for the explanation of why migrants cluster in destinations with moderate relative income opportunities, based on better prospects of living in an accommodating social environment. Furthermore, this paper points out that various groups in the society of destination have different preferences over the optimum total number of migrants. However, a sustainable number of immigrants is ultimately to be found beyond what might seem optimal for individual groups. That could be also above what new immigrants themselves perceive as the best level of immigration. In the context of freedom of movement that means that social interaction would ultimately determine which the ideal number of new migrants should be. Thus, immigration ceases at the level where the social context finds this to be in the interest of the wider society in an integrated space.

Keywords: labour migration, social networks, EU enlargement, Romania

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1 Introduction

The enlargement of the European Union (EU) in 2004 has brought new dynamism into the integration process at European level, but also opened a series of questions regarding the sustainability of institutional structures and economic processes within the Community. One essential concern remains the way in which the accession of Central and East European Countries (CEECs) is shaping labour mobility at EU level. After decades of low internal migration in the EU, enlargement is expected to reverse the trend, and push labour mobility rates in Europe to new highs.

Generally, studies of economic migration look at the effects of the process on either the society at origin, or at destination. However, there exists an ‘intermediary space’, inhabited by migrant communities. This paper attempts to bridge the gap between home and

destination societies surrounding migrants, by introducing migrant networks. It also asserts that in the context of EU enlargement, where new member states gradually become part of a European free migration space, the effects of migration on old and new member states should be treated in the unified framework of the integrated EU space. This paper thus analyses the way in which workers from the East are received by West European nationals, at the same time as questioning the role of migrant communities to new migration from CEECs. Thereby, migrant networks become the link between sending and host societies. In this context, the continuation of migration to a particular destination will be treated here not simply as the result of migration intentions at origin, but also as a reflection of attitudes towards migration abroad, and more broadly, as a result of social networking.

Expectations and reality about migration are not always evolving hand in hand. Perceptions about immigration can be false or exaggerated at the level of the public in destination countries. Migrants themselves often have an unrealistic image about conditions in the country of destination, before leaving their origin. On the other hand, individuals have a natural propensity to stay put. They prefer to live in a familiar environment, surrounded by friends, family, and people speaking their native language, as opposed to moving to an uncertain destination. The ensuing opinions and preferences of the public towards migration can be treated as an expression of the social context of migration. In this role, public attitudes act sometimes as a push factor, and on other occasions, as a deterrent to international mobility. Social factors ultimately complement, or rather substitute other incentives to economic migration - such as wage differential and further economic and political factors.

The social context in the potential countries of destination can also influence the decision of an individual to choose one destination over another, as well as shaping the length of migrants' stay abroad. Moreover, even where the classical 'push' and 'pull' factors of economic migration give workers a strong reason to migrate, people decide either to stay home in the first instance, return home after a short spell of working abroad, or change their migration destination. Indeed, temporary or circular migration is one of the defining characteristics of East-West mobility in Europe. That is more often than not, socially conditioned.

A main objective in this paper is to identify the role that the social environment plays in the *continuation* of East-West migration to particular EU destinations. It thereby proposes a new framework for the analysis of European labour mobility, which would accommodate both the interests of old EU Member States' nationals, and that of migrants from the East. Such an approach seems only natural in the context of EU enlargement, where the concerns of nationals in both East and West become a European Union matter.

Initially, an overview of existing studies questioning the role of social networks to migration will be presented. That is followed by the development of a theoretical framework on the utility of migration to different groups in the society of destination. There, the analysis draws on the existing economic literature reflecting possible externalities of migrant networks (see Bauer, Epstein and Gang, 2002; Epstein, 2002). It also shows how migrants could be perceived by various groups in society. Perceptions, translated into public attitudes, might finally influence the equilibrium size of migrant communities in various destinations.

Public opinion at destination will be considered as a manifestation of the utility of migration to nationals. However, the social environment of migration is further extended, to contain migrant groups in the EU. Here, the particular case of Romanian migrant workers in the EU will be chosen for a more detailed analysis, together with the relevant social networks at home and abroad. In this sense, a set of sociological studies undertaken by a group of researchers at the University of Bucharest have already set the ground for the empirical investigation (for example, Şerban and Grigoraş, 2000; Radu, 2001; Sandu, 2000a, 2000b). Some relevant observations from existing studies will be thus reviewed, and further data published in relation to the role of social networks for East-West migrants is also analysed. Finally, the paper intends to give a new interpretation to previous empirical observations, discussing a theoretical optimum for migrant communities in the EU.

2 The relevance of migrant networks

Migrant networks are accepted in the sociological literature as an essential link for what is known as the ‘dynamic migration system’ (see Kritz, Lim and Zlotnik, 1992). The information that migrant communities abroad transmit to the country of origin about living and working conditions at destination is thereby essential. Additionally, the role that migrant networks play in the assistance of new immigrants can be significant. The relevance of networks has been extensively documented in the case of the Mexican migration to the USA. The empirical investigation of social networks thereby extends to the economic literature, by making use of the Mexican Migration Project data (see for example, Bauer, Epstein and Gang, 2000). The research in this context underlines the strong supporting role that networks play for new immigrants, with only some weakening in their importance where migrant communities become larger.

Another research, referring this time to the East-West mobility in Europe, analysed the case of ethnic Germans moving as Aussiedler (or Übersiedler) from Eastern Europe (or East Germany) into West Germany. Bauer and Zimmermann (1997) show that 73% of these immigrants in Germany live in proximity to friends and family, and 77% have friends at

destination, who come from the same origin. Moreover, despite the expectation that better skilled individuals rely less on migrant networks in order to integrate in the society and labour market of their destination, these appear to have the same tendency to locate close to existing migrant communities, as any other migrants.

In the case of Albania, a European transition country experiencing large emigration rates, the existence of networks abroad was identified as a crucial reason for choosing one destination country over another. Kule et al. (2000) found that 28.7% of their survey respondents identify financial returns as the most important factor to migration, followed by the 24.8% who see easy access to a destination as a crucial factor and the 24.6% who consider the presence of family and friends abroad as most important to their choice of migration destination.

Migration is often cumulative, meaning that initial mobility to a given location attracts more people to that very destination in the future. In the case of the CEECs, where migration is temporary, there is further evidence of a strong inclination of migrants with previous experience of work abroad to return repeatedly to the same locations in the EU. An ethnosurvey-based investigation of East-West Polish migrants (UN/ECE, 1998) clearly points to the repeated nature of migration between Poland and Western Europe. Thus, a majority of people having migrated to the EU in the past is ready to do so again. Thereby, information and social networking sustain migration patterns over time. It also becomes apparent that the availability of networks at destination does not necessarily influence the intention to migrate, but is very important in sustaining migration in a particular location. All this stresses the necessity to analyse migration and its sustainability in the wider context, including the role of individual experience, but also of social networks. The next section thus introduces a theoretical framework of migration, based on externalities in the wider social context of foreign work abroad.

3 The theoretical framework

The definition of a common space in which the different attitudes to migration come together is first necessary. The assumption made is that while migration decisions are shaped at home, the sustainability of the process can only be decided in the country of destination. Migration is thus analysed from the point of view of social preferences expressed by various groups, interacting at the level of destination societies. This section also introduces costs and benefits of migration to three distinct groups: new migrants, established migrant communities abroad, and natives in receiving societies. The crucial link between individuals and communities is thereby given by social networking.

3.1 Social preferences for migration

3.1.1 General considerations on public opinion

Society's preferences can be identified by the manifestation of public opinion, apparently pertaining to large sections of the population. A most inclusive public is the whole population of a determined territory. This section proposes to look at public attitudes as a reflection of the utility of a given process to the reference group whose opinion is of interest. Public opinion on migration is thus treated in the following as the expression of the benefits or losses induced by the process of cross-border mobility on a given population. Beyond private benefits or losses, public acceptance or discontent with migration also captures some by-products of the decision of migrants to move abroad. These externalities to migration are therefore discussed here at the level of the migrant receiving country.

Externalities generally occur when individuals are affected by other people's actions, upon which they have no control. Meade (1973) suggested that: "An external economy (diseconomy) is an event which confers an appreciable benefit (inflicts an appreciable damage) on some person or persons who were not fully consenting parties in reaching the decision or decisions which led directly or indirectly to the event in question [stress added]". In the case where migration is the 'event in question', benefits (external economies) can be induced in society by increased networking in migrant communities. Such networking finds its manifestation in the support and the integration of new migrants, creation of new social ties, increased capacity to produce new goods and to trade a wider range of products, etc. Such positive network effects find further expression in a positive attitude to migration by those benefiting from the network. However, costs might be also incurred as in the case of nationals in the destination country, for which a large number of migrants induces redistribution or agglomeration effects. These *diseconomies* then translate in negative attitudes to migration on behalf of nationals in destination countries.

As migration often proceeds independently of the benefits or losses of many people affected by it, the process clearly involves actors who are not fully consenting to it (i.e. various sections of the public in the country of destination). In this paper, the benefits and losses of migration are reconsidered in the general social framework of the host society. The utility of migration is consequently treated from the point of view of the society of destination (including migrants), as opposed to the private interests of individual migrants taking the decision to look for work abroad, and the nationals at destination competing with migrants for a limited number of existing jobs.

3.1.2 Perception of migration by nationals in destination countries

Public opinion in countries of immigration usually materialises in restrictive immigration policies (Hanson et al, 2002). Nevertheless, it can evolve separately from policy, or even as a consequence of the policies in place. Moreover, public attitude at destination can also have a direct effect on migrants, by creating a friendly, or rather hostile environment to foreigners. As migrants arrive at their destination, they add to a labour pool made up by nationals of the host country, as well as by earlier migrants. Markets need to absorb an increasing amount of labour resulting from immigration, and the wage rate at destination could drop for those in competition with new immigrants⁵. That generally induces the attitudes towards immigrants to be negative in the host society. These negative attitudes in themselves act as an external diseconomy of immigration in the country of destination. On the other hand, public attitudes in host societies can also act as a signal for a welcoming or a hostile environment to potential migrants. Thus, a hostile public attitude towards immigrants in the country of destination ultimately diminishes the utility of migration for foreign workers.

3.1.3 Perception of migration by nationals in sending countries

In order to have some ‘real effect’ in a country of destination, intentions to emigrate from any country of origin have to translate in individual decisions to move abroad. A positive public opinion regarding migration in the county of origin derives from potential individual gains from work abroad and general benefits of migration to the home society (for example, remittances). However, attitudes to migration in countries of origin do not always materialise in the real pursuit of foreign residence or employment, given a series of constraints that come into play when an intention is to be put into practice. Furthermore, after migration has occurred, an individual is not always determined to maintain his migrant status. We thus have to be aware of differences between incentives to move abroad and incentives to stay abroad. It can be argued that migration to a specific destination is only sustainable if the social costs it generates do not exceed the benefits incurred by different groups from the process.

3.1.4 Perception of migration by migrant communities

Networks of workers abroad are essential to the proliferation of information between host and home society, and they usually eliminate considerable transaction costs that individuals face on arrival abroad. Those considering the option of foreign employment, first decide whether

⁵ Evidence shows nevertheless that the real effects on wages are rather ambiguous.

emigration is desirable based on their private information about a given destination. Thereby, the higher the numbers of nationals from the same origin in a particular destination, the more potential migrants believe that a destination is desirable, readjusting their individual expectations about a foreign location. Nevertheless, if a hostile environment to migration prevails abroad, the existing migrant network can transmit the negative message back, to the country of origin.

Gurak and Caces (1992) reviewed a large number of studies on migrant networks, defining these from various perspectives. They identify first approaches discussing destination country networks. These look at migrants' survival, adjustment, integration, or insulation strategies. Second, there are approaches looking at links between origin and destination countries. They consider the role that networks play in chain migration, their instrumental support to migration, their use in the creation of contact systems and accessibility of destination locations, as well as their relationship with social commitments. Finally, there are approaches considering networks at origin. These are portrayed in their insulation role, through remittances, as well as in their capacity to offer community support for those remaining in the home country.

The analysis of migrant networks in this section focuses on migrant communities or enclaves in destination countries. Moreover, networks are considered to have their own preferences relative to further immigration from the same origin. For a migrant community, new immigration can both increase and decrease welfare, through the interplay of two processes. On one hand, the arrival of new immigrants increases social interaction. Larger networks have the capacity to generate an increased number of ethnic goods, along with new social ties and a familiar environment for newcomers in the alien country of destination. These social interactions first translate into a positive externality of further migration for an ethnic community established abroad. Moreover, as this community is a component structure of the wider society of the country of destination, the effect will ultimately translate into a positive outcome within the host society. The latter benefits directly through the increase in diversity (see for example Lazear, 1998), as well as indirectly, through the easier integration of migrants.

On the other hand, wages in an expanding migrant community are threatened, as old migrants often come into direct competition with new immigrants. Thus, negative externalities set in where a migrant community is too large. Moreover, while existing networks in the country of destination are first expected to reduce transaction costs for migrants, a long-term or permanent link to an 'ethnic ghetto' (Lazear, 1998) becomes disruptive. Too large migrant enclaves do not allow for benefits from diversity to expand, but

create isolated communities where migrants face disincentives to interact with the host society. A well-known example is that of poor language proficiency of migrants (Chiswick and Miller, 2002, Shields and Wheatley Price, 1999). The extensive use of ethnic enclaves limits potential social and economic ties in the country of destination. Subsequently, society fails to benefit from potential trade and increased diversity, as migrants remain isolated from the wider population, and are confined to an ‘ethnic ghetto’.

A migrant community can also prefer to restrict or rather encourage migration depending on the skill level of new and established migrants. Skilled immigration is generally more acceptable than unskilled migration, given its positive effect on productivity. Unskilled migrants can damage the reputation of skilled migrants (Stark and Wang, 1999), as well as enter into direct competition with other unskilled individuals. However, unskilled migrants can also complement skilled migrants. On the other hand, skilled migrants can be better off helping new unskilled immigrants to settle abroad, rather than being in constant need to make transfers to such individuals in the home country (Stark and Wang, 2002). In conclusion, the preference of migrant communities over further immigration can vary from case to case. However, an initial positive attitude towards new migrants can be expected, followed by a decline in support, as negative externalities set in.

3.2 A migration model with externalities

In this section positive and negative perceptions of migration, by different groups, are brought together. The objective is to use the coexisting positive and negative externalities, in order to characterise a theoretical optimum migration level. The model elaborates on the hypothesis that migration is sustainable by virtue of the social networking of migrants and despite negative perceptions by natives. The discussion of social costs and benefits of migration further hinges on the groups to be considered as part of the society of reference. In the following, migrants *established* abroad are considered as an integral part of the society of destination, along with natives. Moreover, where all EU citizens would receive equal treatment, the interests of all migrants from new members of an integrated area should be considered as equally relevant to the social welfare of the host Member State. On the other hand, as the decision to migrate is taken in the country of origin, the private benefits of moving abroad incurred by migrants are excluded from the social benefits calculations in destination countries. Nevertheless, any positive economies from migration that sustain the process in a given destination are to be considered as part of the set of social costs and benefits incurred at destination. Finally, immigration is considered to be sustainable as long as

its marginal social costs in a location are lower than marginal social benefits, but not beyond that point.

In line with Bauer, Epstein, and Gang (2002) the theoretical model proposed here considers the utility of migration to a country abroad as a function of the number of migrants, and expects that the effect of further immigration on migrants' wages is negative. The utility of migration inside a migrant community is described by a function $U_{\text{mig}} = f(N, w)$, where N is the number of migrants and w is the wage level of foreign workers. First, for migrants abroad, the increase of their community through immigration will bring about a utility increase, through network externalities.

$$\text{Thus, } \frac{\partial U_{\text{mig}}(N, w)}{\partial N} > 0 \quad (1).$$

Additionally, all migrants derive increasing utility from the capacity to earn a better wage abroad.

$$\text{Thus, } \frac{\partial U_{\text{mig}}(N, w)}{\partial w} > 0 \quad (2).$$

The capacity to achieve a given wage depends on the demand and supply of labour, and new migrants mean an increase of labour supply, whereby $w = f(N)$. The increase in the supply of workers through immigration is prone to drive wages down in the community where these settle abroad. We thus have:

$$\frac{\partial w(N)}{\partial N} < 0 \quad (3).$$

Further, the indifference curve for migrants established abroad is described by the equation:

$$dU_{\text{mig}}(N, w) = \frac{\partial U_{\text{mig}}(N, w)}{\partial N} dN + \frac{\partial U_{\text{mig}}(N, w)}{\partial w} dw = 0 \quad (4),$$

and we obtain an iso-utility locus of the form:

$$\frac{dw}{dN} = - \frac{\frac{\partial U_{\text{mig}}(N, w)}{\partial N}}{\frac{\partial U_{\text{mig}}(N, w)}{\partial w}} \quad (5).$$

According to inequality (1) and (2) this gives a negative value, describing a downwards sloping indifference curve.

If now the stock of migrants is increasing, the utility in a migrant community will change as well, as described below:

$$\frac{dU_{\text{mig}}(N, w)}{dN} = \frac{\partial U_{\text{mig}}(N, w)}{\partial N} + \frac{\partial U_{\text{mig}}(N, w)}{\partial w} \frac{\partial w}{\partial N} \quad (6).$$

According to inequality (1), the first factor on the right-hand side in (6) is positive. The second factor is negative, as it multiplies a positive value derived from inequality (2), and a negative value, as shown in inequality (3). The optimum level of further immigration from the point of view of the migrant community is where the change in utility is maximised, or in other words, where expression (6) equals zero⁶.

In line with equation (6), it can be argued that a change in the size of a migrant community will induce a positive effect as long as the network externality is greater than the negative effect of wage redistribution. We can thus expect an inverted U-shape preference for migration by the migrant community⁷, in accordance with increasing network effects that are later diminished through the negative impact on wage.

In other words, the destination country benefits indirectly from migration, through networking effects in migrant communities, which nevertheless diminish as wages of foreign workers are pushed down. However, as we intend to consider how immigration affects the host society as a whole, next, the position of natives in the country of destination needs to be addressed. Natives are often vociferous about their preference for lower immigration, and we can describe for these a new utility function, including the number of migrants in the destination society.

Natives' utility can be described in the form of: $U_{\text{nat}} = f(N, w_{\text{nat}})$, where N is the number of migrants and w_{nat} are natives' wages. As observed by Gang, Rivera-Batiz and Yun (1996) natives' attitudes to migration deteriorate if the number of immigrants increases in a given destination. That shows a utility of lower migration, not of additional migration. However, negative attitudes towards migrants relate with their 'visibility' (see Gang, Rivera-Batiz and Yun, 2002), meaning that natives can be indifferent to migration as long as a migrant community is considerably small. That can be brought down to people's preference for uniformity, which in this analysis finds expression in an inequality of the form:

⁶ We shall call this a point $N^{\text{max}}_{\text{comm}}$.

⁷ See Bauer, Epstein and Gang (2002) for the necessary conditions in this case.

$$\frac{\partial U_{\text{nat}}(N, w_{\text{nat}})}{\partial N} \leq 0 \quad (7).$$

At the same time, the main economic interest of natives remains their income. Their satisfaction increases with a rise in wages. Therefore:

$$\frac{\partial U_{\text{nat}}(N, w_{\text{nat}})}{\partial w_{\text{nat}}} > 0 \quad (8).$$

It is not always certain how wages of natives evolve as a function of increased migration, but there is evidence of a slight deterioration, at least related to unskilled natives' earnings⁸. We thus have:

$$\frac{\partial w_{\text{nat}}(N)}{\partial N} < 0 \quad (9).$$

Furthermore, as in the case of the migrant community, we describe an iso-utility for natives with migration of the form:

$$dU_{\text{nat}}(N, w_{\text{nat}}) = \frac{\partial U_{\text{nat}}(N, w_{\text{nat}})}{\partial N} dN + \frac{\partial U_{\text{nat}}(N, w_{\text{nat}})}{\partial w_{\text{nat}}} dw_{\text{nat}} = 0 \quad (10).$$

Accordingly, the iso-utility locus for natives becomes:

$$\frac{dw_{\text{nat}}}{dN} = - \frac{\frac{\partial U_{\text{nat}}(N, w_{\text{nat}})}{\partial N}}{\frac{\partial U_{\text{nat}}(N, w_{\text{nat}})}{\partial w_{\text{nat}}}} \quad (11).$$

If we take into account inequality (7) and (8) we obtain a positive value for (11). This indicates an upward sloping indifference curve. There is a direct relationship between lower immigration and higher wages for nationals.

If we subsequently consider an increase in the number of migrants through further immigration, we obtain:

$$\frac{dU_{\text{nat}}(N, w_{\text{nat}})}{dN} = \frac{\partial U_{\text{nat}}(N, w_{\text{nat}})}{\partial N} + \frac{\partial U_{\text{nat}}(N, w_{\text{nat}})}{\partial w_{\text{nat}}} \frac{\partial w_{\text{nat}}}{\partial N} \quad (12).$$

⁸ For the case of East-West migration, see Brücker (2000).

This is a sum of two negative components. The effect of an increase in migration thus induces a double cost to the society of destination, through natives' external diseconomies.

However, if we are to consider the two groups, natives and migrants, as equal parts of the same destination country's society⁹, we can derive an optimum level of migration that takes into account all individuals, not only natives (to be called $N^{*1}_{\text{destination}}$). We can draw on the same graph a social benefits curve - derived from the positive effect of further immigration in migrant communities, and a curve showing the social costs of migration - derived from the negative effects incurred by natives. The resulting figure 1 shows that the desirable immigration level in a given destination is neither zero as natives would argue, nor at the point where positive externalities net of negative wage effects to migrant communities are peaking¹⁰. We have instead a new, society-wide optimum, where the two 'attitudes lines' cross. By equating equations (6) and (12) we could derive a theoretical optimum level of migration ($N^{*1}_{\text{destination}}$).

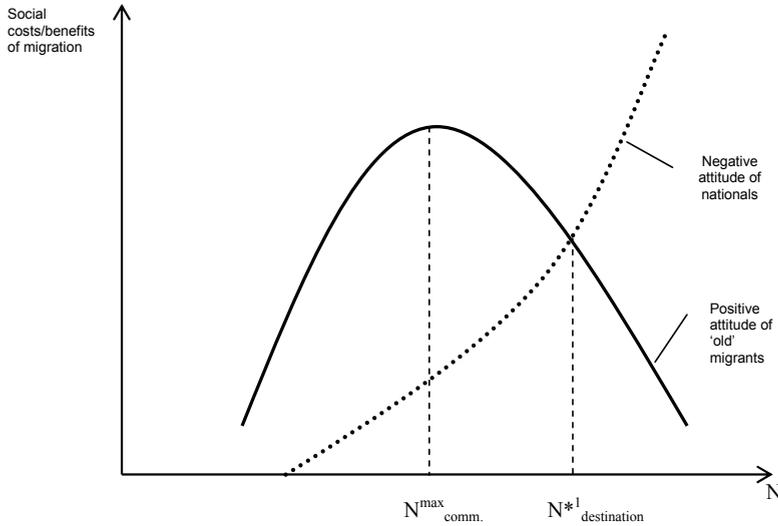
On the vertical axis, we have the social costs and benefits of migration. (These can find their expression in positive, respectively negative attitudes to migration, as indicated by the two curve labels.) On the horizontal axis, we have the number of immigrants to a destination that already hosts a resident migrant population. The inverted U-curve represents the benefits of 'new' migration to the established migrant community. It peaks at a level $N^{\text{max}}_{\text{comm}}$, where the increasingly positive effect of networking starts to be driven down by agglomeration effects reflected in lower wages. For natives, when immigrants reach a significant level as to be 'visible' in society, fears of further immigration set in. After an initial pressure on wages in migrant communities¹¹, the pressure on natives' wages sets in, too. That ultimately results in stronger public discontent among the native population, with respect to immigration. In this context, the sustainable level of migration for the society of destination should be searched at the point where the positive effects derived in migrant communities are below the negative effects on natives. According to Figure 1, optimum migration should be at the point $N^{*1}_{\text{destination}}$.

⁹ Which is the stated aspiration of developed countries, seeking to integrate migrants.

¹⁰ See Bauer, Epstein, and Gang, 2002 for a description of optimum migration in migrant communities.

¹¹ New migrants come first in competition with older migrants, in whose vicinity they settle, and later on, with natives.

Figure 1 Migration attitudes as an expression of social benefits/costs of migration

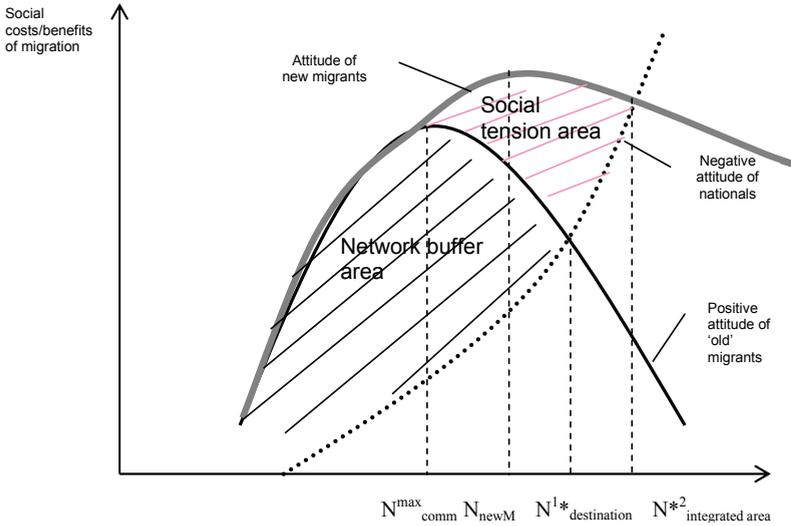


While ‘old’ migrants derive benefits from the non-depletable positive externality of social interaction in a foreign destination, new migrants benefit additionally from the information that migrant networks convey about a foreign location. As mentioned earlier, the larger the community abroad, the stronger is the signal that a particular location is desirable for migration. Epstein (2002) modelled a so-called herd effect, as a by-product of migrant networks, which new migrants make use of in their choice of destination. Thus, positive preferences for migration by ‘new migrants’ in the presence of increasing migrant communities captures both the positive effect of networking at destination, as well as the informational herd effect. Figure 1 can be redrawn to take into account the benefits derived from a particular location by ‘new migrants’.

The curve showing the ‘attitudes to migration for new migrants’ is depicted by the upper, bold grey line, in Figure 2. This captures both the positive effects reflected in ‘old migrants’ attitudes, as well as the specific benefits experienced by new migrants in a country of destination - which determine herd behaviour. The benefits curve for ‘new migrants’ abroad peaks later than that for ‘old migrants’, at a point N_{newM} . It implies that new migrants find it optimal to choose a particular destination beyond the point that established migrants consider ideal for their community size. Moreover, in a society that confers immigrants equal

rights with nationals and residents¹², the social optimum level of migration increases relative to the case depicted in Figure 1. The new optimum is at N^{*2} *integrated area*, which takes into account the welfare of new immigrants in a destination, along with the welfare of established migrants and nationals in that location.

Figure 2 Migration attitudes of natives, ‘new’, and ‘old’ migrants



Some further elements have been portrayed in figure 2. First, given that up to the point $N^{*1}_{destination}$ migrant communities derive benefits from immigration in excess of what they might need to internalise in terms of natives’ negative attitudes, they should be willing to accommodate new migrants. However, where immigration increases beyond $N^{*1}_{destination}$, new migrants will have to fend for themselves as they are the only group who derive from migration higher benefits than the cost of negative attitudes towards them in the host society. Migration can be sustainable up to point $N^{*2}_{integrated area}$, which is optimal for an inclusive society in a free migration space. Beyond point $N^{*2}_{integrated area}$ nevertheless, further migration is undesirable for any destination. Despite continuing positive benefits of migration to migrants themselves, the negative attitudes of natives cancel out all benefits from networking and herding, making further migration unsustainable in a given country.

In sum, in a destination where migrant communities are already established we can expect that new immigration will occur in smooth conditions, up to a level $N^{*1}_{destination}$. Old migrants accommodate newcomers in the society of destination, by offering what could be

¹² That would be the case in a free migration area across the EU.

called a 'network buffer'. After that, while some favourable conditions to immigration still operate, the process passes through an area where 'new migrants' have to accommodate abroad under circumstances of social tension - their networks do not seek to help further immigrants. The pursuit of migrants' integration by the authorities in the immigration country is nevertheless justified at this stage, given that further migration is still sustainable from the point of view of net benefits to the wider society that seeks the inclusion of immigrants. Nevertheless, when migrant numbers in a destination reach the level N^{*2} integrated area, new migrants in that particular location would bring net losses to the society at large. Migration restrictions can be justified starting with this point.

Finally, it has to be acknowledged that the curves used in figure 1 and 2 can vary according to the skill level of migrants. If migrants are highly skilled and earn above average wages abroad, nationals' attitudes (and migrant communities' for that matter) are generally positive to them. The curve 'negative attitude of natives' flattens and 'positive attitudes of old migrants' declines much slower. It might take a very high level of immigration to induce external diseconomies in the society of destination. Any reasonable number of skilled immigrant workers will be acceptable and that is, very probably, why countries often adopt more liberal policies towards the immigration of the highly skilled.

Next, this paper will consider the case of the social environment of Romanian migrant workers in the EU. It should be reminded that Romania is presently in the process of EU accession, and freedom of movement for Romanian workers in the EU is still a question for the medium-term perspective. The aim is to observe whether sustainability of migration in particular locations depends indeed on the interaction of new, old migrants, and the society of destination at large. Thus, East-West migration is re-evaluated, in the framework of public attitudes in the EU, along with the role of migrant networks and their interaction with new migrants.

4 The social context of Romanian EU migration

Many of studies undertaken so far with reference to East-West mobility of Romanian nationals (Şerban and Grigoraş, 2000; Radu, 2001; Sandu, 2000a, 2000b) used a sociological enquiry and analyse the migratory experience of small communities south of Bucharest. Complementary research was undertaken at the level of destination societies, by Potot (2000 and 2002), who investigated Romanian migrants in France and Spain. The findings with respect to the operation of social networks were particularly relevant for the present analysis. Additionally, IOM (1998) data will be considered in this section, for a better understanding of how migrant communities abroad influence new migration from CEECs. Finally, a few

observations regarding attitudes towards migration in EU countries of destination, and EU public preferences over enlargement to Romania will be also considered. Such attitudes were monitored so far by various Eurobarometer surveys.

Sandu (2000a) uses a quantitative investigation of data originating with the 2001 Public Opinion Barometer of the Open Society Foundation in Romania. Thereby, the role of social networks becomes apparent, especially in the case of migration of the urban Romanian population. Additionally, Sandu's (2000a) in-depth interviews with migrant households indicated the highly relevant role of migrant communities abroad for the individual choice of a particular destination in the EU. Migrants also preferred locations where the native population was perceived as more understanding, allowing foreign workers to 'live in normal conditions'. For example, after migrants confronted a hostile receiving society in France, they redirected their job search to Spain. There, they were integrated much easier into the local society, particularly in the South of the country, and in Madrid. In this sense, an earlier assumption of this paper is confirmed: the choice of a destination depends on the signalling capacity of established migrant communities abroad. There is an attractiveness of locations where earlier migrants reside, but there are disincentives to continue migration where a 'social tension area' might have been entered. Thus, even abstracting from income differentials and migration policies, migrants settle in new destinations where integration in the wider society is perceived to be smooth.

Radu (2001) observed that any information that migrants acknowledge to have about their destination (in Spain) is simply what they hear from earlier migrants to that country. Additionally, the occupational characteristics of those migrating to the EU are less relevant than individual connections abroad in shaping the pattern of foreign employment of Romanian nationals. This indicates that beyond the strong informative capacity that migrant communities usually have, they also allow for a herding behaviour, as modelled in section 3 of this paper.

Another study, by Şerban and Grigoraş (2000), show that those who have been abroad once tend to go again, and take as well their partners with them at a later stage. The observed chain migration indicates in some instances the possibility of transforming temporary migrants into permanent migrants. That occurs especially if migrants add to their initial economic motivation to leave, a new attachment, to the social structures of the country of destination. However, Şerban and Grigoraş (2000) observe that migrants often work abroad in jobs that they would never consider doing in the home country. Beyond considerations of skills transferability, an explanation could be that migrants often lack any intention to see their position in relation to the society of destination. The connection to the society of origin

is thus essential, and migration is used to enhance social status in the home community, rather than in the country of employment abroad.

A relevant point made by the studies undertaken in Romania is also the fact that the types of activities at destination practised by Romanian migrants change over time, often as a function of first or repeat migration. There is a clear tendency of upskilling of jobs undertaken in the EU in subsequent periods. Additionally, those who manage to acquire destination country language skills have better income opportunities, and an improved capacity to work directly with destination country contractors, rather than relying on badly paid employment, mediated by other people from their own ethnic community abroad (Șerban and Grigoraș, 2000). Thereby, the role of social capital is replaced by human capital in the longer term, as network diseconomies appear within migrant communities. On the other hand, initial social tension could diminish, where migrants are accepted as valuable partners in the wider community at destination.

If analysed from a home country perspective, migration and attitudes to migration can be a simple expression of objectives to achieve, such as the enhancement of personal income. Any constraints on mobility at this stage are given by the resources at hand (such as money to support a migration decision), and the information about the society at destination (usually received from previous migrants). Nevertheless, information about the individuals' situation in host societies is often embellished by migrants, in order to defend their social status at home. That could attract further migrants to destinations that prove undesirable upon arrival abroad. However, if migrants are observed at destination, the motives behind their migration *and* stay abroad (migration continuation) become apparent, and we can determine what sustains migration in a particular location (Radu, 2001). Consequently, the role of migrant networks for the sustainability of migration is best analysed at destination, or from the perspective of returnees who have made use of networks abroad.

In this sense, a useful complimentary analysis to the qualitative research on migrant households in Romania was the investigation undertaken by Potot (2000), of Romanian migrant communities in France and Spain. She first went out from the observation of an ever-increasing migrant network of Romanian street vendors in Nice, France. Most of these vendors were originating in the same area of South Romania. Their employer was initially keen to hire new workers on a simple recommendation by individuals from the same origin. However, a dispute between the hiring company and some of its Romanian employees in Paris ceased the practice of employing Romanian vendors throughout France. Consequently, most migrants looked for new EU destinations. Thereby, many appear to have opted for employment in Britain, where, according to migrants' accounts, wages were higher, given the

lower number of Romanians already working there. In other words, ‘old migrants’ do see themselves in competition with other migrants from the same origin, especially where their community becomes significantly large. Therefore, migrants stop to concentrate in a given location after an ‘optimum community size’ has been reached.

A second Romanian migrant enclave analysed by Potot (2003) settled in the El Ejido area of Spain. Here, informal work opportunities in the agricultural sector were widely available, and Romanian workers were easily accepted by the local population. An important feature of this migrant community was its capacity to better integrate in the wider society, and its reputation for contributing to the local economy with seriousness and hard work, while remaining ‘discrete’. This underlines the point that for migration to be sustainable in a particular location, it is not only important to receive support from previous migrants on arrival abroad, but also, to maintain ‘lower visibility’.

Sandu (2000b) observed that people originating from the same broad areas of Romania tend to cluster in specific countries of destination in the EU. Amongst the latter, Italy and Spain are the destinations that present the strongest cumulative pattern, attracting an increasing number of Romanians in the recent past. On the other hand, Germany has a more stable inflow of Romanian migrants and similar rates of return migration to the home country. It is possible that South European destinations have not yet reached the limit of a sustainable immigration level. Germany on the other hand, attracted many ethnic Germans of Romanian origin in the beginning of the ‘90s. Thus, it could be beyond the level of an optimum immigrant community, where any new immigration is at the expense of some tension in the destination country. That ultimately encourages new migrants to return home after temporarily working in Germany.

Table 1 The role of networks and information about destinations (% of all respondents)

	Reasons to migrate			Reasons to stay home		
	Good experience of others	Networks abroad	Contacted people abroad	Bad experience of others	Workers badly treated abroad	Migration is risky
Slovakia	65	24	2	23	52	70
Hungary	45	28	6	34	55	71
Czech Republic	55	36	3	16	37	71
Poland	71	50	16	46	64	73
Slovenia	33	37	2	43	58	79
Bulgaria	38	15	7	18	47	61
Romania	85	18	4	25	68	71

Source: IOM, 1998

Table 1 gives an overview of how many individuals in various CEECs are influenced in their attitudes to migration by the existence of migrant networks and by personal experience abroad. Thus, 85% of the IOM (1998) survey respondents in Romania would base their decision to move to another country on the fact that other members of their community had good experience abroad. Then, 18% of the surveyed Romanians would decide to move abroad *if* they had social networks established at destination, but only a few have already contacted such networks. On the other hand, while bad experience of others abroad does not seem to be often cited in Romania, a staggering 68% of the respondents would decide against migration if workers were inappropriately treated at destination. But we also need to acknowledge that the highest deterrent to international mobility appears to be the fact that migration remains a risky and uncertain business. About 70% of all surveyed individuals in the CEECs preferred to stay at home, given because of the risks of emigration.

Ultimately, an overview of EU nationals' attitudes to accession countries and immigration is also needed in the social networking framework elaborated in this paper. Firstly, it can be seen that especially the countries receiving so far the largest number of Romanian migrants, Germany and Austria, are the least enthusiastic about the Romanian EU accession. On the other hand, new migrant destinations, such as Spain, have one of the most positive attitudes regarding enlargement to Romania.

Table 2 Support for enlargement to Romania, by EU Member States – 1999

	% of population in favour of Romanian EU accession
Belgium	28
Denmark	48
Germany	20
Greece	58
Spain	50
France	26
Ireland	40
Italy	39
Luxemburg	34
Netherlands	46
Austria	10
Portugal	36
Finland	34
Sweden	42
UK	33
<i>EU15</i>	33

In the same sense, Eurobarometer 55 enquired more specifically about Member States' public perceptions of labour market effects of enlargement and immigration, and the results are as expected. For example, the German population has the strongest expectation of increased migration, correlated with the fear of 77% of the population that such immigration will have negative effects at destination. That figure is even higher in the former EU border country of Austria, where 91% of the population relates a high increase in immigration from the East with negative impacts in the society of destination. On the other hand, Italy or Spain, which were shown in the overview of Romanian migration patterns to attract an increasing number of workers from this origin, expect ambiguous effects from immigration, or no negative effects at all. It can be argued that these latter countries might become increasingly attractive to CEEC workers, by virtue of social sustainability, and not necessarily because of particularly high potential wage gains for migrants.

Table 3 Attitudes towards immigration/ labour market impacts of enlargement

	Enlargement will cause more immigration from CEECs	Increased immigration from CEECs will have negative effects	Particular labour market effects of enlargement to the East	Fears connected to labour markets
Austria	34% expect significant migration, while 50% believe migration will remain reasonable. 38% expect more daytime commuters.	Significant immigration increase is seen as negative by 91%. Anticipated commuting seen as negative by 81%. Negative attitudes come mostly from low skilled Austrians.	34% believe enlargement will slow down EU development.	52% fear job transfer to low production countries.
Belgium	-	-	-	67% fear job transfer to low production countries.
Denmark	Public expects significant increase in immigration.	88% consider it a negative development.	-	Social problems, worse conditions on labour and housing markets.
Germany	52% expect increase of immigration.	77% believe this to be negative.	33% believe unemployment will rise through immigration, 21% fear wage decreases and black economy development.	-
Spain	40% believe that immigration will be limited.	No negative effects expected.	-	-

	Enlargement will cause more immigration from CEECs	Increased immigration from CEECs will have negative effects	Particular labour market effects of enlargement to the East	Fears connected to labour markets
Finland	3 in 5 Finns do <i>not</i> believe that immigration will increase (26% expect increase).	-	-	-
France	51% believe enlargement will increase immigration.	-	-	75.2% fear job transfer to low production countries. 48.2% fear increased unemployment.
Greece	-	-	-	70% fear increased unemployment.
Ireland	Low interest in any enlargement issues.	-	-	-
Italy	Controversial opinion.	Uncertainty on extent of immigration.	Increase in unemployment, worsening of economic conditions <i>if</i> immigration is large.	Fear of job transfer to low production countries.
Luxemburg	-	80% fear increased immigration. 18% believe there are already enough immigrants.	-	26% expect increased unemployment and worsened economic perspectives at home.
Netherlands	43% believe that immigration will be significant; 43.1% believe in limited immigration.	88.5% consider CEEC immigration as negative.	22.3% are afraid of unemployment increase.	-
Portugal	42% expect significant immigration.	2/3 believe significant immigration will be negative.	Increase in unemployment expected.	Better economic prospects expected; pessimism on job creation.
Sweden	-	76% judge increased migration negatively.	-	78% fear of job transfer to low production countries.
UK	Fewer than one in eight informed on the issue; especially the young are uninformed.	-	-	-

Source: Eurobarometer 55

The overall balance from this overview of EU nationals' perceptions of migration from the East remains in favour of the view that natives consider immigration from the East a threat to EU labour markets. That, in turn, makes our assumption of an increased disutility to nationals from further immigration a realistic assumption. This observation also justifies the EU's request to adopt a transitional period to labour mobility after the accession of CEECs, albeit

on the basis of the flexible '2-3-2 formula'¹³. Probably those Member States that fear migration from the East most, will be also the latest EU countries to liberalise labour mobility with the East, at the same time as being much more probable to have arrived to a 'social tension area' surrounding immigration. With freedom of movement, these destination countries might deter further migration on the basis of externalities and lack of social sustainability alone, even without a direct policy intervention.

5 Conclusion

It has thus been acknowledged that East-West migration is generally accompanied by sceptical attitudes among the host society's population. That in itself is however not enough to stop all immigration, neither to justify a zero-immigration policy. Moreover, it can be easily proven that where a migrant community is already established abroad, additional migration can contribute to the expansion of network benefits, and the thriving of earlier migrants. Networks also increase the capacity of foreigners to create ethnic goods and reduce uncertainty in the relationship between the host society at large and new immigrants. Consequently, the society as a whole can benefit from the expansion of social networks through continuing immigration from the same origins. However, where the size of migrant communities passes a given threshold, further migration becomes suboptimal for both settled migrants, and the wider host society. Immigration continues beyond this point based on a so-called 'herd effect' attracting new migrants. Finally, herding itself becomes less relevant, as further migration occurs at the cost of increasing social tension within the host country and to the detriment of all social groups.

The examples of EU attitudes towards migration from CEECs have shown that indeed, destination countries public opinion about migrants from the East is largely about fears of immigration. But the differences in attitudes towards foreign workers among EU Member States also means that there is scope for a redirection of migrant flows in the future, towards EU countries where negative perceptions are lower, and the sustainability of the process is easier. That would finally mean that even though migration is a cumulative process, the social optimum of migration at destination is quicker reached where the number of immigrants is already high. Therefore, migrants themselves might find it easier to redirect their search of jobs where there are relatively less migrants already residing. The outcome would be a more even distribution of foreign workers across the EU, which is reassuring to those who fear that a few countries will have to carry the burden of higher labour market competition in the

¹³ Markets can be liberalised on the basis of bilateral agreements between new and old member states during a period of transition of up to 7 years.

enlarged EU. As has been observed in the case of Romanian migrants, new preferences of EU destinations have already developed, with traditional immigration countries such as Germany receiving and returning a similar number of CEEC nationals, while new immigration countries, such as Spain, record an increasing inflow of foreign workers.

We could say that East-West migration in the EU is there to stay in the future. However, there are reasons to doubt that this would become a threatening phenomenon in the case of liberalisation of East-West mobility, or that it would affect only a few EU countries. On one hand, there are social benefits to gain from immigration in the EU as a whole, which are not yet fully exploited, and on the other hand, social and cultural barriers will continue to keep CEEC nationals at home. If the threshold of sustainability of East-West migration is already reached in traditional EU destinations, we can expect foreign workers to move towards countries where the social environment is more positive. In this context, the fears of strong negative effects of immigration in particular EU Member States might ultimately be unfounded.

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MANAGING MIGRATION FOR AN ENLARGING EUROPE – INTER-GOVERNMENTAL ORGANIZATIONS AND THE GOVERNANCE OF MIGRATION FLOWS*

Martin Geiger¹⁾

In the course of an intensifying cross-border and trans-societal inter-connectedness the sovereignty of nation-states and especially their capacity to effectively govern policy issues in a unilateral way have been eroded. In the mid-80s, trying to defend the concept of an imagined closed community of ethnically homogenous citizens European receiving states started to co-ordinate their approaches in order to find multi-lateral solutions as an exit-strategy out of declining national regulating capacities. Until today a complex, but somehow still embryonic, regional regime of inter-governmental collaboration has evolved. In addition to nation-states, trans-state expert panels and inter-governmental organisations (IGOs) have become the avant-garde in the promotion of new techniques to manage migration and asylum ‘in a more orderly way’.

With regard to theories of international relations, the article will outline why and how inter-governmental organisations have become embedded as new ‘managers.’ The role and contribution of these organisations then will be evaluated with regard to aspects of democratic transparency, accountability and policy effectiveness.

In the European Union context, IGOs provide additional possibilities for negotiations but serve as well as a ‘fast-track exit strategy’ for individual Member states to avoid complex and rather slow common decision making processes. Characterised by low levels of policy transparency but a high involvement in the implementation of restrictive policies, it is questionable if IGOs respect the interests of EU citizens and immigrants. Rather, the approaches currently applied by IGOs undermine the project of tolerant, more open-minded receiving societies. As will be argued, it is due to intra-organisational financial interests, the IGO’s own political struggle for global/regional or issue-specific (asylum/migration) leadership as well as the power inequality between receiving and sending states that in the near future a new – more just – global or regional framework for the movement of people is unlikely to be established.

Keywords: Migration Governance/Migration Management, Inter-governmental Organisations, European Union/Europe, EU Decision-Making, EU Harmonisation Process

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Introduction

The following article focuses on the involvement of inter-governmental organisations (IGOs) in the governance of migration flows, especially within the new approach to ‘manage’ migration movements in a more orderly and more effective way. The author is concerned how the perspective on migratory movements within this new management paradigm seem to have become generalised and simplified, and this rather technocratic paradigm is mainly disrespecting the highly complex nature of (cross-border) population movements and the kaleidoscopic combination of their political, social and economic motivations, giving in reality every single migratory movement an unique individuality. It is intended to critically evaluate this new management paradigm, generally subsuming (more economically and socially motivated) migratory and (more politically caused) refugee movements under one single category of population movements ‘to be managed’. The author therefore prefers to use the rather neutral and theoretically better founded term of ‘governance.’

The term governance, with regard to theories of international relations, refers to a process through which a single policy actor (or a multitude of policy actors) intends to change the behaviour of another actor (actor-oriented conceptualisation). Simultaneously governance can be conceptualised as an intervention of one or more actors in social systems with the aim to impose a change on the specific setting within a specific policy-area or part of the society concerned (setting-oriented conceptualisation)¹⁴.

In the following it will be revealed that, in addition to nation states and their specialised government departments, increasingly non-state/private as well as trans-state (including IGOs) actors take the place of these traditional actors in shaping the way migration movements are governed. In addition, the embryonic international regime to govern (or manage) migrations, having emerged within the last twenty years in Europe as well as in other world regions, is characterised by the struggle of these traditional state actors in keeping the capability to solve their nationally experienced migration ‘problem’ by joining forces with other governments and thereby defend their regulatory capacity. The intentions of non-state, trans-state and traditional state actors to govern migration movements hereby include the intention to mitigate the root causes leading to emigration in other (mostly non-European) countries; governance is hereby directed towards (state) actors in sending and transit countries as well as the specific setting existing within the societies of these states.

¹⁴ For example: Görlitz, Axel and Burth, Hans-Peter (1998): *Politische Steuerung*, Opladen, pp. 9 and 115

1 *Bridging the gaps in policy implementation: From unilateralism to multilateralism and supra-nationalism in migration governance*

The general discourse about globalisation encloses the paradigm of nation states that, in the course of intensifying cross-border and trans-societal internationalisation processes, have lost most of their former regulatory capacity, authoritative power and sovereignty (see Sandholtz 2000, 89; Brühl and Rittberger 2001: 2-5; Görlitz and Burth: 10-19). While non-state organisations (NGOs etc.) are increasingly acting trans-nationally, far-reaching liberalisations in the field of trade and financial transactions have led to the fact that private corporations are able to effectively circumvent national regulations (for example, see Lake 2000; Sandholtz, Prakash and Hart 2000; Sassen 2000). National governments – with regard to the challenge to govern policy issues that hardly respect the territorial borders of their polities – are confronted with the need to co-operate with other nation states and their actors in order to find cross-border and trans-polity solutions and to co-ordinate their individual actions in a given cross-border policy-area with those of these foreign forces.

In the field of environmental protection, trade or the use of nuclear power, this has led to a new quality of cross-border negotiations and bargaining. By collaborating on the international level, national governments nowadays seek to find solutions for problems they either cannot solve due to their cross-border character or consist in issues that by unilateral action can only be tackled in a less effective way than by multilateral action. Not least of all, governments, by intending to bridge and close widening gaps in the implementation of policies by substituting or combining unilateral action by/with multilateral efforts, aim at securing their former authoritative position or at pretending to still possess full regulatory capacities (Jachtenfuchs 2003; Scharpf 1991).

Despite these new intentions for international collaboration, state actors are struggling hard to keep up with new actors that have become involved in cross-border governance beyond the nation state: international non-governmental organisations (NGOs), private corporations and inter-governmental organisations (IGOs, being formed by nation states). In addition to the terms of international or global governance, referring broadly to new forms of multilateral negotiations and bargains in often over-lapping policy issues, the concept of international regimes is mostly used to describe a specific setting of implicit or explicit principles, norms, rules and decision-making procedures around which actors' expectations converge in a given (and specific) issue-area (Krasner 1983: 2). Regimes hereby can be conceptualised as institutional as well as normative arrangements to facilitate co-operation and co-ordination among rational, ego-centric and from each other independent policy actors with the aim to circumvent or mitigate negative side-effects of solely unilateral policy actions

(Schneider and Werle 1988: 11). In contrast to ad-hoc agreements, international regimes are arrangements with a certain capacity to resist to/cope with short-term shifts regarding the power relations and interest constellations among the regime members (Krasner: 2-3; Zürn 2001: 63; Young 1983: 94). Within a regime, the intentions of actors to influence the governance of policy issues can either be directed towards the setting of the regime itself or towards other actors inside or outside this collaborative arrangement.

Embedded in the globalisation paradigm is the assumption that migratory and refugee movements are directly resulting from fading national regulatory capacities of receiving, sending and transit countries. Already in the 1980s, several states started with the project of a new international regime to govern migration and refugee movements on the regional level (Europe as the main example), the UN Secretary General now again reinforced these intentions by calling out a Global Commission on Migration¹⁵ in order to discuss a new global, more just framework for the movement of people.

Like will be outlined in the following chapters, Member states of the European Union (EU) have been successful in achieving a high level of institutionalised collaboration with other (non-) European states in certain fields of migration governance. Among EU Member states multilateral collaboration has now reached the level to become even supra-nationalised (the shift from inter-governmental collaboration towards the governance of migration and asylum issues exercised by supra-national institutions of the EU). Inter-governmental organisations and cross-border expert panels have been crucial to achieve this high level of intra-EU as well as EU-overlapping international collaboration – the evolvement of a migration and asylum regime that has become extended to neighbouring regions (like Northern Africa). However, it has to be emphasised that this regime – established within the last twenty years – hardly can be regarded as an all-encompassing, complete arrangement as it focuses until today nearly exclusively on border controls, the restriction and avoidance of further immigration to EU core states.

2 New realisms, the project of a European migration and asylum regime and the European Dilemma of decision-making

With the beginning of the 1980s and then later, with more emphasis, towards the end of the twentieth century, a trend in mid- and West-European receiving states gained momentum to severely restrict and avoid further in-coming migration and refugee movements. Following decades in that the former Federal Republic of Germany, the Benelux-states, Switzerland and France have been in need to recruit foreign guest-workers, and refugees were able to benefit

¹⁵ For more information see the homepage of the Global Commission on Migration: www.gcim.org

from a certain, ideologically founded openness ('The free west'), the beginning of a global economic crisis and the implosion of communist regimes in Eastern Europe and Asia led to a turning point. Within the field of migration and asylum, as outlined by Joly, Lavenex and Blaschke, a new realism followed former more humanitarian or economically-rational approaches. Being based on the scenario of uncontrollable mass immigration from East Europe, European receiving societies developed the fear to become flooded with migrants and asylum seekers in a time when a profound crisis of their welfare systems started to evolve (Joly 1995: 496; Lavenex 2000: 1-3; Blaschke 2001).

Especially against the background of the outbreak of violent inter-ethnic conflicts, warfare, mass displacement and the split up of the multi-ethnic republic of Yugoslavia, the threat of an implosion of the Soviet empire and its satellite states, potential Western European receiving countries acted, in a first step, unilaterally by imposing harsher immigration and asylum regulations and increased efforts to prevent mass movements (Brochmann 2004: 11-12; Endres 1994: 63-71; Dehdashti 1996). Indeed, the more restrictive realist approach of receiving states had a certain success: the vast majority of refugees from the territory of Yugoslavia, only granted with a temporary refugee status, returned shortly afterwards; in addition, the common restrictive hard-line of EC Member states (European Community) opened the floor for new multilateral approaches with the goal to guarantee an effective further restriction of in-coming migration and refugee movements. Member states hereby coincided in their perception of migratory movements as being a (potential future) threat, endangering the construct of ethnically homogeneous nation states, their social cohesion and security.

Firstly, the development of an embryonic Western European (EC) 'control regime' was due to the common perception among the members of the EC that multilateral action was now needed in order to prevent migration and refugee movements from becoming out of control and to allay native fears of deepening social inequalities caused by immigration (Tomei 2000: 39; Miller 2000: 39). Until today consisting as an inter-governmental governance model, this regime provided the collaborative background for a far-reaching 'harmonisation' (a close substantial convergence) of national legislations concerning the possibilities for so-called 'Third Country Nationals'¹⁶ to get access, permissions to stay and work or asylum within the European Community/European Union.

Secondly – in addition to a shared need to collaborate on the inter-governmental (multilateral) level – the harmonisation process in the field of migration and asylum resulted

¹⁶ Third Country Nationals = Persons not in possession of the citizenship of a Member state of the European Community/the European Union.

from a second, (more functional) need, stemming as a logical consequence from the progress in European integration: following the Schengen Treaty (1985) and the Single European Act (1987), the new freedom for EC citizens to circulate and migrate between different Member states had to be flanked by common regulations concerning the controls of the external borders, their fortification (Brochmann: 75-76; Tomei: 12-13 and 51-54; Collinson 1993: 35-39). In this context, new Member states, like Spain – due to the policy pressure exercised by core states like Germany or France – had to implement foreigners' bills that acknowledged the interests of these core states to realise a restrictive governance of migration flows. This shows that the interests of some 'partners' within this multilateral bargaining process were able to outweigh weaker parties (Arango 2000).

In addition to the establishment of a collaborative arrangement (regime) in the field of migration control, following the Treaty of Dublin (1990), a regional regime to co-ordinate and harmonise the asylum policies evolved among the EC Member states. Intending to regulate which Member is responsible to decide about a possible asylum status, this regime encloses the concept of so-called 'Safe Third Countries' as well as a list of states declared as being politically stable and free of politically motivated forms of persecution. To enforce the implementation of control measures, the restrictions on the access of unwanted migrants (including potential asylum-seeking migrants) in general, the regulations of Schengen and Dublin enclosed the formulation of carrier sanctions for airlines and other transport companies failing to ensure that their passengers possess valid documents and are allowed to enter the EC and/or that they do not overstay their visas.

Although migration and asylum issues in the Treaty of Amsterdam (1999) now were officially transferred from the third (inter-governmental co-operation, Treaty of Maastricht, 1992) to the first pillar of EU decision-making (common EU decision-making), EU Member states remain reluctant to transfer substantial decision-making powers to the supra-national level. So far, migration and asylum issues – as a policy area in the intersection between the national and the European level – remain chiefly governed by national governments and the coordinating mechanism of the European Council. The European Parliament, in contrast, does not thus far possess any decision-making and politically binding power; actions of the Commission remain limited to initiatives and proposals directed to the Council.

Migration and asylum issues can be regarded as one of the last, but heavily defended issues touching a decidedly sensitive part of the whole Europeanization process and posing a severe dilemma for the development of a (substantially advanced and effective) European Political Union. This sentiment continues to exist, despite the fact that with regards to cooperation–theory, the step towards further inter-governmental co-operation and then supra-

nationalization is likely to take place given the congruent interests among EU member States, transit and even sending states (Tomei: 42-51; Lake, p. 40, Keohane 1983). Given the fact that migration will be crucial for the future wealth and development of European societies that now begin to experience a drastic decrease of their native work force and a 'greying' of their population, a transformation of the current restrictive control regime seems advisable.

In 2005, the EU Commission presented a first version of a Green Paper towards initiating a common European recruitment scheme that is offering immigrants new possibilities to work and live legally within the EU.¹⁷ Against the background of the current crisis of the EU (Ratification of the EU Constitution) and a new wave of 'Realpolitiken' of individual EU Member states, however, it remains uncertain as to when such a common approach could be reached, let alone implemented. At the moment, the inter-governmental governance model to avoid and restrictively control a further influx of immigrants and asylum seekers, in contrast, seems likely to gain momentum, given the shared perception of immigration to be closely linked with the issue of terrorism (following the devastating attacks of Madrid and London).

3 Bringing new actors in: Expert panels and inter-governmental organisations

Consultative Processes on migration and asylum: Budapest and Barcelona

Despite the general discourse, arguing that European receiving states do only possess limited regulatory capacity to effectively govern migration and asylum issues in the national context (often this discourse confuses hereby the issues of integration with those of illegal migration, border controls and the fight against terrorism), Europe as a regional context can serve as an example that migration in deed can be effectively limited, although not completely avoided. The exodus from East Europe and Asia in most cases has been governed effectively, restrictively limited/avoided in large parts and the majority of migrants and refugees coming from the crisis area of the Balkans have returned. The main problem has more to be seen in failing national policies to actively promote the equal participation of Third Country Nationals in European societies and does – in contrast to the general image of mass media and political discourse – not consist in the fact that borders are too porous. However, migrants willing to cross borders can do so (even if these borders are heavily fortified/technologically secured) by risking their lives and investing high amounts of money.

¹⁷ See European Commission: COM 2004/811 (11.01.2005)

The effectiveness in restrictively limiting mass movements is, in addition to the close policy co-ordination among EC/EU Member states and the harmonisation of national approaches and legislations, mainly due to the extension of a collaborative institutional and normative arrangement towards main sending and transit states in neighbourhood to the territory of the EC (EU), especially the territory of the Schengen Treaty. Within the framework of various, partly overlapping, consultation and co-operation processes, Member states of the EC, starting at the end of the 1980s, developed a common approach towards these neighbouring states to convince them to closely co-operate with them in the restriction of further immigration. Simultaneously, EC states within these processes have been successful in transferring vast extents of the costs for limiting and controlling migratory and refugee movements to their neighbours (Georgi 2004: 19-27; Angenendt 2003).

Within the so-called 'Budapest Process' (established in 1993, following the consultative processes of Berlin and Vienna), representatives of Eastern and Central European post-communist transformation countries (later as well from the territory of the Community of Independent States (CIS) and other transit and sending countries) held informal meetings to discuss with officials of EC and EFTA (European Free Trade Area, including Switzerland) Member states measures to strengthen border surveillance and approaches how the 'migration pressure' on EC states could be reduced. For their co-operation in taking back rejected asylum seekers and 'illegal' (unwanted) migrants or (as safe countries) processing asylum seekers within their territory and repatriate rejected persons to other neighbouring countries, these Central and Eastern European states were granted with financial and technical assistance¹⁸.

However, given the highly informal character of these consultative processes and the fact that (officially) no resolutions of politically binding character were formulated, the effect of these forums on the evolvement of a regional migration and asylum regime can only be roughly estimated¹⁹. The high significance of this process, however, becomes evident with regard of the development of this consultative forums: until today there has been a continuous growth by incorporating more and more receiving, transit and countries in these consultations, in addition, the consultative forum became represented by the establishment of its own inter-governmental organisation, the International Centre for Migration Policy Development (ICMPD) – therefore it seems likely that the member states of this organisation and forum regard the Budapest Process as a politically utile platform for inter-governmental negotiations on issues of migration and asylum (Georgi 2004; Angenendt 2003: 191).

¹⁸ See Overbeek 2002; Overbeek 2000; Angenendt 2003: 190-191; Thouez and Channac 2005

¹⁹ It was only ten years after its establishment, in 2003, that a first official report of the activities of the Budapest Process became published.

In retrospective, it can be assumed that this inter-governmental political dialogue was of crucial importance not only for the East-ward extension of the EC-control regime (by avoiding a direct access and claim-making of migrants and asylum seekers on EC/EU territory, their processing on the territory of Eastern and Central European states and the repatriation and border control measures of these states), but also for the preparation of the EU-accession of some of these states. The new ten Member states of the EU, following the Budapest process and other bilateral and multilateral negotiations, adopted and implemented national regulations that went conform to the Schengen Acquis and the interests of their more powerful EC/EU or EFTA neighbours (Georgi 2004: 18-19). Their accession to the EU therefore could be somehow regarded as being a reward of their willingness for close co-operation in these matters.

The eastward extension of the EC migration and asylum control regime was replenished to the South by the set-up of consultative forums with neighbouring transit and sending countries of Africa, especially the Maghreb states. In the framework of the so-called 'Barcelona-Process' (initiated in 1992) – the European-Mediterranean Partnership – issues of development aid, the promotion of human rights and the establishment of a free trade area (to become realised between the Member states of the EU and their African counterparts in 2012) were linked with the extension and intensification of border controls and cross-regional (mostly police) co-operation to impose strict limitations on migratory movements originating from Africa. Most African members of this process promised to take back rejected asylum seekers and 'illegal' migrants after being expelled from European territory, while approaches to grant more possibilities for their citizens to accede to EU states on a temporary basis have been discussed (mostly on a bilateral basis, for example between Morocco and Spain), but, however, in most cases not have been implemented so far.

The new avant-garde in migration governance: Inter-governmental organisations (IGOs) and trans-state expert panels

These mostly informal consultative processes on migration and asylum issues, mostly embedded in broader and multiple issue-policy frames (like the European-Mediterranean Partnership), with regard to international regime theory, do not necessarily have to lead to long-term institutional and normative arrangements (regimes). In some cases, their policy outcome and effect is limited to short-term/ad-hoc agreements without any politically binding character – however, the initiation of such consultative processes is seen as a necessary step for the preparation and initiation of a regime in a specific issue area.

Consultative processes, based on negotiations between government officials, scientific experts and representatives of IGOs (as well as in some cases of actors of the civil society), can be described with the concept of 'policy networks'. Policy networks are providing the framework for first contacts between decision-makers from different (national, scientific or political) background, they serve in stabilising and relativising actor's expectations and are crucial in establishing of a formal equilibrium among actors that mostly differ greatly with regard to their capacities²⁰. In the context of policy making processes that increasingly disrespect national borders, policy networks provide the platform for harmonising states'/actor's unilateral approaches with those of other states/actors and the achievement of inter-governmental deals/bargains to achieve a multilateral/multi-party solution of a policy problem (Benz 1992: 154; Scharpf 1992).

To initiate and promote learning processes (towards the achievement of a common standpoint) so-called 'epistemic communities'²¹, consisting in a trans-state dialogue of scientific experts and certain renowned individuals (as structures parallel to these networks), are of crucial importance. In addition, inter-governmental organisations often serve in stabilising and/or intensifying the collaboration among states towards the establishment of a long-term regime. Sometimes these organisations are on their own a direct outcome of policy-networks and inter-governmental consultations (like in the example of the ICMPD). In other cases, regimes are containing inter-governmental organisations as members or important stakeholders (being nearly equal to states). The new quality and character of governance, increasingly taking place 'beyond the nation state,' becomes evident with regard to the fact that policy networks/inter-governmental negotiations and international regimes have become set up by IGOs instead of individual state governments (Chayes and Handler: 271-273; Sandholtz: 82).

The field of migration and asylum serves hereby serves as a remarkable example: the majority of today's existing regional consultative processes in deed have been set up and are (indirectly or directly) governed by inter-governmental organisations like the International Organisation for Migration (IOM), the agency of the United Nations High Commissioner for Refugees (UNHCR) or the ICMPD (limited in its activities mostly to the regional context of Europe). Each of these organisations hereby is acting simultaneously as a 'forum organisation' (in organising trans-state policy dialogues and acting as the administrative co-ordinator or secretariat within these consultative processes²²) as well as a more technically

²⁰ See Wolf 2003: 423-424; Zürn 2001: 63-64; Mayntz 2000: 12; Windhoff-Héritier 1985; Windhoff-Héritier 1987: 45-47

²¹ See Haas 1990: 55; Jachtenfuchs 2003; Chayes and Handler Chayes 1995: 278-281

²² See for example the role of IOM in the Mediterranean Migration Dialogue / The 5+5 Process.

oriented ‘service organisation’²³ (by supplying their member states with expertise and technical knowledge²⁴).

While UNHCR is providing receiving, transit and sending countries with a broad repertoire of support measures in the field of refugees and asylum seekers (consisting in financial and technical support as well as policy advice), the IOM is active in the field of migrants’ voluntary return, repatriation and resettlement. Both organisations as well as the ICMPD and other smaller organisations are aiming at a specific form of ‘capacity building’ in their member states, they provide trainings for experts, decision-makers and practitioners (including border police officials) in the specific national context, and support governments technologically as well as financially in their efforts to better ‘manage’ (or control) migration and refugee movements.

Especially in the context of Europe and inter-governmental negotiations on migration and asylum issues between EU Member states and African, Asian or East European sending and transit countries (including authoritarian regimes like in the case of Libya), the advantage of inter-governmental policy networks and organisations can be seen in the fact that they are officially not bound to the EU-framework but allow, due to the membership of both receiving and sending countries, for informal and formal consultations without the need for ‘official’ bilateral or multilateral talks. It seems likely that modes of governance in the field of migration and asylum in Europe will still be based on a multitude of European, bilateral and multilateral approaches implemented by individual states and/or additional inter-governmental actors²⁵. Against the background of lengthy and complex EU decision-making processes and the current crisis of the European integration process, IGOs and policy networks can serve governments to circumvent some of these hurdles and find at least some short-term/ad-hoc solutions for their national ‘migration problem.’

Contrary to the efforts of the EU-Commission to construct a ‘more open’ regime (among others through the newly proposed ‘Hague Programme’ calling for national quota and immigration liberalizations), the field of migration currently is simultaneously characterised by a new ‘re-nationalization:’ EU member States (like Italy and Spain), seeking to find such a quicker solution to their national migration problem, enter in rather questionable agreements (in some parts facilitated by IGOs) for the repatriation of illegal immigrants (for example the agreement between Italy and Libya, or the repatriation of unwanted migrants from the

²³ ‘Forum’ and ‘service organisations:’ see Tussie and Riggiozzi 2001: 164

²⁴ See for example the efforts of IOM and ICMPD in the field of border management.

²⁵ The IOM, by having established the Mediterranean Migration Dialogue (MTM) as well as various other panels in this EU border region, can be regarded as a crucial actor also within the broader context of the EU-led Barcelona Process. This with regard to the fact that IOM is holding meetings between Northern African and EU member State (MTM and 5+5 Dialogue) officials - the EU-Commission, however, stays formally excluded but is being invited as an observer.

Canaries (Spain) to the Moroccan occupied West Sahara). Especially the inter-governmental organisation of IOM has developed into a regional (as well a global) key actor in the new 'management' approach (see following sub-chapter), and has somehow become not only an 'assistant' for its member states but rather as well a 'managing director' in providing expertise and facilitating sometimes rather questionable formal and informal agreements.

Despite the contradictions contained within its institutional framework, Member states of the EU (with the help of IGOs) nonetheless attempt to communicate a 'common restrictive migration and asylum approach' towards neighbouring states and regions (among others via the newly established 'European Neighbourhood Policy, and its migration-related initiatives). By incorporating transit and receiving states a variety of non-state actors (including private corporations like airline companies), and inter-governmental organizations and expert panels outside the official EU framework, the EU and its member States to some extent hereby 'peripheralize' their regional or national 'migration problems' to Third countries and delegate a vast extent of responsibilities (for example given by the Geneva Convention) to third states and the organisations such as IOM, UNHCR or for example the Red Cross.

4 *Managing migration for the benefit of all: Towards a new philosophy in migration and refugee governance*

Although migration and refugee movements in most cases are politically unwanted, the realities of Europe as well as other regions show that migratory movements, in general, are hardly to be avoided. Despite accepting this reality, public and political discourse in most EU states is concentrated in a daily reconstruction of the image of a migration 'crisis' (mostly represented as consisting in hordes of illegal migrants arriving in boats at the coasts of Southern Spain or Italy). The fear of 'uncontrollable' migration movements hereby is directly linked to aspects of a fading national identity (see for example the discourse of the German Christian Democrats (CDU) in 2004) in an enlarging European Union, the postulation of a drastic decrease in public security, reflected by an increase in terrorist activities, being committed by not-enough-controlled illegal/non-enough-integrated immigrants.

Because the European Union's efforts to curtail immigration thus far have not brought the desired results, it must be asked whether the perspective on immigration issues should be changed. According to Ghosh²⁶, the adopting of a new 'regulated openness' could lead to a de-criminalisation and de-illegalisation of immigrants by providing them with more opportunities to live and work legally within the territory of receiving states.

²⁶ Together with Jonas Widgren (ICMPD) the IOM senior adviser Bimal Ghosh can be regarded as the "ideological mastermind" of the 'management' approach in migration governance (see for example: Ghosh 1993; Ghosh 2004).

Since the mid-1990s a new concept as well a new trans-national discourse (or philosophy) has evolved that is based on the general assumption of migration as a problem that can be brought to a solution by ‘managing’ migration flows in a new, more orderly and rational way. Migration movements are hereby regarded as an unavoidable fact and curtailing migration seems inappropriate due to economic and demographic reasons (for example the fact that in certain sectors labour shortages exist (or are foreseeable) or receiving societies suffer from a drastic ageing of their native population and work force). The long-term goal of states and inter-governmental actors is the establishment of a new international governance model, being based on a close co-ordination between sending, transit and receiving countries, and consisting as a politically binding global regime (framework), embracing regional- and sector-specific sub regimes.²⁷

Problematically, the term ‘migration management’ has now become the catch word of a broadly generalised discourse in policy-making and scientific debate. Although management has become a generally used term – thanks also to the promotion of this term by representatives and advisors of IOM and IOM’s own scientific journal (‘International Migration’) – however, so far, no general turn in the perception of (and the political response towards) the migration phenomenon has occurred (given for example the case of the EU).²⁸ It is especially this inter-governmental organisation, the IOM, that due to its growing importance in the regional (Europe) as well as in the global context became heavily criticised for the pragmatic and mostly technocratic implementation of its management approach. Under the slogan ‘Managing migration for the benefit of all’²⁹ IOM sees its intra-organisational responsibility and challenge in assisting its members – currently 105 governments – “in meeting the growing operational challenges of migration management”³⁰. Against the background of an estimated operational budget of 640 million \$US³¹, IOM sees itself as the globally leading international organisation in migration issues and as one of the most important focal points for discussions on migration policy and management. In addition to the Mediterranean Transit Migration Dialogue (MTM), the organisation is acting as the co-ordinating agency within the Manila-Process, the South American Migration Dialogue, the Migration Dialogues in Southern as well as in Western Africa and various other panels. IOM within these dialogues facilitates expert networks among stakeholders in receiving, transit and

²⁷ Migration management hereby is seen to embrace the management of refugee movements (the prevention of refugee crises, the channelling of refugee flows, the processing of asylum claims etc.).

²⁸ See for example Papademetriou 2003; Spencer 2003

²⁹ See the homepage of IOM: www.iom.ch

³⁰ International Organisation for Migration (IOM), International Dialogue on Migration 2004, available at: www.iom.ch/en/who/main_informal_consultations.shtml (05.05.2004)

³¹ See International Organisation for Migration (IOM), *Summary Update for the Programme and Budget 2004*, available at: www.iom.int/documents/governing/en/mc2143.pdf (05.05.2004).

sending countries and supports them to find “pragmatic and action oriented mechanisms” and to develop “institutions and infrastructure for a humane, safe and orderly migration management”³².

In addition to IOM, also the UNHCR is earning criticism for its move from a former exclusively humanitarian ideal and mandate to a rather pragmatic/technocratic management approach: for most critics UNHCR, since the formulation of its ‘Convention Plus’ (2003)³³, moved in the direction to rather serve the interests of receiving states (in avoiding the influx of asylum seekers and refugees and to process asylum applications outside their territories) than those of refugees/asylum seekers. Similarly to IOM, UNHCR is increasingly regarded as a ‘implementation’ partner for receiving states that, under current real politics, are more interest in control and prevention than an humanitarian ‘management’, centred on migrants/refugees and their interests.

While out of intra-organisational interests (to promote their international standing and significance as well as to defend their issue-specific competence) IOM, UNHCR as well as other inter-governmental organisations (like for example the ICMPD) are competing with each other for scarce resources and are trying to take over the lead in consultative processes (especially with regard to IOM), these organisations at the same time are threatened to fall back to the status of independent and involuntary henchmen of states seeking to achieve short-term solutions for their individual ‘migration and asylum problems’.

Increasingly, the most important financial contributors to these organisations (the G7-countries) link their payments to the implementation of specific programs and measures, like the prevention of illegal movements and border enforcement. Instead of contributing to the set-up of a more adequate regime, based on the realisation of the benefits of migration, IGOs are more likely to support the further existence of traditional patterns of control. While some IGOs (like IOM) in the interests of potential receiving states have to deal with (or manage) unwanted (‘illegal’) migrants and organise their return as ‘pragmatic service providers,’ other IGOs (like UNHCR) have to ‘manage’ refugees/asylum seekers by processing them outside the territory of potential receiving countries (extra-territorial processing) and selecting the ‘really endangered refugees’ from ‘only’ economically motivated migrants.

³² IOM-Homepage: www.iom.ch (05.05.2005).

³³ See Angenendt; United Nations High Commissioner for Refugees (UNHCR), *Convention Plus*, to find at: www.unhcr.org (05.05.2005); Drüke 1994

5 Critique and conclusion: *Inter-governmental organisations as service providers and managers in the orderly movement of people*

Against the background of the European framework of migration management that currently consists of restrictive controls, one must ask if the efforts of international organisations result in a more orderly and more humane migration management. Migration management must tackle highly complex issues and challenges that result in a heightened need for inter-governmental and international cooperation. Although IGOs like the IOM and regional consultation processes intend to establish a global framework for the orderly movement of people, processes which de-link migration from the nation-state level, the 'real' problem behind migration management does not exist in a surge of population movements that are less predictable as before; rather states and their societies pose the main barrier to the development of such an international framework. This occurs within a general reluctance of states to transfer real binding power on questions of national sovereignty and security – such as migration that touches the very fabric of nations – to other entities. Co-operation in migration issues, so far, consists foremost in the transfer of control tasks to sending and transit states and the granting of rewards to these states whose co-operation in managing/control efforts are matched with development/financial aid or political and military support.

Regional migration management in the European as well as other contexts suffers from immense differences regarding power and interests between receiving, transit, and sending countries. Mostly the individual interests, orientations and expectations of the people migrating are somehow forgotten and are not taken into account. The approach to manage migration and to reduce illegal migratory movements by a change in perspective, so far, lacks from the support of European receiving states to actually grant more migrants the opportunity to enter the EU and secure access to the labour market under circumstances of legality.

While EU states continue to block immigration - except those belonging to a 'very fine selection' of economically welcomed migrants - authoritarian states like Libya have now become included and accepted as partners to exercise control. Tolerated by other EU states, Italy continues with its approach and co-operates with a regime that is internationally accused of disrespecting human rights, internationally isolating itself for decades, lacking any legal, democratic framework as well as the capability to deal with migration in a humane manner.

Italy's actions occur due to the general dilemma of the EU harmonisation process and the general unwillingness of European and national policy-makers to develop a 'management approach' based on a more realistic perception of the root causes of migratory movements: deepening economic imbalances between Europe and migrant sending regions and the pull-effect of European (informal) labour markets for foreign labourers. Quick fixes, resulting in

the transfer of the perverse side-effects of failing policies to the shoulders of migrants, so far are the only remaining answer. Any long-term perspective of migration management, has therefore to be said, is still missing.

Inter-governmental organisations like the IOM could provide a solution to this situation by their engagement in the governance of migration and refugee governance. European Union member states and other nation states already benefit from their involvement and their contribution to standard setting, technical cooperation and (in)formal consultations. However, the role of organisations like IOM within this process is highly questionable.

An institutional framework for the management of migration, based on IGOs as its dynamic actors, has its main constraint in that these organisations do not possess any formal mandate to deal with normative or regulatory aspects of international migration. Informal meetings and inter-governmental panels are mostly non-transparent, and the positions and strategies of the ‘managers’ of migration (control) remain unclear to the public and the electorate of member states.

In- and outside the framework of the UN unfortunately no organization or committee, so far, has a sufficiently broad mandate to claim to be the ‘co-ordinator’ of migration management on the global level. This applies also to the IOM, although this organisation does possess certain financial resources, is supported by a great number of states and, seems to be the most likely candidate able to fill the institutional vacuum on the global level.

It must be criticised that most approaches of the IOM, while intending to tackle the root causes of migratory movements in emigration countries, have forgotten to pursue a change of perspective in receiving states who are the main financial contributors to the IOM. Migration management thereby is developing in another direction than to direct orderly and humane processes. The globally evolving institutional regime is likely to be based on a pure utilitarian ideology or political rationality where population movements will be allowed only when they seem economically warranted. Migration management in this sense remains limited to the world-wide extension of control policies that nation states are no longer able to exercise on their own.

Although migration management was formulated to reduce the net-costs of migration, most residents of receiving societies still fear ‘waves of immigrants’ and immigrants remain the scapegoats for deepening social inequalities and rising crime rates. The need to import foreign labourers, due to a rising demand in receiving societies caused by on-going economic and demographic transformations in the near future, has not resulted in a change of perspective. Nor do politicians see the necessity ‘to prepare’ residents to face this near-future challenge or to accept a co-existence with immigrants. Migration management that remains

limited to control – as is thus far in the interest of all EU member states – will further increase the costs and negative side-effects of increasing irregular movements.

Instead of de-politicising and technocrising migration issues by adopting the neutral term ‘management,’ IGOs should engage more actively in the protection of migrants’ rights. A just system of migration management should not only serve the purposes of wealthy receiving societies. ‘Managing migration,’ according to Papademetriou³⁴, should not only intend to seek ‘perfection’ as migratory movements result mostly from individually made decisions that due to their nature are highly uncertain and far from being predictable. Rather, it should lead to international agreements that are truly bi-directional and balanced and are based on moral and democratic values. Inter-governmental organisations, when pursuing this approach, would provide an escape out of antiquated national policies and failing or missing common approaches in the context of the European Union.

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³⁴ See Papademetriou 2003: 53-55.

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ACTORS, NETWORKS AND SOLIDARITY IN MIGRATION

Simona Wersching¹⁾

Migrants have to be seen as active subjects who act correspondingly to their existing symmetrical and asymmetrical relations. They try to influence and shape the migration situation. But migrants are not the only actors in this case. On a formal level the government and different institutions set a frame for migration. On an informal level emigrants, mediators and different agents as smugglers, travel agents and bus drivers interfere and try to profit from would-be migrants. Also the former villagers play an important role, even if they are only passive spectators. In this paper I trace the changes of symmetrical and asymmetrical relationships between different actors in a village near Timișoara/Romania along a period of 30 years. The German domination is taken over by the migrants. Networks and solidarity relationships change or shift during the life-cycle of a person.

Keynotes: international migration networks, case study (village near Timișoara / Romania)

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1. Introduction

The aim of this paper is first to give a short outline of the migration history of a village and to present the actors of this case study. The main focus will be on the actors in the labour-sending country who must be differentiated into actors on a formal and on an informal level. Second, I will point out that there are symmetrical and asymmetrical relations on these two

levels which shape international migration. My findings are influenced by Krissman's (2005) critique of the "migrant network" concept which was confirmed by my fieldwork findings. I added to Krissman's critique my focus on the historical dynamics of symmetrical and asymmetrical relations.

At the beginning I would like to present the village by reconstructing the events which led to massive migration at the end of the 1990s as seen by the actors (Schiffauer 2004: 259-260).

2. Case Study

The investigated village is situated 10 km from Timișoara and has got a long migration history. Founded in the 18th century by the Banat Svabs it transformed during the 20th century from a German dominated village with 4050 German inhabitants in 1944 to a Romanian dominated village with about 3500 inhabitants in 2002. The Romanian population settled down in three main waves. In 1945 the first Romanians were the refugees from Bessarabia, North Bucovina and South Dobroudja and a number of Romanians from the Western Carpathian Mountains (so-called '*ardeleni*'). These four groups of Romanians adapted widely to the German way of life and their values as order, discipline and cleanness. In their neighbourhoods they developed close friendship networks which laid down a fundament for trust, solidarity and reciprocal help. The second larger group of Romanians from Sălaj, Bihor and Bacău counties came at the beginning of the 1960s when the collectivisation was completed there. At that time they gave up their private household economy and fled collectivisation. As their number was not too large and the number of the Germans still substantial, the Romanians were integrated into the community. A basic disruption of community solidarity advanced with the emigration of a large part of the Germans in the 1970s. The emigration of the Germans took place during a period of about 10 years. During this period the remained Germans were constantly attracted by the exposed achievements of the already emigrated Germans who visited their relatives in Romania. This behaviour led to an increased emigration of the Germans with a high peak in the years 1984-85, the time of the first 'migration hysteria'.

The Germans were replaced by Romanians (the so-called '*vinituri*') from especially Suceava, Botoșani and Iași counties. This change promoted the feeling of alienation among the former villagers. New solidarity networks had to be tied again i.e. along workplace friendships. In 1990 the population's mobility was very high because of a high rate of *navetism* to the city where some villagers worked in the industry and to a neighbouring village where a large part of the villagers worked in the pig breeding and pork processing industry.

After 1989 unemployment reached first the persons who worked in the industry in the city. Return to agriculture, trading with Yugoslavia and Hungary (the so-called ‘*bizniț*’) and breaking the embargo imposed upon Yugoslavia at the beginning of the 1990s offered the unemployed different opportunities to handle their situation. As can be seen from the migration history of this village the population was quite mobile and had already migration experience (‘inner migration’ and *navetism*) when only at the end of the 1990s international migration of the Romanian population started.

International migration was caused by the gradually closing of the pig breeding and pork processing industry. First *pioneers* started migration by passing the border illegally (with ‘*călăuză*’) paying for the intermediary as quite a lot of Germans did in the 1970s and 1980s. Other *pioneers* used their friendship to a former German neighbour and procured Schengen visa for themselves and mediated paid visas for their workplace friends. These *pioneers* themselves attracted their kin, friends and neighbours which led after the omission of the visa in 2002 to a massive migration of families. The village population experienced a second time the ‘migration hysteria’. Meanwhile an estimated number of at least 330 persons are as migrants in a foreign country (approximately 9.4% of the village population)³⁵. They are mainly in Spain, Italy and Germany³⁶.

Romanian migration literature points out the beginning of a spectacular mobility after 1989 in combination with international migration (Dumitru, Diminescu and Lazea, p.51). Mobility and migration is seen as a necessary consequence of transition to a capitalist market economy. My findings show that mobility from specific regions in Romania was already quite high before 1989 because of inner migration caused by political decisions (as borders changing and collectivisation) and economic decisions (as industrialisation and *navetism*). And last but not least there exists also a psychological moment in regard to migration. ‘Migration hysteria’ can lead to a massive migration flood which cannot be explained by economic or political causes.

After presenting the migration history of my investigated village I want to point out some critique of the “migrant network” concept. It is not my aim to go through the main points of the “migrant network” concept but to start immediately with my critique based on my fieldwork findings. Within the limits of this paper I will concentrate my critique on the present day situation but my differentiation could be transposed in the same way to the past. Further on I will deal with two main points. First, I will argue that the actors in the labour-

³⁵ My estimation: about 1000 households, from every third household (330) there is at least one person as a migrant in a foreign country. Minimum of 330 migrants, about 9.4%

³⁶ Generally speaking, the main destinations from Banat region are Spain 6%, Italy 6%, Germany 48% (as for 1st November 2002, in Diminescu and Lăzăroiu, 2002)

sending country must be differentiated into actors on a formal and on an informal level and second, that there are symmetrical and asymmetrical relations on these two levels which shape international migration. In addition, the character of these relations is changing through a longer period of time.

So let me start with the actors on a formal and on an informal level.

3. Critique of the “Migrant network” concept

3.1. Actors on a formal and on an informal level

The first thing that struck me most during my fieldwork in ‘my village’ near Timișoara was that I could not depict a single international migrant network but a whole variety of different actors on several levels. So in my opinion, the main focus on the migrants in the “migrant network” concept should be added through the view of a variety of different actors. In this paper I will focus on the actors in the labour-sending countries. There are several actors in a formal and an informal system of recruitment whose practices can actively shape the migration network or who can be at times passive spectators.

Talking about the present only there are two main-groups of actors on the formal level: the Romanian government and its migration policy (i.e. border policy) as a first actor and the receiving countries and their migration policy (i.e. legalisation programmes) as a second actor. These actors recruit migrants through institutional arrangements of various types and work for a number of federal, state or local public agencies or are contacted by the private sector to recruit immigrants under governmental auspices. Most prominent is the state agency called the "Oficiul pentru Migrația Forței de Muncă" (OMFM) as part of the “Ministerul Muncii, Solidarității Sociale și Familiei” which is widely operating through its homepage [www.omfm.ro], its announcements in the media and in the public (by posters) and which launches each year different programmes. These actors influence the migrants through the media, news, TV programmes and public discussions.

On the informal level a group of network actors consists of (former) hometown or of other migrants who recruit new immigrants outside of the formal labour systems. These actors can be sent by their employers who then actively recruit on an informal basis. Romanian and German emigrants can also play the role of an intermediary (i.e. for seasonal workers) but can also be employers themselves (i.e. for domestic workers).

Other actors in the international migration network are agents like smugglers, travel agents and bus drivers that provide specialized services (i.e. information) to would-be migrants and new migrants for fees or sinecures. In the end one should not omit the passive

spectators, the hometown villagers who through their discussions, rumours and their presence contribute to the migration network. This can happen also through refusal of migration and conscious decision not to migrate.

Now let me go on with the second point I want to make. The „migrant network” concept focuses on symmetrical relations within the migration process. These are considered as stable and unchanging. I want to argue in the following that symmetrical and asymmetrical relations on the formal and informal levels shape international migration and that these are constantly shifting.

3.2. Symmetrical and asymmetrical relationships

All the above mentioned actors try to carry out their aims and struggle for power in an international migration network. In regard to asymmetrical relationships these are characterised by power imbalance (i.e. patron-client). The above mentioned relations between the actors on the formal level, the villagers and the migrants are characterised by power imbalance and must be considered as asymmetrical relationships due to the stronger influence of capitalist relations. Several informants complained about the seemingly unjust selection procedure of the OMFM which favours would-be migrants with sufficient capital for migration. One of the most important complaints was that the main selection procedure is realised in Bucharest and all migrants have to be examined by one special doctor there. For would-be migrants from the countryside with little capital this hurdle is already difficult to pass. The informants suggested that the selection procedure should be more decentralised so more would-be migrants could join them.

On the informal level network actors as (former) hometown migrants can take advantage of their knowledge and install an asymmetrical relation to would-be migrants. This is especially the case with the Svabs which emigrated in the 80s. The hierarchical relationships between German former villagers and Romanian villagers remained also after the emigration of the Germans. They even used their relations to arrange rotational migration after 1989 and perpetuated by this their former patron-client relationship. Romanian villagers have worked since 1989 as domestic workers in German households and have taken care of elderly people. They are paid a low wage compared to German standards but a considerable amount compared to Romania.

Other actors in the international migration network as the above mentioned agents and intermediaries who provide specialized services are also in a more powerful position as would-be migrants. The later are dependent on the services of agents and intermediaries. Until 2002 it was very difficult to get a Schengen visa so the intermediaries had a lot of work i.e. to

provide visas for would-be migrants who did not have close relations to Western countries. In the 90ies, other would-be migrants paid mediators to bring them illegally over the border. In the end, hometown villagers often sustain asymmetrical relationships to migrants. This becomes evident when we consider consumption habits. Migrants have taken over the prestigious role of the Svabs and have become the generous donators. When they spend their holiday in their hometown in Romania they bring gifts and invite their former neighbours for a beer in a pub. Consequently, one could sum up that asymmetrical relations are expressed in a capitalistic way by money.

As for symmetrical relationships I agree with Krissman that they are rooted in relations and practices prevailing in the hometowns (i.e. labour exchange, mutual aid, self-help, fictive kinship, neighbourhood aid). In regard to symmetrical relationships symmetric networks (as kinship) may loosen because of changing solidarity relations during the life-cycle of a person as is the case with Mrs H. who left her parents and her child and settled down in Germany and founded a new family. Kinship relations can compete with one another because a person has to do a favour to another close person as was the case with Family T. (see also Mahler 1995, Menjivar 2000). Solidarity and trust relations exposed in social networks in the hometowns ([work] friendship) may change or not function in the migrant country because the rules of the game are understood in the receiving country in a capitalist way as was the case with Mr C. who transported his workplace colleagues to the railway station in Madrid and left them there without arranging them accommodation and work. In regard to social networks the gender perspective must be kept in mind. Friendship regarded as a symmetrical relationship can change into an asymmetrical relationship for a migrating woman. Mrs C. (Căpșunica) experienced exploitation by her friends who broke their promise to pay her for child rearing in the migration country.

4. Conclusion: Own Findings and historical view

International migration started latest in the 1970s when the German population emigrated to Germany. Their emigration did not mean the final break with their country of origin. They maintained relationships to their German relatives in the village and to their Romanian former neighbours. Through the exposure of prestigious goods and their exaggerated stories about their consumption achievements in Germany the emigrated Germans attracted the remained Germans. This led in 1984-85 to '*migration hysteria*'. At this stage the emigrated Germans established asymmetrical relations to the remained Germans and the Romanian villagers.

Though 'infected' by the German 'migration hysteria' only a few Romanian villagers left immediately after the Revolution in 1989. These Romanian emigrants established new

networks which were activated at the end of the 1990s by some villagers. With the breakdown of navetism at the end of the 1990s pioneers aimed international migration mainly to Spain and Italy where, as was known in Romania, work was quite easy to find. Because of missing village solidarity a lot of villagers left at their expense illegally and only sporadically existing networks to Germans or emigrated Romanians were used for migration. These pioneers attracted some of their kin, workplace friends and neighbours. Following these pioneers a second 'migration hysteria' developed especially after 2002 when the need for a visa for the Schengen states was eliminated. My findings show that the network practices belong mainly to an informal system of recruitment. Migration on a formal level began for the villagers only after 1999 when Germany and Romania signed a treaty for annual 18,000 seasonal workers going to Germany (Dumitru, Diminescu and Lazea: 53).

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ON THE NEW EUROPEAN BORDERS: THE NEW GEOGRAPHY OF THE EUROPEAN MIGRATION³⁷

*Ovidiu Laurian Simina**

Why is important to know what Europe is? Because we face a '*new geography of migration*' within the European Union: once on the territory of a Member State, the peoples do not cross international borders anymore, but internal frontiers. The international/European migration becomes a form of mobility within the wide, common space/market: the migrants are usually workers in search of better opportunities within the European labour market. To study the contemporary Europe means to understand the sense of 'contemporary borders': what is the sense of '*border*', '*boundary*' or '*frontier*' in our days? The European Union aims to create a united Europe, where the European people share a European citizenship and same civilization and values. The free movement of persons is a fundamental freedom guaranteed by the European Union law and is a mark of the European citizenship. Within the Schengen Area, the Members States transformed their borders in internal boundaries: the merchandises are traded freely and the people travel without visa or border checks within the Area. In the author's opinion, the European Union has to manage an unstable equilibrium: to secure the borders against the illegal migration, to assure the protection of the peoples in need of the international protection (refugees and asylum seekers) and to sustain the mobility of skilled migrants, even from third countries, in order to maintain the economic growth and the demographic needs. The EU has moved its border to the East and has launched the European Neighbourhood Policy, in order to stop the illegal migration outside its border (maybe in the borderland countries?). But Europe should not become a continent of reinforced borders and police persecution of immigrants.

Apart from the issue of border itself, the author proposes the debate of a challenging subject: the mentality, the border from inside us. To be able to migrate, to surpass his condition, the would-be migrant must pass beyond the mental issue of uprooting, of going out (from village to town, from one city/country to another: even before to migrate, the person has to cross some borders; once decision of migration taken, he will easily cross other real or imaginary

³⁷ A previous version of this paper was published as *Borders in the Contemporary Europe: the Geography of European Migration*, in Lia Pop and Cristina Matiuga (eds.): *European Identity and Free Movement of Persons*, Oradea: Editura Universității din Oradea (2005), pp. 248-272. The subject of this paper will be developed in a dedicated volume: the paper is an outline of the author's forthcoming book about the European borders, as part of his research on the interactions between borders, European migration, growth and demography, in the framework of creation of an European identity. The author tries to define the signification of the borders in the present time, by analysing the different kinds of borders: internal and external borders, religious and ethnics borders, and not at the last, 'the border' from the inside of the Europeans' minds, through different points of view: history, geography, religion, media and politics. The author wishes to thank dr. Paolo Ruspini for his valuable observations and advices delivered after the publication of the first version of this paper.

borders). The people from northern and eastern Romanian villages have the greatest migration experience: before the 90's, they were leaving to work temporary in wealthier cities from central and western Romania, nowadays they are leaving for wealthier countries/cities from European Union. For them, this is *workers' mobility*, even before such topic to be under debate within the European Union.

Keywords: EU enlargement, external borders, European migration, Romanian emigration
JEL classification: F22, J11, J61, J70

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Argument

When I started documentation for a study concerning the debate on *contemporary Europe and the issue of border*, a professor asked me to explain what I mean by “contemporary Europe”. When the contemporary Europe begin? In my opinion, the contemporary age of Europe started at the end of the World War II, when the European population was split in two by the Berlin Wall and the so-called ‘Iron Curtain’: Western Europe (*Occidental Europe, Capitalist Europe* or, as seen from the other side, simply *The Occident*) and the Eastern Europe (known mostly as the *Communist Europe*, the Soviet Union’s area of influence). The period when the Europeans, divided by the war into ‘*allies*’ and ‘*enemies*’ or winners and war losers, were one more time separated by an artificial border (both a concrete wall/fence and a political demarcation area) built by the winners of the WW II, that divided among them the Communist and non-Communist worlds³⁸.

The Iron Curtain made visible: The Berlin Wall, a geopolitical border between East and West, rigid and frightening, with the constant efforts to strengthen its defence to perfection. It was all the more shocking and violent because it was raised on a dividing line which already ran through the city, but had never been more than invisible abstraction. In the space of few hours, on the night of 12 to 13 August 1961, the boundary between the Russian-sector district – Mitte, Friedrichshain, Treptow, Prenzlauer Berg and Pankow – and others, which the three allies had occupied since the end of Second World War, was turned into a deadly barrier. As the years passed, that barrier was extended and strengthened ...

³⁸ In this context, by *artificial border* I understand a border that was not naturally established, was a border imposed by force not to separate a country from another, but to separate a world from another world; in fact, this border divided people with different political ideologies: the main reason of the East-West border [even the concrete fence or the mental barrier] was to keep the Easterns inside the Eastern space [as drawn on a napkin during a conference] and not to allow them to change the part, or to move to *The Occident*.

*A frightening border in a dead, uncompromising landscape. (The Berlin Wall - a frightening border, today redundant)*³⁹

Throughout history, borders have separated nations, states and empires. At the same time the course and character of a border can determine the power and vitality of those around it (Guțu, 2006: 30). My opinion is that the religious, ideological, strategic and geopolitical borders are more important than the political boundaries within the European continent. Since the end of World War II, Europe was changed several times. And the European boundaries were changed too. The contemporary history knew construction of the Berlin Wall, the split of the Europe (and the world) in two, the revolutionary movements from the end of 80's, the reunification of Germany and the dividing of some states in Central and Eastern Europe (the deconstruction of Czechoslovakia and Yugoslavia as nation-states). Berlin Wall and the Iron Curtain divided the European continent for more than 50 years: *Democracy* and *Communism*. After 1989, the political changes led to removing of some borders and to building of new ones: the German Democratic Republic had joined German Federal Republic into a most powerful Germany, but the former Czechoslovakia was broken between the Czech Republic and Slovakia, through peaceful movement⁴⁰. The Central and Eastern Europe states and the Commonwealth of Independent States (CIS) have experienced dramatic changes in their political geography since 1990. A short revolution led to the dividing of the former Soviet Union in as known the 'CIS states' and a bloody civil war destroyed the former Yugoslavia in Serbia, Montenegro, Slovenia, Croatia, Macedonia, Bosnia–Herzegovina and Kosovo [a region with a special status and special problems]. Moldova fought against Transnistria which still host the remains of the 14th Soviet Army on its territory (like Kaliningrad, Transnistria enclave represents the military involvement of Russia among former URSS states). In the same time, some countries share the same history, language and tradition, but their populations live in different countries, like in Romania and Moldova case, while other revisionist movements still claim the removal of the Trianon (Paris) Treaty provisions who fixed the national state borders at the end of the World War I.

Geographically speaking, Europe (as the name of the European continent) lies from the Ural Mountains at the East to the Atlantic Ocean at its Western edge, and from North Cape (Scandinavia) to the Mediterranean Sea islands (Cyprus, Crete island of Greece and Malta),

³⁹ Dolf-Bonekämper, Gabi and Marieke Kuipers, *Boundaries in the landscape and in the city*, in Dolf-Bonekämper (2004: 58)

⁴⁰ During my first visit in that region in August 2000, I crossed the border between Slovakia and Czech Republic by car, passing along a new bridge across the river (the natural border between the two sister-states). The both border authorities were involved in the construction of new border check points: modern buildings, new technical methods to control the traffic and the passengers. At that time, my question was: 'Well, Czech Republic just joined NATO, so it doesn't fear of Slovakia any more. Within the following years both countries will join the EU, being on the same side of the external border. So, why to spent such a money on building new modern border check points at the both edges of a bridge?'. I had never found an answer and I am still looking for...

on the North – South direction. Obviously, *Europe* is more than the European Union physical territory (in the same way European Union is more than European continent, as talking about overseas territories or the Spanish north African enclaves). From the Europeans' point of view, Europe's limit is at the eastern border of Baltic States, Poland, Czech Republic, Slovakia, Hungary and maybe Romania and Bulgaria. Russia, Belarus, Ukraine and Moldova are still seen as '*former Soviet space*' or a territory ruled by former communist leaders. For non-European citizens, *Europe* means 'the European continent', more than the European Union; in this way Russia, Belarus, Ukraine, Moldova and the Caucasian countries are included. The Europe's borderline is rather a political issue than a geographical one. *Europe* means a Europe of culture, of civilization, a common history and a way of life.

A major issue to be raised is *how Europe may be understood*. What is meant by 'European'? Is it restricted only to those states of the EU; does it stretch to those countries that have assigned association agreements with the EU or is it simply a geographically wider group. Yet this leads to another complex level of this question: '*Who is European*'? (Albu 2004: 122). My opinion is that the border is more than a geographical, physical or political line drawn imaginary or in reality to divide territory, to oblige the *would-be emigrants* to cross it to change their status; the border is a psychological fact, a personal decision taken before the very first act of (e)migration. Frontiers delimit territories, but these barriers are often more imaginary than real⁴¹.

Separating and defining territories and identities, borders suggest a stark division: this side or that. But, as a kind of no man's land, where worlds met and connect in unexpected ways, they also have a powerful fascination. Border areas are surely the ones most likely to generate those many-sided, compound identities which often prove amazingly creative. European identity itself may perhaps show most clearly in these sensitive zones where influences combine in mutual enrichment and the unthinkable become the possible. (Dolf-Bonekämper, 2004: back cover presentation)

Borders in the contemporary Europe: Borders, Frontiers, Boundaries

«Uncle Cohen is speaking about his life: "*I was born under the monarchy, I went to school in Czechoslovakia, I got married in Hungary, worked in the Soviet Union, and I am a Ukrainian citizen.*" One listener remarks, "*You are a much travelled person*". "*Not at all*", Uncle Cohen answers, "*I never left my hometown*"». The popular anecdote quoted by Juhász (2003) illustrates that migration to and from Hungary [or to and from other CEE country] can only be

⁴¹ Dolf-Bonekämper, G., *Breaches in borders: ritual crossing points – an ambiguous concept*, in Dolf-Bonekämper, 2004: 20

understood in the context of frequent changes to the political map of Central and Eastern Europe. Or to the political map of Europe...

Almost everybody knows where Europe is, but do they know what it means? To define Europe you should understand what Europe is: a country as big as a continent (geographically speaking, the European Continent is more than the Europe known by the western European), a federation/confederation, a union of states or a new (political) entity? My paper does not intend to find answers to these interesting questions, but to instigate a debate on the means of the border (or boundary, frontier) in nowadays Europe and the connexions between borders and the migration phenomena.

To define a country, you need to know at least some important elements: the territory, the population who live in that country (or territory, or region); some symbols that signify the unity of those people, such as a flag, an anthem, national coat of arms, maybe a capital city; common values, and the most important, in my opinion, *the boundaries of that country, territory or region*. When finds a country on the map, one shows its neighbours, the bordering ocean or the sea, or usually a river and some mountains, as natural boundary lines. Borders have different meanings due to their significance for those involved in borderland activities, politics or research.

We use different words to explain the same thing: a line that separate (divide) a territory from other at their edges, or to mark this territory owned by someone else (a state, in our case), *'a frontier between States'*. Looking in the major dictionary for the meaning of border, the definitions for 'BORDER', 'BOUNDARY' or 'FRONTIER' are *'the official line that separates two countries, states, or areas, or the area close to this line'* or *'the real or imaginary lines that marks the edge of a state, country, or the edge of an area of land that belongs to someone'*⁴², *'boundary'*⁴³, *'the line that divides one country from another; bordering countries/counties'*⁴⁴ and *'the line that divides two countries or areas'*, *'a real or imagined line that marks the limits or edges of something and separates it from other things or places; a dividing line'* and *'the line that separates two countries; the land near this line'*⁴⁵. Just an example: Romanian, as a Romance language with few Slavic, Hungarian, German and few Turkish influences, uses more five words to define *the border*⁴⁶: FRONTIERĂ (= frontier, boundary; French origin), GRANIȚĂ (= boundary; Slavic origin), HOTAR (= border, boundary, territorially limit; Hungarian origin), HAT (= line delimitating a land

⁴² The Longman Dictionary of Contemporary English On-line, available at: www.ldoonline.com

⁴³ Merriam-Webster Online Dictionary, definition for 'border' available at: www.m-w.com/dictionary/border

⁴⁴ Cambridge Advanced Learner's Dictionary, available at:

<http://dictionary.cambridge.org/define.asp?key=8923&dict=CALD>

⁴⁵ Oxford Advanced Learner's Dictionary, 7th Edition, Oxford University Press, 2004

⁴⁶ See DEX Online (Dicționarul Explicativ al Limbii Române), www.dexonline.ro

property, territorial limit at the edge of a land; Ukrainian origin) and LIMITĂ (= limit, boundary; Latin/French origin). Do not forget that Romania, the “*Latin Island*” country into the Central and Eastern Europe and Balkan Peninsula, borders Hungary, Serbia, Bulgaria and Ukraine [note: as former Romanian territory, Romania still count Moldova as the ‘*little sister*’, with same language, history and traditions]. For each neighbouring country, a different word to name the border, but the same sense.

The European Union differentiates between internal borders (a frontier between two Member States) and external borders (a frontier between a Member State and another country, outside the EU; with the removal of the EU internal borders, security at external borders has been given special emphasis⁴⁷). Upon the 2004 enlargement, the European Union (it was established under that name in 1992 by the Treaty on the European Union – *the Maastricht Treaty*) is an *intergovernmental and supranational union* of 25 European countries, known as Member States of the EU. Depending on the area in question, the EU may therefore resemble *a federation* (for example, on monetary affairs, agricultural, trade and environmental policy); *a confederation* (for example, on social and economic policy, consumer protection, home affairs); *an international organisation* (for example, in foreign affairs). The European Union has an area of 3,892,685 km² and some 460 million EU citizens as of December 2004, compared to 295 of the US. If it were a country, it would be the seventh largest in the world by area and the third largest by population after China and India. Some EU Member States still own some overseas territory (the remaining parts of the former western Colonial Empires), therefore the nowadays EU has *land borders* with 20 other nations: (west-east) Suriname, Brazil, Morocco, Andorra, Norway, Monaco, Switzerland, Liechtenstein, Vatican City, San Marino, Croatia, Russia, Serbia and Montenegro, Albania, FYR Macedonia, Ukraine, Belarus and Turkey, and until 2007 with Romania and Bulgaria. This is based on a definition including all lands and islands whose natives are considered citizens of the EU. On the same basis, the European Union also has *sea borders* with 31 nation-states (west-east) New Zealand (via the Cook Islands), Kiribati, Bahamas, Haiti, Dominican Republic, Colombia, Venezuela, Canada, the USA (via Puerto Rico), St. Kitts and Nevis, Antigua and Barbuda, Dominica, St. Lucia, Western Sahara, the British Crown Dependencies of Isle of Man, Guernsey and Jersey, Algeria, Tunisia, Libya, Egypt, Syria, Lebanon, Israel, Comoros, Madagascar, Vanuatu, Fiji, Tuvalu, Samoa and Tonga.

Most of the CEE countries have joined NATO and European Union. The so-called ‘*Capitalist Europe*’ lies up to the Ukraine borders now. *The Area of Freedom, Security and Justice* is widening. However, Europe still host border conflicts, the Transnistrian aggression

⁴⁷ Migration Citizenship Education, Glossary, available at www.migrationeducation.org/glossary.0.html#Border

being the most known example. The major problems exist on the Transnistrian sector of the Moldovan-Ukrainian border. For almost 15 years this stripe of land, that covers 421 km in length with 11 important crossing points on the border had been out of access for Moldovan legal authorities (Guțu, 2005 and 2006). As Eastern countries are getting closer to the European Union, it is of outmost interest for the European Union to export stability and security to that region.

Due to the separation of Transnistria, the Republic of Moldova has today three and a half types of borders. The first type of border is between Moldova and Romania, the second type of border is between Moldova and Ukraine. The third type is the Transnistrian sector of the Moldovan-Ukrainian border, which is beyond the control of Moldovan authorities. The last type of border is the line along the Nistru River that separates Moldova from the self-proclaimed republic of Transnistria. This border is called a "half a border" since it is neither formal nor external and the region of Transnistria is de jure part of Moldova, but de facto independent as the Government has no control over it. (Guțu, 2006: 30)

The strengthening of the borders is seen as a priority matter. From this point, other questions are raised, as the EU has moved its border to the East and has launched the European Neighbourhood Policy, in order to regulate the migratory flows and to allow cross-border traffic notwithstanding the new boundaries to entry and mobility (but from a less politically correct point of view, to stop the migration outside its border, in the borderland countries). The creation of detentions camps and the foreigners' internment is seen as "*part of a series of measures that are referred to as «common migration and asylum policies» and aim at subcontracting the control of entry into the European Union to the states at the outer borders of Europe*" (migreurop 2005). Today in European Union and South-Mediterranean countries the detention camps for immigrants range from prisons, as in Germany and Ireland, to detention centres in the Greek islands which were not planned and are built in make-shift buildings⁴⁸. Camps are also the answer to high risks of shipwrecks and capsizing of boats transporting migrants across the Adriatic, from Italian *Centri di permanenza temporanea e assistenza* to French *zones d'attente / waiting zones* and *centres de rétention*, from closed centres for asylum seekers in Belgium, to buffer camps which mark the actual border of the European Union: Morocco, Spain (Ceuta, Melilla, Canary islands), Algeria, Ukraine, Malta, or Lampedusa (Italy).

Is another Iron Curtain raised, or is a new type of 'Berlin Wall' prepared for non-Europeans? "*Keeping Europe's frontier protected is a necessary condition for the Union's security. But it is not enough*" (Demetz, 2006). A major challenge for the CEE countries is to

⁴⁸ Romania has the following centres for foreigners (both closed and open centres): Transit Area of Otopeni Airport, Otopeni Centre for foreigners, Bucharest (2 centres), Arad, Galati, Giurgiu, Rădăuți and Timișoara.

secure the borders against the East – West illegal migration, but to secure the life of refugees and asylum seekers, in the light of human rights and EU policy in the matter. Europe shouldn't become a continent of reinforced borders and police persecution of immigrants. “*Does Europe have to be a fortress? Yes, it does. It has to be a fortress of values*”⁴⁹. Europe appears caught up in its own dilemma: *Europe needs migrants, but Europe fears migration* (Simina, 2005: 117). The problem of religious and ethnic integration into European society is probably the EU's biggest challenge. Europe must set goals of inclusion, diversity, integration, respect and tolerance, those necessary realities of living in this *new world order* (CCT, 2004). Five hundreds years ago, the Ottoman Empire was the main threat for a Christian Europe with its Eastern ‘GATES’ guarded by Moldavian kings as Stephen the Great (Ștefan cel Mare, 1433-1504) who was acclaimed by Pope Sixtus IV as the ‘Athlete of Christ’. Nowadays, Europe fears of immigrants (Simina, 2005: 119-120).

The road to establish a genuine Area of Freedom, Security and Justice is still a long one, and the right balance between Freedom, Security and Justice needs to be ensured. The main value of the European continent is the freedom of movement, one of the fundamental principles upon which the European Union was once founded. Security and law enforcement policies need to be developed with ‘freedom’ as point of departure (Apap and Carrera, 2003). As new measures to ensure the freedom of movement, the European Union has recently adopted a Directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, which brings together the piecemeal measures found in the complex body of legislation that has governed this matter to date. This piece of legislation aims to encourage Union citizens to exercise their right to move and reside freely within Member States, to cut back administrative formalities to the bare essentials, to provide a better definition of the status of family members and to limit the scope for refusing entry or terminating the right of residence. The Directive merges into a single instrument all the legislation on the right of entry and residence for Union citizens, consisting of two regulations and nine directives⁵⁰. This simplification will make it easier not only for the general public but also for public authorities to exercise their rights. The Directive also sets out to reduce to the bare minimum the formalities which Union citizens and their families must complete in order to exercise their right of residence (right of residence for up to three months). All Union citizens have the right to enter another Member State by virtue of having

⁴⁹ Anna Diamantopoulou, former European Commissioner for Employment and Social Affairs, as quoted by the un-official record of the proceedings of ‘The Economic and Social Implications of Migration’ panel discussion, The European Policy Centre and the King Baudouin Foundation, Brussels, June 17, 2003

⁵⁰ SCADPlus: European Parliament and Council Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC. Available from: <http://europa.eu/scadplus/leg/en/lvb/l33152.htm>

an identity card or valid passport (for stays of less than three months, the only requirement on Union citizens is that they possess a valid identity document or passport). Under no circumstances can an entry or exit visa be required. The host Member State may require the persons concerned to register their presence in the country within a reasonable and non-discriminatory period of time. Where the citizens concerned do not have travel documents, the host Member State must afford them every facility in obtaining the requisite documents or having them sent. Family members who do not have the nationality of a Member State enjoy the same rights as the citizen who they have accompanied. They may be subject to a short-stay visa requirement under Regulation (EC) No 539/2001. Residence permits will be deemed equivalent to short-stay visas.

The 2004 European Union enlargement was, however, accompanied by a chain reaction of restrictions introduced by EU15 to curb prospective migration from the new Member States (in fact, to limit the free movements of labourers; only the free movement of persons for not-working reasons is allowed from the very first day of membership). The potential consequences of the enlargement have fuelled debate in the EU15 states, where many fear that migrants from the new members will swamp their labour markets and strain their welfare systems. Under the enlargement treaties, the EU15 nations restricted the right of accession nationals to their labour markets for up to seven years (3 + 2 + 2). Workers from the new Member States had to wait up to seven years before they could seek jobs in other countries on an equal basis with natives. During the negotiations with Turkey, there is likely to be a debate over whether there should be a longer-than-seven-year wait for Turks, whether the EU should allow freedom of movement when certain indicators are met, or whether individual EU Member States should have discretion in when to allow freedom of movement.

On the other hand, freedom of movement is assured only for Europeans, the non-Europeans do not get protection in this respect: they are free to leave a country, including the own country, being allowed to return to the home country, but no piece of legislation in the entire world could oblige a state to let a non-citizen to enter the territory (apart of the case of humanitarian reasons and of the returning illegal immigrants expelled by a borderland state, once the country is proved as the primary transit country).

Nowadays, border controls and the fight against illegal immigration are central to European immigration and asylum policies. Before accession, even in 2002, each of the new Member States had to prepare a *Schengen Action Plan* in which it set out the strategy to meet the obligations under the Schengen acquis. Bulgaria and Romania did the same in 2004. The Accession Treaties contain a special safeguard clause, which covers the whole field of 'Justice and Home Affairs' including the Schengen acquis and can be evoked during the three

years following accession. The Schengen acquis is composed of one principle and many implementing regulations. The Schengen acquis results from the Schengen Agreement⁵¹ signed in 1985 by 5 States and gradually extended (see Box 1). Created outside the European legal framework, this Agreement, its Convention of implementation and subsequent decisions were integrated into the legal framework of the European Union by the Treaty of Amsterdam which came into effect in May 1999. They come under the chapter ‘Justice and Home Affairs’ set up by this Treaty. However, the United Kingdom and Ireland obtained an opt-out clause, whilst being included in certain aspects of the intergovernmental co-operation based on the Schengen Agreement. Furthermore, Iceland and Norway are members of the Schengen Area without being members of the European Union (Luis, 2005). The microstates of Andorra, Monaco, San Marino, and Vatican City and the territories of Greenland and the Faroe Islands have free movement arrangements with signatories of the treaty. Liechtenstein has a free movement arrangement with Switzerland. But it is not clear if full participation into the Schengen space is part of these arrangements – if the microstates participate in SIS-I/II, if the internal border controls are abolished. Borders remain between Andorra and the European Union. EU citizens do not need a visa but people who require Schengen visas should ask for a several entries visa. Liechtenstein, for instance, announced the starting of negotiations for official entry into the SIS in autumn of 2005. The New Member States (the so called EU10) do not have an opt-out clause. They were therefore obliged to become part of the Schengen Area from the first day of their EU accession. However, they were not yet considered to be in a position to fulfil all the obligations resulting from the ‘Schengen acquis’.

The Schengen acquis is divided into two parts. Firstly, measures which should be applied from the day of accession. These are essentially checks and controls at the external frontiers of the European Union (the area of freedom security and justice means that border checks within the EU have been removed inside the Schengen zone), common policy towards third countries in respect of the granting of visas (but not the Schengen visa), rules for the crossing of external frontiers, police and customs co-operation, the fight against clandestine immigration etc. There are no transitional arrangements for these measures. Secondly, the provisions which will allow the abolition of the internal borders of the Schengen Area will be applicable only when all the other members of Schengen Area unanimously believe that the new Member State is able to ensure effective implementation of these provisions.

The border check is a form of monitoring individuals crossing frontiers between countries. The principle of Schengen is that checks and controls should be abolished at the

⁵¹ Schengen (Luxembourg) is a borderland town on Mosel/Moselle river shore. This river is a symbol of border which connect identities, bordering three countries: France, Luxembourg and Germany.

internal borders of the Member States of the Schengen Area and applied only at their common external frontier; stricter controls remain at the EUs external borders. The implementing regulations comprise all the technical measures necessary to ensure that free movement of persons does not pose a risk to the security of the States which are party to the Schengen Agreement, for example, the common definition of requirements for granting visas, coordination of the authorities in charge of policing frontiers, responsibility of carriers in the fight against clandestine emigration etc. The main measures adopted by the Member States as part of cooperation under Schengen include: the abolition of checks at common borders, replacing them with external border checks; a common definition of the conditions for crossing external borders and uniform rules and procedures for checks there; separation in air terminals and ports of people travelling within the Schengen area from those arriving from countries outside the area; harmonisation of the conditions of entry and visas for short stays; coordination between administrations on surveillance of borders (liaison officers and harmonisation of instructions and staff training); the definition of the role of carriers in measures to combat illegal immigration; requirement for all non-EU nationals moving from one country to another to lodge a declaration; the drawing up of rules governing responsibility for examining applications from asylum seekers (Dublin Convention, replaced in 2003 by the Dublin II Regulation); the introduction of cross-border rights of surveillance and hot pursuit for police forces in the Schengen States; the strengthening of judicial cooperation through a faster extradition system and faster distribution of information about the enforcement of criminal judgments; the creation of the Schengen Information System (SIS).

The Member States that joined the EU on 1 May 2004 are bound by the entire Schengen acquis, but certain provisions will apply to them only after border controls have been abolished. They will be abolished by the Council when the SIS is operational in their countries and when those Member States have undergone a test to show that they meet all the conditions required for the application of compensatory measures enabling internal border controls to be abolished. This test is not new; all Schengen Member States have had to undergo it.

Box 1

Schengen and the European Union Member States*

Belgium, France, Germany, Luxembourg, the Netherlands – 19 June 1990 (implemented 26 March 1995)

Italy – 27 November 1990 (implemented 26 October 1997)

Portugal and Spain – 25 June 1992 (implemented on 26 March 1995)

Greece – 6 November 1992 (theoretical implementation up to 8 December 1997, but the control at the internal border was in force until the full implementation on 26 March 2000)

Austria – 28 April 1995 (implemented on 1st December 1997)

Denmark, Finland, Island, Norway and Sweden – 19 December 1996 (implemented on 25 March 2001)
Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia – 1st Mai 2004 (full implementation planned by end of 2007: the internal border controls are planned to be abolished as of December 2007 - land and sea borders, and by March 2008 - air borders, at the latest, provided all the conditions for application of the Schengen acquis have been met. This enlargement should concern nine new EU Member States: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, with exception of Cyprus).
Switzerland – 16 October 2004; ratification through referendum on 5th June 2005 (54.6% – YES and 45.4% – NO); to be implemented by 2008 or later
Bulgaria and Romania – planned to join on January 1st, 2007, when joining EU, and to fully implement Schengen later on...

* Only 15 states fully apply Schengen system (EU-15 but UK and Ireland, plus Norway and Island). Norway and Island are not EU Member States. Together with Sweden, Finland and Denmark, Iceland and Norway belong to the Nordic Passport Union, which abolished internal border checks. Sweden, Finland and Denmark became members of the Schengen group when they joined the EU. Iceland and Norway have been associated with the development of the agreements since 19 December 1996. Although they did not have voting rights on the Schengen Executive Committee, they were able to express opinions and formulate proposals. An agreement was signed between Iceland, Norway and the EU on 18 May 1999 in order to extend that association [Official Journal L 176 of 10.07.1999]. Switzerland is another country joining Schengen without being EU Member State.

Schengen divides Europe in ‘*countries with free movement of persons*’ and ‘*countries in need of Schengen visa*’, a ‘*space of freedom, security and justice*’ and a space considered to be unsecured or far away from the EU economic, politic or social interest. In the same time Schengen unites the authorities in their fight against illegal migration and organised crime, in order to secure the European citizens’ life. Common European rules apply at all the Union's external borders, whether they are land, sea or air borders. However, border controls remain a national prerogative. It is up to each country to ensure that European control standards are properly applied on its territory, in the interests of all.

However, the burden of border control falls more heavily on some countries than on others. Luxembourg has only one external border: the Luxembourg International Airport. Countries such as Italy, Spain and Greece, which suffer from acute migratory pressure in the Mediterranean, have to secure large areas. It is impossible, both technically and economically, to oversee the entire coastline at any time, and a common effort – both financial and technical – of all states is necessary. Cooperation between Member States takes place in a pragmatic way. Human resources and equipment are pooled. Good practices, state-of-the-art technology in the area of detection and experiences are exchanged. Numerous pilot projects of border control cooperation have taken place, and the projects which have yielded positive results are shared to all countries. They contribute to building trust between border guards, who all have the same job and apply the same rules, wherever they work at the Union's external borders, although they wear different uniforms. In the framework of the Schengen enlargement to new Member States, it is very important to build trust between European border guards.

On the other hand, the problem of border control poses a particular challenge to the countries from Central and Eastern Europe (and the Caucasus area). It is connected to the fact

that most borders in this area have only had this status for the past 15 years. This particularly applies to the poorer countries in the region, or those with borders that are particularly difficult to protect for geographic reasons. Also, cultural and ethnic factors play an important role – border lines often separate national groups or cultural and economic centres, which results in intensive frontier traffic.

The European Union invests nearly one billion Euro in securing kilometres of new external borders to the east. It is the responsibility of the new European Union Border Management Agency (Frontex) to stimulate cooperation with the prospective EU Member States responsible for managing the European external borders⁵². Border management means facilitation of authorized flows of business people, tourists, migrants and refugees and the detection and prevention of illegal entry of aliens into a given country. Measures to manage borders include the imposition by states of visa requirements, carrier sanctions against transportation companies bringing irregular aliens to the territory, and interdiction at sea (international standards require a balancing between facilitating the entry of legitimate travellers and preventing that of travellers entering for inappropriate reasons or with invalid documentation). An agency for the coordination of external borders of the European Union, based in Warsaw, Frontex was inaugurated in 2005. At the Berlin coordination centre for land borders, cooperation between EU Member States is a reality. The Heads of the border guard services of the Europe of 25 Member States were setting up pilot projects of cooperation of their operational staff in the field already in October 2003: French, Spanish, Austrian and German officers practically learned to work together at the German/Polish border.

Spain is the main entrance for African immigrants. After the Spain shores, the immigrants find an internally borderless Europe. Despite intensified border controls, thousands of Moroccans and other Africans manage to enter Europe. Morocco is 14 kilometres from the Spain coast, while the Spanish enclaves of Ceuta and Melilla (northern Morocco) are seen as ‘Europe in Africa’. Undocumented migrants usually enter either by riding in *pateras* (small fishing boats chartered by smugglers) or speedboats, hiding in trucks or migrants' vans, or carrying false papers (de Haas, 2005). Since the mid 1990s, intensified border patrolling in the Strait of Gibraltar has prompted migrants to explore new crossing points to Europe, such as more eastern places on the Mediterranean coast and the Canary Islands (de Haas, 2005). As a retort measure, a veritable fleet of warships, planes and helicopters patrol nowadays the international waters offshore of Senegal, Mauritania and

⁵² The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) has been set up to improve integrated management at the Union's external borders. Council Regulation (EC) No 2007/2004 of 26 October 2004, published in the Official Journal of European Union No L349 of 25.11.2004.

Cape Verde. Frontex had been dispatched experts to the Canary Islands to assess needs and coordinate the sea-patrols. This armada has the mission of intercepting the heavy boats of illegal immigrants who try, since March 2006, to reach the Canary Islands. In five months, already 9,000 Africans reached the shores of the Spanish archipelago, as many as for the twelve months of 2002 record year (Demetz, 2006). Following the tightening of controls in the Spanish enclaves in Morocco, in southern Italy and Spain, the Canaries are now, after Malta, one of the objectives/destination of smugglers, *'the weak link in Europe's border'*. (Demetz, 2006)

If Finnish border guards soon tan under the sun Canary because the adoption of the Schengen Convention has changed the very concept of national borders. The disappearance of systematic controls between the 15 member states of the Schengen area - 13 of the EU plus Iceland and Norway - is that an illegal immigrant Mauritanian into Spain is likely to cross without being concern, throughout Europe, to Helsinki. Faced with a surge unprecedented migration in some countries of Northern Europe, national governments agreed at Tampere in 1999 that joint action is now essential to monitor 91 000 km of land borders and sea the Union. (Demetz, 2006)

The security issue is addressed in the EU Neighbourhood Policy and the EU-national Action Plans, which target to install sophisticated tracking systems, to improve the borders infrastructure and the cooperation between agencies. We noted that the European Union prefers to guard the borders from the outside of them, stopping the would-be immigrants outside of the European borders, if possible in countries like Moldova, Ukraine, Belarus, or from Caucasus and Mediterranean areas.

European proposals increasingly mention the possibility of detaining asylum seekers in camps located outside the European Union. This "externalisation" or "subcontracting" applies not only to asylum but also to the protection of borders. The aim is to make them more and more impenetrable, pushing them beyond their physical materialisation. "Externalisation" is not only based upon visa policy, a key instrument of "remote control" policing. "Externalisation" is also central to the relations between the European Union and third countries, forcing the latter to cooperate in the fight against "illegal" immigration. Morocco is a good example of this policy. The European Union finances the control of Moroccan borders in order to fight "illegal" immigration to Europe. It is a way of transforming this country into a "European border watchdog". (migreurop 2005)

After the accession of Bulgaria and Romania, the European Union will have common border with Moldova and Turkey. It is considered that a secured border would mean a new wall in the middle of the European continent. *'The only real border dividing the present eastern and western world may be stated to run along the EU eastern states on the one side, and Belarus, Ukraine and Moldova on the other. Transit from west to east is as quick and easy as it is*

difficult the other way round' (Charitonova, 2006). Being part of the demarcation line between Central and Eastern Europe and the Commonwealth of Independent States (CIS), the Moldovan-Romanian border is an important barrier against irregular migration, smuggling and trafficking. Part of the preparation for EU accession, Romania has invested a lot in the modernisation of the Border Crossing Points (Guțu, 2006: 30). Through the EU Neighbourhood Policy, the EU is interested in Moldova because of the threat this country may pose to the security of the Union's future South-Eastern periphery, due to its instability and of the frozen separatist Transnistrian conflict that favours various illegal business, such as smuggling, drugs, weapons trafficking, but also because of the trafficking in human beings (Guțu, 2005). The new EU border between Romania and Moldova could direct the migration flows, drugs and armament trafficking towards Ukraine.

Countries such as Poland will have to apply European security standards at their own eastern border, such as the one with Ukraine. In July 1997, Poland started implementing the EU- and the Schengen acquis and in July 2002 the accession negotiations with regards to Justice and Home Affairs cooperation were completed. Control towers and helicopters, optical and electronic high-tech - with the PHARE project, the EU finances the design of Poland's eastern borders. The future EU external border will separate Poland from the Russian Federation (except Kaliningrad), from Belarus and from the Ukraine. Measuring 1,143 kilometres, the border will be more than twice as long as the German-Polish border. With the enlargement procedure, the militarisation of borders shifted from west to east Poland. The future border regime is a socio-technological attack on the informal cross-border economy (Dietrich, 2003). European Union newcomer Poland is to enter the bloc's unified Schengen border regime in December 2007, ending controls on the western frontier with Germany and with southern EU neighbours. The EU members Czech Republic, Slovakia, Hungary, Estonia, Latvia and Lithuania are also due to join the Schengen Area in 2007. The largest of 10 mostly former communist countries which have joined the EU last May, Poland must work hard to establish the Schengen-required SIS II framework to realise the December 2007 entry date and reinforce eastern border controls with non-EU members including the Russian enclave of Kaliningrad, Belarus and Ukraine.

The Border of migration

'Bridges connect, walls divide' (Mendoza 2006). My opinion regarding borders and migration touches the issue of mentality. Even if we discuss the meanings of the border, as the limit of Europe in our case, the limit of safety, freedom and safety and so on, or talk about the right to

migration, we have to keep our eyes open on the decision of migration. The person has the right to freely migrate, as preserved by the international legislation. But the migrant is the only who decides to migrate, why and where to go. The would-be emigrant is the sole who knows why he migrates. Apart of the economical, political, social or personal reasons, he decides to migrate. What means migration? We define migration as the fact of movement of persons from a place to another. We have internal migration, European migration, international migration, depending of the research point of view. But even before migration, the person has to cross some borders. The borders from inside: one has to go beyond one's mentality. Once decision of migration taken, one crosses other real or imaginary borders.

*“Imagined” and “imaginary” must not be confused. An “imaginary” border exists in imagination only, while an “imagined” border is an artificial construct with very real effects. Imagined borders follow the general concept / with its positive and negative connotations – while accentuating certain elements which are very much their own. In the political sphere, the most glaring example remains the “Iron Curtain”, which split Europe into communist and capitalist blocs. ... The borders that separated the communist and capitalist blocs before the 1989 collapse were as real as borders can be. So why talk about imagined borders here? Probably because actual barriers were compounded by mental ones, which both sides shored up solidly. The famous phrase “Iron Curtain” reflected the existence of this imagined border – and its effectiveness. At its height, the clash between the two worlds found expression in the “Cold War”, where mutual hostility reached paroxysm in sustained propaganda on both sides. (Popescu, C., *Borders of fact, borders of mind*, in Dolf-Bonekämper, 2004: 109-110).*

Maybe we do not accept the existing borders, but we learn to live with (or within) them. Crossing the state or region boundaries is not a kind of acceptance of the borders, being physical (and imagined) or imaginary borders?

In contrast to earlier historical periods, most countries of Europe now count more immigrants entering than nationals leaving. The European Union (as a whole) and most Member States report population growth mainly driven by net gains from migration (Münz, 2006). Keeping the **Migration Pyramid** of Peter van Krieken in mind, I use the *mentality* issue in order to draw an image of the meanings of nowadays migration vs. boundaries: in order to migrate, one has to cross **a border**: real, ‘imagined’ or ‘imaginary’ border, a border between states or a regional border, and sometimes a psychological one. People from villages from northern and eastern Romania were the first Romanian emigrants after the fall of Communist regime, having the greatest migration experience: before the 90’s, they were travelling to work temporary in wealthier cities from central and western Romania (circular internal migration). Nowadays they are leaving for wealthier countries/cities from European Union (circular international migration). For them, this was about *workers’ mobility* even

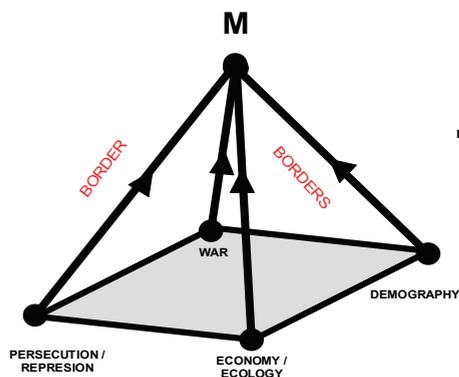
before such topic to be under debate within the European Union (circular internal migration, again). For these people (generally from poor rural areas) with internal migration (mobility) experience, the uprooting, the leaving of home and family behind, and the surpassing of the ‘internal border’ was relatively simple, or at least simpler than to others, who encountered migration as something new.

Economics/ecology, war, persecution/repression and demography can all be causes for migratory movements. It is also of importance to emphasize that these four main causes are interrelated: war has an impact on the economy; demographic developments may have an impact on the ecological balance, and so on. Moreover, there is no need to explain that a gloomy economic situation may result in tensions between the population at large and the authorities, resulting in repression, or that a fight on the control of certain natural resources may result in war. (van Krieken, 2004)

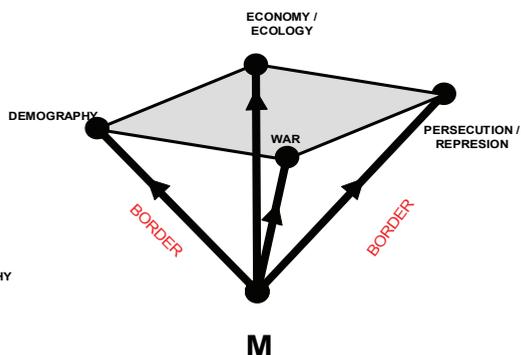
Including the *BORDER* element, the ‘*Migration Pyramid*’ of van Krieken (2004) could be renamed as ‘*The Border Pyramid*’ (Figure 1). Migration has major influence on the integration of those would-be emigrants, with implication on their (national) identity, but most on the economy and demography of the sending countries. The ‘*Reversed Migration Pyramid*’ of Peter van Krieken explains that the migratory movements can also be the *cause* of problems like war, social repression, economic gap, demographic awareness. Migratory movements primary become elements for an increasingly conflicting situation when there is a lack of integration of immigrants and migration policies. And of course lack of education regarding acceptance of immigrants (the mentality issue – the *Reversed Border Pyramid*).

Figure 1 The Border Pyramid

The Border Pyramid



The Reversed Border Pyramid



Source: The theory of the "Migration Pyramid", in Peter J. van KRIEKEN, *A need to reinvent the wheel?*, International Conference on Population and Development, UNECE + UNFPA, Session on Migration, Management and Integration, Geneva, 2004

Romania, as external border of the European Union

Even if is considered a Eastern European country, Romania lies in the centre of Europe, as the parallel of 45° latitude North, halfway between the Equator and the North Pole, intersects this country territory close to Bucharest, the capital city. Passing near Bucharest is also the meridian of 25° longitude East that marks the middle of distance between the Atlantic and the Ural Mountains, Europe's Western and Eastern limits.

All the states are defined by their borders. Romania is located in SE Central Europe, north of Balkan Peninsula, on the Lower Danube, bordering on the Black Sea and five other states: Republic of Moldova in the northeast and east (681.3 km, the historical region of Bessarabia once part of former Moldavia principality, occupied by the Tsarist Russian Empire in 1812, united with Romania in 1918 and illegally annexed by the URSS in 1940), Ukraine in the north and east (649.4 km), Bulgaria in the south (631.3 km), Serbia in the southwest (546.4 km) and Hungary in the west (444.0 km). Romania adopted this name in 1862, after the foundation of the nation-state through the union of the Romanian principalities of Wallachia and Moldavia in 1859. The 1859 double election of Alexandru Ioan Cuza as ruling prince of both Moldavia and Wallachia had the first result the removal of the frontier between the two principalities. The present territory of Romania is a result of the union between the historical Transylvania with Romania Kingdom, the symbol of the union of all Romanians in

a single state (December 1st, the anniversary of the Great Assembly held in Alba Iulia in 1918, which decided on the union, is the National Day of Romania).

In the European framework, Romania has to manage an unstable equilibrium: to secure the borders against the illegal migration, and to assure the protection of the peoples in need of the international protection (refugees and asylum seekers). More of that, as Baldwin-Edwards stressed, Romania is navigating between Scylla and Charybdis⁵³: being under great pressure to conform to the *acquis* requirements in order to join the EU on 1st January 2007, Romania would do well to keep in sight her national interests in the spheres of economy, polity and society, as well as geopolitics⁵⁴. As external EU border, Romania has to build a strong border. Stronger enough, even against its own citizens: during the hot *political summer* of the year 2005 [before the decision of Romania's accession to the EU to be taken], the public debate in Romania raised the problem of the legislative efforts of the Government which imposed strict measures at the borders. Many Romanians were returned from the border for not fulfilling the conditions of travelling to the European Union. Even the political party of the Hungarian minority (part of the Government coalition) has claimed against the rules '*which could stop the free travel of minorities abroad*'.

At the present, Romania guards the European Union safety and wellness by securing the Romanian-Hungarian border (the present external EU border). From the first day of the EU membership, Romania 'moves' the European Union external border far eastern, securing the second longest external border on the land (with Serbia, Ukraine and Moldova). Romania and Bulgaria will secure the difficult border with the Ukraine, Moldova, Serbia, Black Sea and Turkey, the main routes for illegal migration to the European Union. The strategic position of these states on the European map is probably a good reason for the EU-15 for accepting Bulgaria and Romania as members of the European select club, rather than the economic development rate of the countries at a certain moment. The eastern border with Moldova is very important one: formerly part of the Soviet Union's western border, this is the only border of the Republic of Moldova, which used to be an international border before 1991. (Guțu, 2006: 30)

⁵³ Note from the Editors: see Martin Baldwin-Edwards in *Migration Policies for a Romania within the European Union: Navigating between Scylla and Charibdis*, keynote speech at the international colloquium 'Romania and the European Union in 2007', held on May 6, 2005 at the West University of Timișoara, Romania. His paper is included further on in this volume (as the leading article of the 3rd part).

⁵⁴ *Les Questions Régionales et Multilatérales en Roumanie*, MINEFI-DGTPE, Ambassade de France en Roumanie, Mission Économique, Fiche de Synthèse, 23 September 2005, available at (02/12/2005): <http://www.missioneco.org>

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A SURVEY OF IMMIGRATION PROBLEMS OF THE EUROPEAN UNION AND A COMPARISON WITH THOSE OF THE UNITED STATES

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1 Introduction

Russian President Vladimir Putin in his recent⁵⁵ annual address to Russian law makers said, that “the demise of the Soviet Union was the greatest geopolitical catastrophe of the century”. He continued that “for the Russian people it became a genuine tragedy”⁵⁶. Due to the situation of Russian speaking minorities in former Soviet States, he may be right from his perspective but the salient point is, the paramount importance of human self determination which in a democratically focused society, converts to State self-determination such as in the formation and the enlargement of the European Union.

In fact, President Putin has been somewhat pre-refuted in his lament by such international documents as the Universal Declaration of Human Rights of 1948 at the United Nations which dealt with human rights on an international basis giving, in this case, the seminal ability of foreign States to impose a human rights agenda on State infractors as had been woefully absent during World War II, along with a long series of supplemental documents advancing the essence of the 1948 Universal Declaration of Human Rights. The European Union continues to stride in that spirit attempting to make its current and future members to be substantially internally EU wide internationally borderless with a common structure of justice, democracy, currency and additional commonalities when mutually deemed to be advantageous. Having emerged from the ashes of World War II, and the Cold War, the EU could never achieve its greatness with continued subjugation from the East of the present European Union.

In the middle part of the 19th century the United States fought a Civil War in which more of our soldiers were killed than in all American wars combined from the formation of the U.S. until 1965. That American Civil War had two themes about which to battle: 1) the rights of individuals not to be enslaved; and 2) the right, if any, of an internal State to secede from a national union. The American Civil War permanently settled both the issues for the U.S. resulting in the end of slavery and that once voluntarily unified, at least from the American perspective, states remain united forever. Having said this, it is evident that the European Union alone with its present and future enlargements has permanently changed for the better the future history, politics, economics, and the destiny of its current and future

⁵⁵ The paper was prepared for and presented as keynote speech at the SISEC International Colloquium Romania and the European Union in 2007”, held in Timisoara on May 5th, 2005. The author refers at the 2005’s address of President Putin.

⁵⁶ The Washington Post, *Express Edition*, p. 6 (26 April 2005)

members and, for that matter, such changes positively greatly affect all non-member States in Europe and throughout the rest of this planet.

This paper will focus on the similarities and differences between both unions and their respective problems with foreign immigration.

2 The European Union, an American Perspective

The European Union and the United States are the two largest economies in the world which together account for about half of the entire world economy. The EU and the U.S. have the biggest bilateral trading and investment relationships in the world. Transatlantic flows of trade and international investment amount to around one billion Euros a day, and combined global trade accounts for more than forty percent of all world trade. In fact, our combined economies are so intertwined that some economists have recently suggested that we may have to look at the EU and the U.S. with its North American Free Trade Agreement (NAFTA) as one economic region in the foreseeable future becoming increasingly partnering and forming a greater cohesive economic relationship with each other (Bloomstrom, Kokko and Globerman, pp. 1-10).

Additionally, the U.S. and the EU share the same deep and unflinching commitment to transparent parliamentary style democracy, to human rights, and to personal freedoms, and we share the same concept of the individual and his or her personal fulfilment in an open and just society. And by working together, the United States and the European Union can promote their common goals and interests in the rest of the world effectively.

A major difference with America is that the EU is a political, economic and monetary union, but a union which is still composed of independent sovereign States. The EU presents as a semi-constitutional State, with legislative, executive, and judicial powers, but has yet to have a proper constitution. The EU has common political organs, which have voluntarily subordinated internal member State sovereignty in part. Indeed, the European Union is not a finished product, it is an economic geo-political process which will, in all likelihood, be significantly larger, and stronger and perhaps more cohesive before the end of this century. Progressive enlargement of the European Union combined with and supplemented by an inevitable progress towards greater clarity, transparency, cohesion, and efficiency is a goal to which all member States of the EU do adhere and do mutually advance.

Besides being a political community, an economic community, a monetary community, the EU it is also, and above all, a community of laws, which can only function effectively when the same body of laws are shared and maintained by all of its members. Therefore, the fundamental principle of negotiations regarding membership is the adoption of

the so-called *acquis communautaire* containing the body of laws of the EU which currently comprises approximately 85,000 pages of legal texts which must be adopted and credibly implemented by all membership enlargement candidates. Yet the original core members are having some constitutional and monetary issues to settle at.

The perspective of the European Union regarding immigration with all its possible benefits is that the EU faces a serious problem: demographic changes, an aging population with less and less people actually in the productive work force and a precipitous decline in birth rates which are clearly under the human replacement threshold. This has drastic consequences not only for the labour market, but also for the maintenance and the sustainability of what is commonly defined as the “European Social Model: social security, health care, and pension systems. This development which will become entirely tangible from 2010 onwards, affects the European Union as a whole, and it is interesting to note that the EU enlargement to the East has not brought about increased immigration to the “old” EU member States and a necessary rejuvenation of the EU work force, but it has actually increased the elderly population of the European Union as a whole.

What will be needed is a clever and well-balanced policy mixture of targeted immigration, extension of the retirement age, better child care and parental leave policies. This may be politically and even economically costly, as various political forces may also in the future seek to utilize the spectre of increased immigration for populist political purposes. In addition, the search for highly skilled migrants to meet the projected labour needs will open up new scenarios of competition between the U.S. and the EU, as well as potentially between the European member States themselves.

European migration throughout history has been caused by economics, war and its fleeing refugees, political forces, ethnic problems, and religious persecution including the ubiquitous immigrant search for a better life. Now in the territory which is the EU and which we in America were taught to consider as the “old world” the EU has consequently made the “old world” into the “new old world”.

As to problems, the European Union has been trying through various types of legislation to end member State divisions over the subject of immigration⁵⁷. The EU has also enhanced the legal status of its citizens, and a main aim of the EU is to extend limited rights to legal immigrants. The current history of European migration has moved away from economics and other migration issues to now becoming unfortunately politicized. The European Union has been making its combined territory more appealing to foreigners by

⁵⁷ *European Immigration History*, pp. 1, available at (28 April 2005): www.euimmigrationhistory.com

introducing anti-discrimination laws, but this is the first step and the second step involves getting member States to accept a common European immigration policy.⁵⁸

In August of 2004, the United Nations High Commission for Refugees through the High Commissioner Ruud Lubbers⁵⁹ called upon the European Union to define a clear immigration policy and to distinguish between economic migrants and refugees.⁶⁰ The now former High Commissioner Ruud Lubbers resigned just several months ago over the EU inability to have a generally accepted immigration law. “The European Union has no clear migration policies, it is not managed migration”, the then Commissioner, former Dutch Prime Minister Ruud Lubbers⁶¹, told a news conference in Geneva after the annual session of the executive committee of the U.N. High Commission for Refugees. “In the future the governments will see that you need managed migration for labour because the absence of that policy is one of the reasons that so many people try to reach Europe with human traffickers because they know there is a need for the skills of certain illegal migrants”.⁶²

The EU policy is to try to develop a common system for immigration and asylum and a single external border control strategy even using EU border guards who do not represent their individual countries. The Luxembourg EU Presidency (January to June, 2005) was committed to furthering a common asylum policy, working towards the long-term resident status for refugees and developing a workable return and readmissions policy.⁶³

The EU immigration problem is further complicated by the fact that the member States of the European Union have different economic structures consequently having very varied needs for legal immigrants. Destination countries must weigh the social and economic implications of a common immigration policy and consider whether their giving up of national sovereignty over immigration matters will benefit member States in the long run. A common European Union immigration policy would play a crucial role in the pattern of migration flows in the years to come; and, its macroeconomic effects are of utmost importance to the citizens of the EU

Regarding legal immigration, Western Europe is earning an EU wide reputation for being known as “Fortress Europe” while the remainder of the European Union has struggled for decades to provide coordination on immigration policy. In 1988, the Commission of the European Community attempted to address five key issues: the rights of asylum (there are

⁵⁸ Ibid.

⁵⁹ *Over 17 Million Refugees Worldwide*, pp. 1-2, available at (May 2005): www.unhcr.org

⁶⁰ *UN Refugee Chief Calls for Clear EU Immigration Policy*, pp. 1, available at (10 August 2004): www.EUBusiness.com

⁶¹ See Lubbers, Ruud: *Wikipedia*, pp. 1-3, available at (2 May 2005): www.Answers.com. See also *UN Office for the Coordination of Humanitarian Affairs, The Long Journey Home*, pp. 1-5, available at (2 May 2005): www.Irinnews.org

⁶² *EUBusiness.com, Supra*, pp. 1 (2005)

⁶³ *Illegal Immigration, Asylum & Border Control*, p. 1, available at (30 April 2005): www.Euractive.com

now more than 4,242,000 asylum seekers in the EU⁶⁴), the status of refugees, the status of non-EU nationals, visas, and deportation, yet many of their recommendations were not implemented. EU leaders met at a summit in Seville on June 21-22, 2002 and declared that regulation of illegal immigrants would be their first priority with no apparently productive results to date.

There are many examples of the immigration problems of the EU. The stunning decision by the Dutch government to expel an estimated 26,000 rejected asylum applicants was only the latest in a series of actions by European Union countries to tighten border controls and to limit immigration to some of the most generous social-welfare states of the world. But as in the recent Dutch Parliament's vote, old high ideals are crashing into hard political realities. Politicians such as the late Pim Fortuyn⁶⁵ in the Netherlands and Joerg Haider⁶⁶ in Austria made significant electoral gains against mainstream parties in recent years by placing anti-immigration policies at the heart of their platforms. The failure of many traditional centre-left and centre-right parties to even acknowledge the problem posed by immigration only enhanced the popularity of figures like the late Mr. Fortuyn and Mr. Haider, pollsters say (Sands 2005b, pp.1-3).

An example is people now applying to live in the Netherlands will have to take an examination to prove that they understand the Dutch language and culture, the government has proposed. The test will require 350 hours of study and cost approximately 500 Euros. It is the latest sign of the growing hard line regarding immigration after decades in which Holland has been one of Europe's most relaxed nations regarding most of the immigration process.

A murder in the Netherlands by a Muslim man and death threats from Muslim extremists have been matched by rising assaults on immigrants and arson attacks on Mosques in the Netherlands. There are now nearly a million Muslims in the Netherlands, or approximately six percent of the total Dutch population, which is a drastic change from a mere two decades ago. Announcing her proposals in the Dutch Parliament, Rita Verdonk, the Immigration Minister⁶⁷, said that a video film designed to capture the essence of Dutch life would be sent to applicants in their home countries. It offers images of windmills, tulips, a description of the flag and a brief biography of William of Orange. As an early warning of the liberal mores, it also shows topless women sunbathing and a homosexual wedding. It would be viewed obligatorily for all foreign adult people hoping to live in the Netherlands, commonly qualifying by marrying a Dutch citizen or by joining family members already

⁶⁴ UNHCR (2005): *Basic Facts*, available at www.unhcr.org

⁶⁵ See *World: Europe, in Pictures: Death of Pim Fortuyn*, pp. 1-3, available at (7 May 2002): www.bbc.co.uk/news

⁶⁶ See *UK Edition, Haider Party Launched in Austria*, pp. 1-2, available at (May 2005): www.bbc.co.uk/news

⁶⁷ See *Minister Verdonk Meets Rumanian Delegation*, pp. 1, available at (23 March 2005): www.justitie.nl/english/press

there. The introductory film says Holland is “a small country with sixteen million inhabitants, making it one of the most densely populated countries in the world”. Immigrants play an important role but protests against their numbers are mounting, it adds. The language test part of the immigration process to the Netherlands would be computerized and taken by telephone. Applicants would be asked to repeat recorded phrases then answer simple questions in Dutch, such as: “How many wheels does a car have?” Knowledge of Dutch culture would be tested in separate sessions organized by local Dutch embassies (Rennie 2005b, pp. 1-2).

Even centre-left and leftist leaders such as British Prime Minister Tony Blair⁶⁸ and Swedish Prime Minister Goran Persson⁶⁹ have within the past year responded to popular pressure to check uncontrolled immigration of relatively cheap labour. Mr. Blair has been under heavy pressure from the opposition Conservatives and from leading tabloid newspapers to halt what the prime minister himself has called “benefits tourism” – a wave of illegal worker migration to take advantage of Britain’s healthcare and welfare systems.

British Home Secretary David Blunkett⁷⁰, Mr. Blair’s point man on the immigration issue, noted in an opinion piece in December that “governments of the left which fail to address the public’s concerns about immigration, security, and law and order have been swept from power by the right, amazingly even sometimes from the far right”. Until recently, Britain and Ireland had been not expected to impose “transitional” curbs, on immigration which can last up to seven years. But Mr. Blair’s government has rolled out tough new rules regarding workers from member states to register with the British government and banning them from collecting social and employment benefits for at least two years. If EU workers from those new EU countries “can’t support themselves, they will be put out of the country”, Mr. Blair said in a British Broadcasting Corporation interview recently.

Sweden’s Lennart Persson⁷¹ earlier this month predicted “enormous problems” for his country unless immigration from the Baltic’s and Eastern Europe were curtailed. Sweden is expected to impose immigration controls for up to five years and the Social Democratic Government recently passed a measure that would punish air and shipping lines if they even unwittingly allowed illegal immigrants to cross into Sweden.

Finland, Denmark and Belgium have all announced waiting periods of at least two years before fully opening their borders to workers from the new EU entrants, and France, Spain and Italy are expected to do same. Germany and Austria have already said they plan to impose the maximum seven year EU transition period, bringing complaints from leaders in

⁶⁸ See *Tony Blair’s Speech on Immigration in Full*, pp. 1-9, available at (22 April 2005): www.timesonline.com

⁶⁹ See *Statement of J January 2005 by Prime Minister Goran Persson Following the Natural Disaster in Asia*, Government Offices of Sweden, pp. 1-3, available at (5 January 2005): www.sweden.gov.se

⁷⁰ See *Blunkett Urges Vote Fraud Action*, available at (6 April 2005): www.bbc.co.uk/news

⁷¹ See *Attendance of ICNDT Meetings at Nice Acropolis on 10/24-27/1994*, Ricoh.co.jp/net, pp.1-2 (1994)

Poland and other EU enlargement States. U.N. Secretary-General Koffe Annan, in a speech to the European Parliament a year and a half ago said the anti-immigrant political tide in Europe, fed by “images of floods of unwelcome entrants and threats to societies and identities”, had “vilified, even dehumanized” those seeking asylum or a better life. “The vast majority of immigrants are industrious, courageous and determined” Mr. Annan added, “They don’t want a free ride.”

The European Union faces new pressure to crack down on immigration because Islamic terrorists from North Africa carried out the train bombings in Spain. Even before the Madrid attacks, which killed 201 persons and seriously injured more than 1,500, the European Union member governments had been tightening immigration controls in preparation for the current admission process of ten new countries to the EU bloc this month. The unproven thought that huge, largely unassimilated Muslim communities in Europe might harbour terrorists only will accelerate the negative trend of xenophobia.

In Germany, Wolfgang Bosbach⁷², serving as lead spokesman on domestic-security issues for the opposition Christian Democrats, said confronting the new terror threat in Europe “is inseparable from discussion on the immigration law”. “We want to facilitate the expulsion of extremist foreigners... and make it possible to expel extremist foreigners even if they have not been prosecuted under criminal law”, he said in an interview with the German broadcaster ARD. Past EU coordination efforts have faltered even as populist anti-immigration parties have racked up electoral successes in countries such as France, Austria and the Netherlands. Mark Krikorian, executive director of the Washington-based Center for Immigration Studies, said the possible role of Moroccan sympathizers of al Qaeda in the Spanish bombings “is likely to highlight a trend on immigration that was clearly already there” (Krikorian, pp. 1-2). Sizable Muslim minority communities in Europe tend to be poorer, more geographically concentrated and less ethnically diverse than in the United States, Mr. Krikorian said (Sands 2005a, pp. 1-2).

Denmark recently enacted a law to prevent radical Islamic clerics from entering the country. In France, Interior Minister Nicolas Sarkozy⁷³ has boasted of plans to double the number of would-be illegal immigrants deported or turned away at the borders of France.

The government of former Spanish Prime Minister Jose Maria Aznar⁷⁴ introduced a new immigration law in 2000 and amended it three times in the following three years: each time to make it tougher on illegal immigrants. Spanish authorities in recent years have arrested about two dozen (24) suspects considered to be part of al Qaeda, and Spanish

⁷² See *Guest Blogger: Living in the EU*, p. 4, available at (16 April 2005): www.americanfuture.com

⁷³ See *France’s Nicholas Sarkozy*, American Future, pp. 1-8, available at (February 1st, 2005): www.americanfuture.com

⁷⁴ See *Visiting Irvine, Former Spanish Prime Minister Jose Maria Aznar Remembers Pope*, KESQ.com, pp.1-2 (2 May 2005)

officials believe that other Islamic terrorist cells operate in that country. In an ironic twist, the current government of Socialist Party leader Jose Luis Rodriguez Zapatero⁷⁵ Prime Minister of Spain since 2004 has talked of easing some immigration controls, even though the Madrid bombings widely are credited with ushering his party to victory. “A qualitative change is required in Immigration policy”, Francisca Sauquillo⁷⁶, a Socialist deputy in the EU parliament and an adviser to Mr. Zapatero, said at a Madrid news conference. “What is needed is regulated immigration, without condemning immigrants beforehand”, she said.

Curbing immigration in the EU will have both positive and negative effects on the economic stability of EU member States. Tighter border controls will likely improve economic opportunities for native workers and strengthen member State security within the EU, but it has been shown, that the aging population of Europe will be in need of immigrant labour in the upcoming years. Some estimate that the EU will be in need of 75m immigrant workers over the next fifty years. A common immigration policy will need to reconcile these issues in order to ensure a brighter economic future for Europe as a whole. This challenge will no doubt be one of the more important challenges to solve by the EU in the 21st Century and beyond.

3 The Current Status of European Union Immigration

The issue of immigration in the EU has never been as interesting or as controversial as it is today. While huge numbers of illegal immigrants cross the borders of the EU each year, government authorities continue to have dissenting opinions on the way the EU should handle such matters. EU member States, on average, have been tightening national immigration policies since the early 1990’s. Massive inflows of immigrants coupled with economic recessions and unemployment have exacerbated the xenophobic nature of Western Europe in recent years. Countries with previously liberal immigration policies are now closing their borders, which brings out the most negative effects of xenophobia.

To help support an ageing population and counteract plummeting birth rates, Europe needs more, not less, immigration, a European official has said. Vladimir Spidla, labour and social affairs Commissioner at the European Commission in Brussels, said Europe would have to accept large numbers of economic migrants, despite rising unemployment in countries such as Germany⁷⁷. Before unveiling a new five year Social agenda for the EU, Mr. Spidla, a former Czech prime minister, said: “Over the next twenty years, there will be twenty million

⁷⁵ *International Disputes*, pp. 3-5, available at (2 May 2005): www.infoplease.com

⁷⁶ *Calendario Agrupacion, Coloquio, Charla, Francisca Sauquillo Perez del Arco*, pp. 1 (7 February 2005)

⁷⁷ *Europe Needs A lot More Immigrants, Says EU Chief*, pp.1-2, available at (2 May 2005): www.Ukip.org, the UK Independence Party, and www.abcnews.com

fewer workers in Europe, even including migrants”. Playing down public fears that the EU is already “full-up”, Mr. Spidla suggested voters should take a longer-term view instead. “Naturally, if you only look at the next two weeks; things look different. But in the EU we have to work on the long term and we definitely need immigration”, he said. Launching his social Agenda, Mr. Spidla gave a warning that “our society is ageing”. Within two decades, almost half of the population of the EU would be over 55. European practices on welcoming legal migrants which vary dramatically are: one end of the spectrum are States such as Denmark, where a centre-right government recently won re-election, in large part thanks to some of the toughest limits and quotas on economic migrants in the EU. At the other end of the spectrum Spain has launched an amnesty scheme for nearly one million illegal workers, who will have the right to migrate to other EU nations (Rennie 2005a, pp.1-2).

4 Conclusion

In surveying the problems the EU has with illegal immigration, this author notes that those problems centre around human trafficking of illegal migrants some of whom are prostitutes or who carry contagious diseases, abuse of illegals, drug cartel members and other criminals illegally migrating, border control problems, entry of possible terrorists or spies, economic migration, false papers, marriages of convenience, and a possible uniform law and standardized enforcement policy.

As this paper began with the important and complex, economic, trade and leadership roles of the EU and of the U.S., American immigration problems are so very similar that without certain specific indicators one would not be able to differentiate between the EU and the U.S. It appears that the long road of bolstering the economics of other States, serving as a model for the rest of the world, eliminating terrorism, giving generously to foreign aid for education, quality medical availability, pest eradication, development of foreign infrastructure and to stimulate targeted foreign economics is a very possible means of mitigating the problem of illegal immigration. Immigration laws on both sides of the Atlantic resonate like the Tower of Babel, only in modern times we have commonly accepted translation of words, but unfortunately not a common perspective on solutions⁷⁸.

And, in a final response to Russian President Vladimir Putin, who knows, but Russia could be a future member State of the European Union in an enlargement years from now. In that way, the Russian people would receive a proper benefit from the EU with a foundation based on mutuality.

⁷⁸ Dolphin, Lambert, *The Tower of Babel and the Confusion of Languages*, Ldolphin.org, pp. 1-29 (April 2005)

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RETURNING TO THE LAW OF THE JUNGLE AND ITS CONSEQUENCES

Wolfgang P. Schulz[♣]

*It is in the nature of things that I have more questions than answers,
but I must say what I have to say.*

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After the destruction of the Nazi regime and the liberation of Europe from German Nazism by the allies, hopeful developments of international relations and international law began. On the basis of the victory of the international anti-Hitler coalition the United Nations were established. Mankind had learned from the terrible experience of the darkest chapter in the modern history of human race. Never again should such inhumanity and such barbarism triumph, was the unanimous decision. The charter of the United Nations was passed. The legal world order, the international law, particularly the ban on the threat or use of force in international relations was the most important historic achievement of civilisation. A consensus was reached that after the unspeakable misdeeds in the Third Reich and during the Second World War never again should political arbitrariness determine the acts of the states. International law became an obliging content and frame for political acts. This applied to the peaceful coexistence of states and human rights protection as well. The basic principle of the international law is to guarantee peace and safety to the world. A UN declaration of October 1970 also forbids every kind of war propaganda. International law knows also the relevant responsibility for its violation. Peace violations and war crimes may not remain with impunity. In the Nuremberg tribunal the main Nazi war criminals were indicted. The statute of Nuremberg is still valid.

A main part of the international law is the respect for the sovereignty of states Experience such as the „dictation of Munich“(1938) when German troops occupied Czechoslovakia under the pretext to “prevent alleged Czech atrocities against Germans”, should never happen again.

One of the achievements following the victory of the anti-Hitler-coalition and the establishment of the United Nations was also the establishment of a fundamental respect and protection of everybody’s human dignity. It was agreed, that never again should such people-despising ideology predominate as that of „master race” and “inferior race”. Equality of every human being, independently of colour, nationality, religion etc., should be ensured for the future. According to Hegel “From the descent (of a human being) there can't be drawn any reason for the authorization or non-authorization of that human being. A human being is reasonable in itself; there lies the possibility of the equality of the rights of all persons. “

I will deal with political developments in today’s world because disturbances, wars and the threat and use of force have much more influence on migration and cause greater refugee flows than poor economic conditions.

I oppose brutal regimes in Iraq and elsewhere, but I also oppose the new doctrine of “pre-emptive war,” which causes permanent and dangerous conflicts and is the reason why the US is now regarded as the major threat to peace in large parts of the world.

After the destruction of the Nazi regime and the liberation of Europe from German Nazism by the allies, hopeful developments of international relations and international law began. The United Nations, legal world order, international law, particularly the ban on the threat or use of force in international relations are the most important historic achievements of civilization.

The whole world seems to be turning upside down before our eyes. We see and experience these days that the basic principles of this international legal system are shaken. Under the pretext of the "fight against terrorism" the rule of law is restrained, weakened, and undermined. We experience a return to the law of the jungle; the law of force, the law of the strongest replaces the rule of law in international relations. The only super power and some other states, too, single out parts of the UN charter and declare them as non-binding for themselves, while at the same time they justify everything else of what they do with other parts of the Charter. Today it seems that the US tries to do everything it can to make the UN an antiquated organization with no value. International law becomes only wastepaper, if the UN isn't willing to obediently follow the US policy.

Truth dies long before a war begins. Lies and propaganda also determine the media's war coverage (are they "embedded" war correspondents or are they in bed with the troops?), and even after the end of a war, truth is still absent.

Reasons for war are fabricated. Wars themselves are celebrated events like a piece for orchestra or a movie [One could even speak of the "military-entertainment complex" or so to speak: "militain-ment"].

The claim that Iraq is a threat to the security of the United States and Britain is an insult to healthy human intellect, particularly (as Scott Ritter confirmed) Iraq's weapons of mass destruction were nearly completely destroyed by 1998. Only people who are constantly under media impact and its disinformation, hate and stultification are prepared to believe this claim. Perhaps the Bush administration believes its own propaganda lies. Among other things Congressman Dennis Kucinich said in his statement at the beginning of April:

„This war has been advanced on lie upon lie. Iraq was not responsible for any role Al-Qaeda may have had in 9/11. Iraq was not responsible for the anthrax attacks on this country. Iraq did not try to acquire nuclear weapons technology from Niger. This war is built on falsehood... Stop this war now. It is wrong. It is illegal. It is unjust and it will come to no good for this country“.

The war on Iraq has continued unabated since August 6, 1990 because sanctions killed 5,000 Iraqi children per month. This is about 1 every 10 minutes! Former Secretary of State Madeleine Albright, when asked to comment on the deaths of 500,000 Iraqi children as a

result of the sanctions, answered: "*We think the price is worth it*". Denis Halliday of Ireland, former UN representative to Iraq, said: "If these sanctions are maintained in spite of these consequences, this is intention, and intention is part of the definition of genocide." In 1998 he re-signed. His successor to the Oil for Food program, the German Hans Graf von Sponeck, stepped down after a year and a half for the same reasons.

This war destroys not only Iraq; it also undermines world peace order. The main dangers of a new war are the systematic violation of the mandate of UN Security Council and the sovereignty and territorial integrity of other states. The United States has committed a capital crime in modern international law: an attack against another state in violation of the UN Charter. The new époque has brutally returned us to the heathen world of force, and armies and empires. The war is in open violation of the United Nations Charter and the Geneva Conventions. In this war the allies violated the protection guaranteed to the civilian population under international law - especially the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977 (article 51).

The wilful causing of widespread death and serious long-term physical and psychological injuries, the extensive destruction of property, hospitals can not be justified by military necessity. The wanton use of toxic depleted uranium ammunition, with its long-term environmental destructiveness, and cluster bombs and other weapons meant to cause unnecessary suffering are also prohibited under international law, but also another matter of importance is the systematic and deliberate destruction of the social and cultural infrastructure that is necessary for the continued existence of Iraqi society. It is awful what happens in the name of "Western civilization". The US and British propaganda call this war the liberation of the Iraqi people. The price for such liberation is simply too high!!! Why do the liberated Iraqis not cheer their liberators then? Perhaps because the supposed smart and surgical precision weapons cannot distinguish between military and civilian targets (think about so-called "*friendly fire*"). The Bush administration's military campaign to "shock and awe" Iraq was senseless mass slaughter of defenceless women, children and men justified by the claim that the military was merely disarming a dangerous enemy.

Don't forget that Saddam used to be an ally of the United States and that Rumsfeld shook his hand and supplied arms into Iraq. The true reason is not what the United States tells the American people and the world. Oil is but one of the real reasons. The production and use of arms is another big deal e.g. for the US Carlyle group, where most of the leading managers

are former politicians, Frank Carlucci, George Bush Sr., Sen. James Baker among others⁷⁹. Reconstruction and modernization will be done by the Halliburton group (where Dick Cheney was chairperson before he became Vice-president) and Bechtel and so on and so forth p.p.

The historian Emmanuel Todd found out an additional motivation for US wars. The US economy has taken a real beating and fears to losing its position as the single superpower. There-fore the Americans would have to make war against weaker opponents to demonstrate their superior strength first of all to themselves. The US is dependent on foreign money even from the readiness of 'Old Europe' to invest and to acquire enterprise, because of a net foreign debt of three trillion dollars and an annual new indebtedness of 5 per cent of the gross domes-tic product. Political Unilateralism stands in the way of economic Multilateralism.

A policy that prefers going to war is to be abhorred. It is, one and at the same time, a defeat of human reason and humanity.

When a politician believes so firmly in his own sense of mission, garnishes his own obsession with power (power mania) with pseudo-religious arguments, even considers his acts as God's will, he becomes a danger. Speaking in such a situation of a war of civilizations or a crusade is not only wrong but can be fateful. Terror but also war in the name of God is blasphemy. The answer could be similar to what we know from the Islamic warriors of God.

During the first few days of the war on Iraq I saw some pictures of US soldiers. One shows a missile with an inscription "*Almighty*" and another one with "*The Good Lord*"!!! Another picture shows a tank with the inscription "*Killer angels*". Who was coached to kill here and lose respect for life? How can they speak about respect for unborn life?

Other pictures appear to be even more frank: a US officer bears a sign:

"Welcome to New Texas (former Iraq)

- HQ MCA GCC-I -

- Headquarters Marine Corps Air - Ground Combat Center Iraq -

1st Lt. D. M. Fischer Commanding"

I appreciate the German government's refusal to follow Bush like a faithful yet blind vassal. Together with a large majority of states – and, what is more important, together with the vast majority of the world's population – the German government is no longer⁸⁰ willing to follow the US administration obediently into a dangerous war adventures violating international law. Unfortunately, it does not go far enough. AWACS in Turkey, warships near Yemen, NBC

⁷⁹ See also publications by the anti-corruption organizations 'Judicial Watch' and 'Center of Public Integrity'.

⁸⁰ NATO interventions in Yugoslavia and Afghanistan have already earlier undermined the peacekeeping role of the United Nations.

detection tanks in Kuwait and overflight rights for German airspace represent at least complicity in murder. The German government must not put its alliance loyalties higher than international and national law. It's much better to take alone the responsibility for right than to take joint action for wrong. I can't think of anything better in this connection than what the great American Martin Luther King has said in 1967 during the war on Vietnam:

„The Americans are forcing even their friends into becoming their enemies. It is curious that the Americans, who calculate so carefully on the possibilities of military victory, do not realize that in the process they are incurring deep psychological and political defeat. The image of America will never again be the image of revolution, freedom and democracy, but the image of violence and militarism“⁸¹.

Human rights and democracy have a civilian, not a military logic. The problems and challenges of our time cannot be solved with war, however essential and urgent their solutions might be, in terms of globalization, migration, demographic or ethnic problems, of the endangered natural resources, terrorism or organized crime.

The recent developments in the international relations and the militarization of societies by vastly expanding police powers severely restrict basic democratic rights and threaten fundamental civil and human rights. Since September 11th, 2001, we have been confronted with an increasingly restrictive policy against immigration, with an increasing number of racist attacks against immigrants, foreigners and minorities. While the European Union becomes more diverse by admitting 10 new member states, it also becomes less tolerant to migrants and minorities.

The war on terrorism is also war against own citizen

The U.S. army (L.L. Lemnitzer, Chairman Joint Chiefs of Staff) drafted plans in the early sixties to terrorize U.S. cities (bomb Washington D.C., attack marines etc.), to provoke war with Cuba⁸². That shows “... *that the Pentagon was capable of launching a secret and bloody war of terrorism against their own country in order to trick the American public into supporting a ... (war) ...*”⁸³. The anti-terrorist legislation in many countries threatens the freedom in favour of public security. The choice is democracy or security, which is claimed to be the alternative.

⁸¹ Vietnam: A Time to Break Silence By Rev. Martin Luther King 4 April 1967

⁸² Northwoods document

⁸³ „Body of Secrets“ by James Bamford

“They, who would give up an essential liberty for temporary security, deserve neither liberty nor security” said Benjamin Franklin.

Media, Patriot Act and Homeland Security Bill cause intolerance and hysteria and work up feelings of animosity, crushing domestic dissent and criminalizing legitimate protest. “Enemy Combatants” can be held indefinitely, with no charges against them, no right to see an attorney, no right to go before a judge. “*«Enemy Combatants» is indefinites, so ... anyone who is suspect can be denied all due process rights guaranteed under the constitution*”⁸⁴. We lull ourselves into a false sense of security and we are asked to give up our civil rights. Civil rights organizations warn about an “*adaptation and habit-forming effect*”. It is awful and bitter irony that refugees fleeing from persecution and conflicts around the world become subject to further persecution due to the so-called war on terrorism.

We will lose our own dignity if we suffer that other person's human dignity is violated. Whoever wants to preserve her or his own human dignity, must overcome her or his own indifference and fight against indifference in his or her community, against every violation of civil and human rights, as well as against the invasion of his or her privacy by state-run abuse of power.

In a global world no power can act in the long term unilaterally, but must cooperate multilaterally, otherwise we will soon experience a global disaster. In the age of globalisation and threats to the very existence of humanity, peace and worldwide cooperation can only be secured if we find concepts of how to cope with conflicts multilaterally, set up democratic structures, install decision-making processes and coordinate activities. A permanent and peaceful solution to the Middle East issue requires us to return to search for multilateral consensus in the framework of the UN bodies existing for this very purpose. If you seriously want peace, you need the patience to negotiate with the other side. Military strikes without a mandate of the UN Security Council threaten to become a precedent for arbitrary violent action by anybody who chooses whatever kind of purpose (see Chechnya). This would put an end to the long and laborious process of the renunciation of violence as laid down in the UN Charter, and war would again become the customary means resorted to in solving conflicts of interest. There is yet another danger looming, namely the release of an enormous armaments spiral, including nuclear armament.

Do we want the rule of law in international relations to be replaced by “*might is right*” and the law of the jungle? No, never!

Law must rule the world, not force. This has been the basis of our present world order. This must be valid also in the future!

⁸⁴ Riva Enteen, Exec. Director of the US National Lawyer's Guild

And my last point: after other reasons stated for the war, we hear now that the US will bring democracy to Iraq. This is a sad irony, because in "*God's own country*", on the contrary we witness a decline of democracy and an increase of intolerance. Nearly every criticism of the Bush administration or even of the war has unpleasant consequences.

I hope all of us can approach this war with a clear conscience.

PART II: EUROPEAN MIGRATION EXPERIENCES

EMPLOYMENT OF IMMIGRANTS IN THE FINNISH LABOUR MARKETS

Elii Heikkilä and Maria Pikkarainen¹⁾

This article discusses employment of immigrants in the Finnish labour markets and the differences in labour market performance according to immigrants' demographic characteristics. The data consists of the gross-stream data of the whole working-age population from the periods 1993–1994 and 2002–2003. These periods represent different economical cycles in the Finnish labour markets. Theoretical approach to international migration is giving the perspective to the analysis. Finland's high unemployment level during the depression in the beginning of the 1990s affected also very high

unemployment figures for the immigrants. During the recent decade, the employability of immigrants has improved due to recovery of economic life in Finland.

Key words: labour market performance, employment, immigration, Finland

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Introduction

Approximately 175 million people live outside their country of birth, and of these, 100 million have migrated to find work. Most migration occurs between developing countries, but migration to Europe has increased rapidly, and of the EU-population of 380 million, 20 million are immigrants (Immigrant Council of Ireland 2003: 17; Evans 2004: 3).

In the context of globalisation, the central role of migration has become increasingly apparent during the 1990s and at the turn of the millennium. Permanent and especially temporary migration for work have increased. The competition among the OECD nations for a skilled workforce has increased. These countries also want to keep their own human resources within their borders. For instance, France has taken a so-called scientific visa into use, which allows scientists from outside the European Economic Area (EEA) to work in France. Also, Germany issues a green card for IT-professionals from outside the EEA, and the United Nations have proposed a visa specifically for entrepreneurs. While new technology specialists have especially benefited from the visa procedures, so have other professionals, such as medical doctors and nurses (Mahroum 2001; Sopemi 2002; Martin et al. 2002: 12–13).

The increase in work-related migration applies not only to skilled labour; also, some OECD-countries extensively employ unskilled workers in farming, building and domestic services. In many countries, this work force is largely undocumented (Sopemi 2002).

This article focuses on employment of immigrants in the Finnish labour markets. We will concentrate on the employment of immigrants with respect to different background variables, such as their country of birth, gender, education and employment sector. The aim of the analysis is to create new knowledge of the immigrants' situation in the Finnish labour markets during the economic recession at the beginning of the 1990s and during the economic upswing of the turn of the millennium. This article is a part of the "International Migration, Need of Labour and Effects of Immigration on Education Supply" – anticipation project,

which is funded by the European Social Fund (ESF), the Finnish Ministry of Education, and the Institute of Migration.

From Statistics Finland, the following research data has been obtained: regional gross-stream data on the immigrant (persons who moved to Finland from abroad) working-age population (15–74 years) for the periods 1993–1994 and 2002–2003. The years 1993 and 2002 are periods of immigration, and for these years we use immigrants' background data and data on main activity. The gross-stream data include all information on immigrants who moved to Finland from abroad for the years 1993 and 2002, and this data is compared to the following years' (1994, 2003) situations with regard to main activity. Thus, the immigrants' labour market situation can be studied with respect to region and time-span.

The gross-stream data on education are incomplete, for two possible reasons: first, this information is lacking for many immigrants, and second, education and examination may not be recognized by the Finnish education system. For example, without a verified record of his/her achievements, a well-educated person might be considered to have only basic education. Broadly speaking, only a third of the immigrants have background information of education and thus the rest fall under the category of "unknown".

The theory of international migration of labour force

The necessary conditions for international labour migration are: (1) that migration between countries must be institutionally possible; (2) that the destination country must have a labour demand, which cannot be met by domestic labour force; (3) that the country of origin must have an emigration-oriented labour supply, either due to labour oversupply or to a wage or welfare gap between the countries that is big enough to encourage emigration (see Wiman 1975: 42).

Neoclassical economic theories emphasize wage and employment differences between countries. Individuals are seen as rational decision-makers who choose whether to migrate on the basis of economic costs and benefits of moving between countries. One of the individual's goals is to maximise income (Todaro 1969). During recent years, economic theory on migration has highlighted that rather than single actors, groups such as families and households make migration decisions. The members of groups act collectively not only to maximise their anticipated income, but also to minimise risks (Massey et al. 1993: 436).

Network Theory analyzes the migration process in terms of personal, cultural and other social bonds. In emigration countries, the information on foreign jobs and living standard is transmitted mainly through personal networks, such as friends and neighbours who

have already emigrated. In immigration countries, immigrant communities often help their compatriots find work and assimilate into the new environment. Such networks decrease newcomers' costs and risks, which in turn attracts new migrants (Massey et al. 1993: 448–450; Oishi 2002: 7).

World System Theory sees migration as a natural consequence of economic globalisation and markets transcending national borders (Massey et al. 1993: 444–448). According to Wanner (2002: 11) there are four explaining factors for migration in Europe: (1) historical bonds, examples of which having formed during the colonial era or, in the case of Eastern Europe, as political alliances; (2) geographic proximity, which is especially important for the Mediterranean countries and for Scandinavia; (3) a common language; and (4) immigration policy, which defines a country's openness towards immigration. This last factor is especially important during the coming decades considering demographic development.

According to Structural Theory, international migration is a type of exploitation of peripheral countries practised by the international system's core nations. Workers from developing countries are drawn to the industrial countries' secondary labour markets, which are characterised by low wages, poor working conditions, and job uncertainty (see Oishi 2002: 5).

Dual Labour Market Theory links immigration to modern industrial economies' structural requirements. According to Piore (1979), immigration is not caused by push factors from sending countries (for example, low wages or high unemployment), but by pull factors from receiving countries (such as the need for foreign workers). Dual Labour Market Theory splits labour markets into two non-competing blocks: primary and secondary. The capital-intensive primary sector's employees get steady, education requiring employment, while jobs in the labour-oriented secondary sector are uncertain and require little training. These jobs are easily suspended, especially during economic recession when the withdrawal of wages causes unemployment. Minorities, including immigrants, are more concentrated in the secondary than in the primary labour markets (Massey et al. 1993: 442–443).

Human Capital Theory presents the labour force as heterogeneous, in that employment and individual wages are determined by individual capital. Countries are able to guarantee immigrants suitable work by retraining them on the basis of labour market needs. International mobility can, on the individual level, be conceptualised as a type of investment of human capital. Individuals migrate to where they can be most productive according to their skills. Before they get a higher income, which is tied to greater workforce productivity, they must commit to certain investments. Such are the material costs for migration, the learning of

a new language and culture, difficulties in adapting to new labour markets, and psychological cost of cutting old ties and creating new ones (Chiswick 1978; Massey et al. 1993: 434).

Human Capital Theory considers a part of human capital, including language skills, customs knowledge and contact nets, to be tied to a particular country. For this reason, immigrants can, in the beginning, be presumed less employed and to earn less than the native population in similar situations, or than those who have lived long in the country. When their skills, mastery of the language and familiarity with the labour markets improve, immigrants' social status will likely improve, allowing them to take higher-productivity jobs (Chiswick 1978; Hämäläinen et al. 2005: 34).

The employment of immigrants

Main activities of immigrants according to country of birth

There are considerable differences in immigrants' main activities of among the ten largest country-of-birth-groups and also between economic periods. During the recession, immigrants born in the U.S., China and Sweden had the highest employment rate (Table 1). Also the return migrants, i.e. native Finns, have had a better employment situation compared to other groups. Only few of the Iraqi and Somali refugees have found work in Finland. The highest unemployment rates are found among Estonians, those born in the former Yugoslavia, and those born in the former Soviet Union. A third of Iraqi immigrants have been students and the proportion of pensioners has been high for the return migrants. The "other" -category for main activity shows the highest numbers for Somalis and Chinese. Housewives, for instance, belong to this category.

Table 1 Main activities of immigrants according to the largest origin groups in 1994, one year after immigration (%) (Data: Statistics Finland)

Country of birth	Total(abs.)	Employed	Unemployed	Student	Retired	Other
Finnish origin						
return migrants	3.059	29,1	26,7	9,6	17,0	17,6
Former USSR	2.039	12,0	44,4	12,2	9,5	21,9
Former Yugoslavia	1.198	6,5	53,3	13,4	1,2	25,6
Estonia	980	14,3	47,1	14,0	1,0	23,6
Somalia	412	0,7	23,8	19,2	0,7	55,6
Iraq	224	0,4	42,9	33,9	1,8	21,0
Sweden	211	30,3	26,5	16,1	2,9	24,2
China	210	31,9	9,0	18,1	0,0	41,0

Vietnam	162	13,6	40,7	18,5	3,7	23,5
USA	106	34,0	13,2	8,5	4,7	39,6
Other countries	1.775	21,1	27,7	17,3	1,5	32,4
Total	10.376	18,5	35,3	13,6	7,6	25,0

This decade's positive economic development also manifests itself in a better employment situation for immigrants (Table 2): the immigrants had an average employment rate of 44 % in 2003, though it was only 18.5 % in 1994. The Estonians have had the highest employment rate followed by return migrants, Swedes and British, i.e. immigrants from Western countries. Estonians have displayed success in Finnish labour markets because many master the Finnish language (Heikkilä 2005). Iraqi refugees still have difficulty finding work; they have the highest unemployment rate. Many of the Chinese are students and of the return migrants one tenth are retired a year after moving to Finland. In terms of main activity, many of the immigrants born in Thailand and former Soviet Union belong to the "other" -category.

Table 2 Main activities of immigrants according to the largest origin groups in 2003, one year after immigration (%) (Data: Statistics Finland)

Country of birth	Total(abs.)	Employed	Unemployed	Student	Retired	Other
Finnish origin						
return migrants	4.858	56,9	8,8	10,0	9,7	14,6
Former USSR	1.812	26,4	17,0	17,0	0,2	39,4
Estonia	768	58,7	5,2	8,9	0,0	27,2
Sweden	438	52,3	10,0	13,7	0,5	23,5
China	268	47,8	3,7	28,7	0,0	19,8
Britain	224	52,2	7,6	9,8	0,5	29,9
Germany	213	47,9	7,0	10,8	1,4	32,9
Iraq	236	9,3	29,7	27,5	0,0	33,5
Turkey	219	42,0	17,4	9,1	0,0	31,5
Thailand	228	32,0	12,7	14,1	0,0	41,2
Other countries	3.223	32,7	14,4	16,4	0,4	36,1
Total	12.487	44,1	11,7	13,5	4,0	26,7

Taken as a whole, there are considerable differences in the employment rates of immigrants during different observation periods also when employment is observed by the concept of labour force (=employed and unemployed). During the recession of 1994, the employment rate for immigrant men was only 36 % of the labour force, and for women it was even lower, 32 %. The unemployment rate was thus for both groups over 60 % and for women, 68 %. The situation has improved during this decade, in that the employment rate for men has risen to 83 % and for women to 74 % in 2003.

Employment of immigrants in different branches of activity

Immigrants tend to be concentrated in certain branches of activity (Figure 1). The trade sector is the most important employer during all economic cycles. The education and research sector is emphasized after the category of “occupation unknown” in 1994. Instead in 2003 the finance, insurance, real estate and business activities sector has been the second most important employer of immigrants followed by education and research. The importance of transport and communication has increased during this decade, like health work, manufacture of electrical machinery and construction.

The immigrant employment sectors show some gender differences (Figures 2–3). At the beginning of the 1990s, trade was the most important employment sector regardless of gender, but other sectors, for example education and research, have been an important employment sector for immigrant women. In the health and social work sectors employment of women is also accentuated. Immigrant women also have found work in the agricultural sector, in that many unmarried farmers in East Finland have wed Russian women. This so-called cross-border marriage phenomenon is also common in the border area between Finland and Sweden. The sector of cleaning, sewage and refuse disposal, sanitation, and similar activities also employ slightly more women than men, because the cleaning sector, for example, provides jobs for many immigrants.

More immigrant men than women have found work in the industrial sector, which includes the forest industry, the manufacture of machinery and equipment, and the manufacture of metal products. Construction has been a typically male-dominated sector and this also holds among immigrants. Many, regardless of gender, belong to the “occupation unknown” -category.

In 2003, trade is accentuated for both immigrant men and women, – in other words, the situation has not changed since 1994. Instead, finance, insurance, real estate and business activities have increased in importance and this sector has especially employed men. For women, in 2003 education and research are important, as in 1994, and employment in health work has doubled in the period between 1994 and the turn of the millennium. The importance of social work for women has not changed during the study period and social work is one of the main employers.

Figure 1 Employment of immigrants in different branches of activity in 1994 and in 2003
(Data: Statistics Finland)

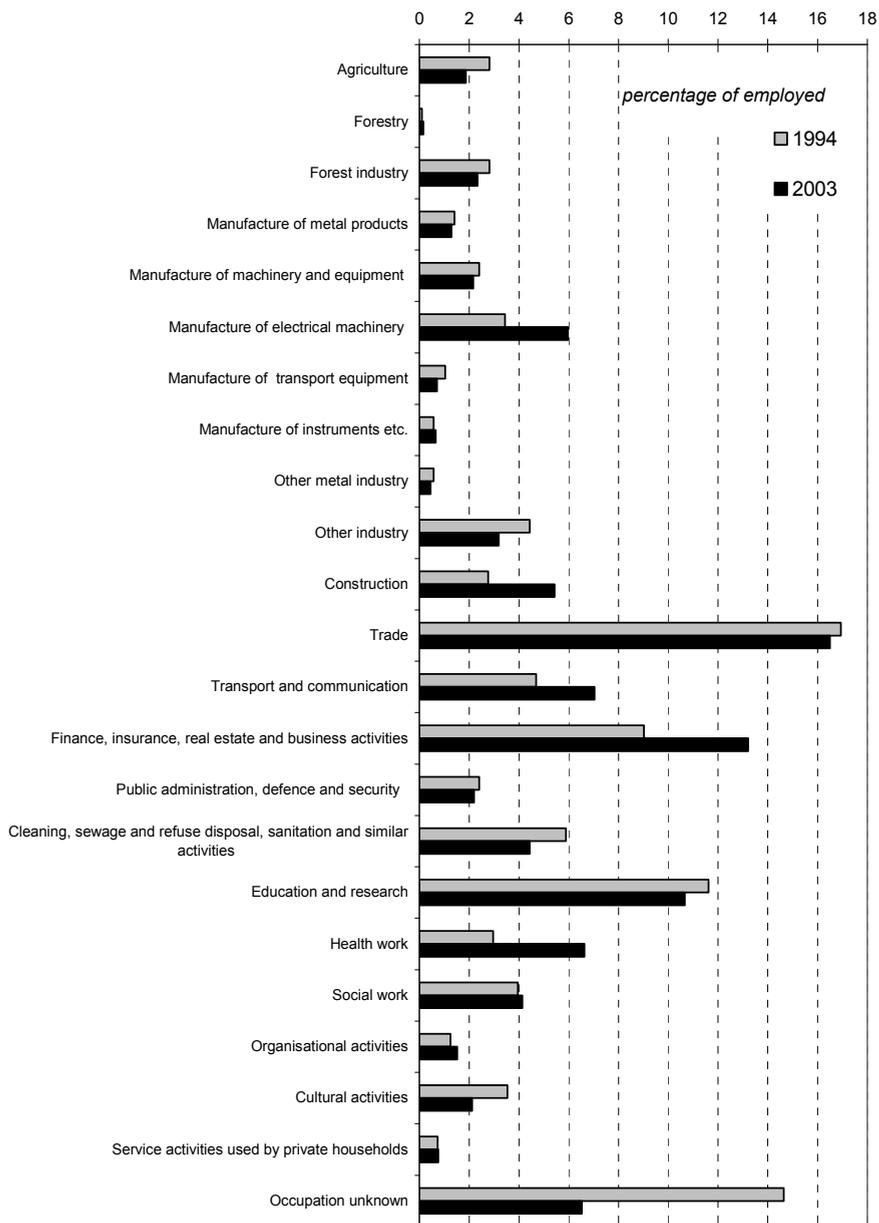


Figure 2 Employment of immigrants in different branches of activity, according to gender, in 1994 (Data: Statistics Finland)

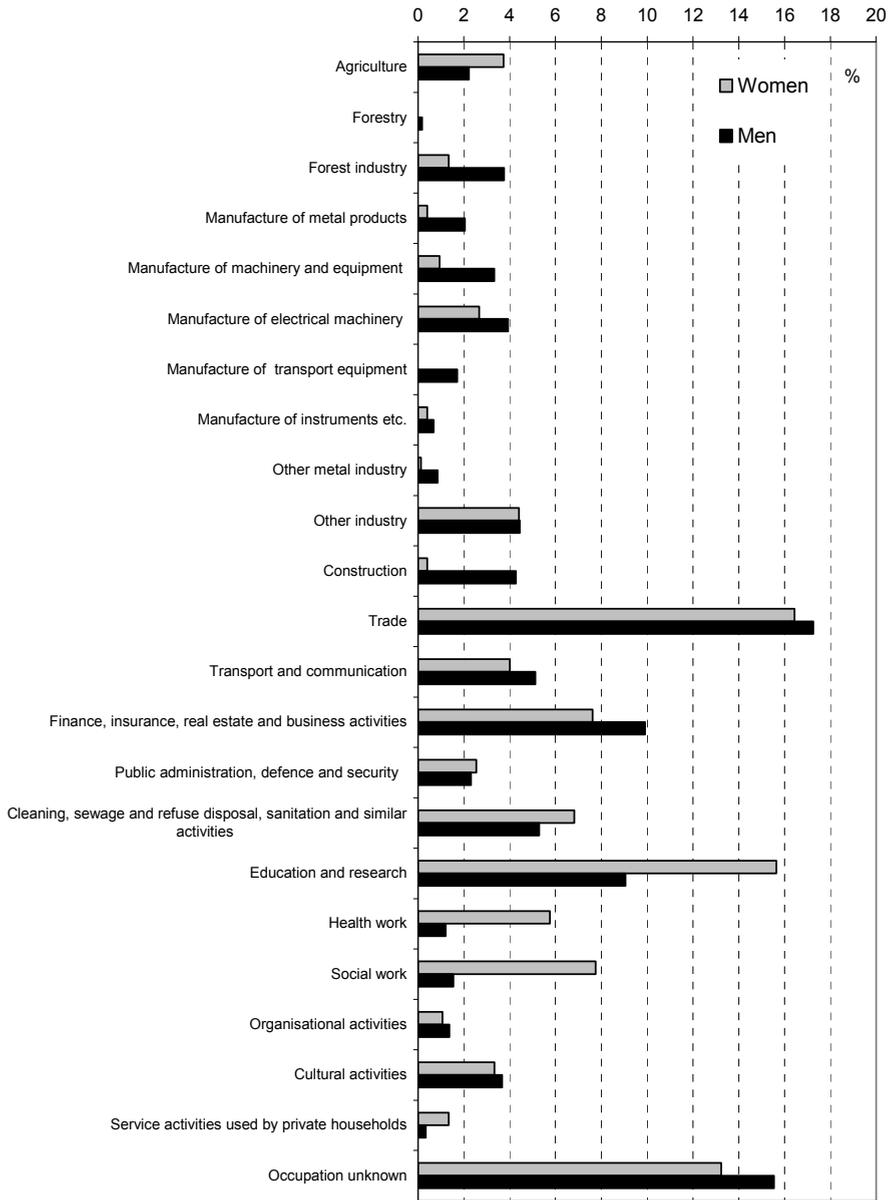
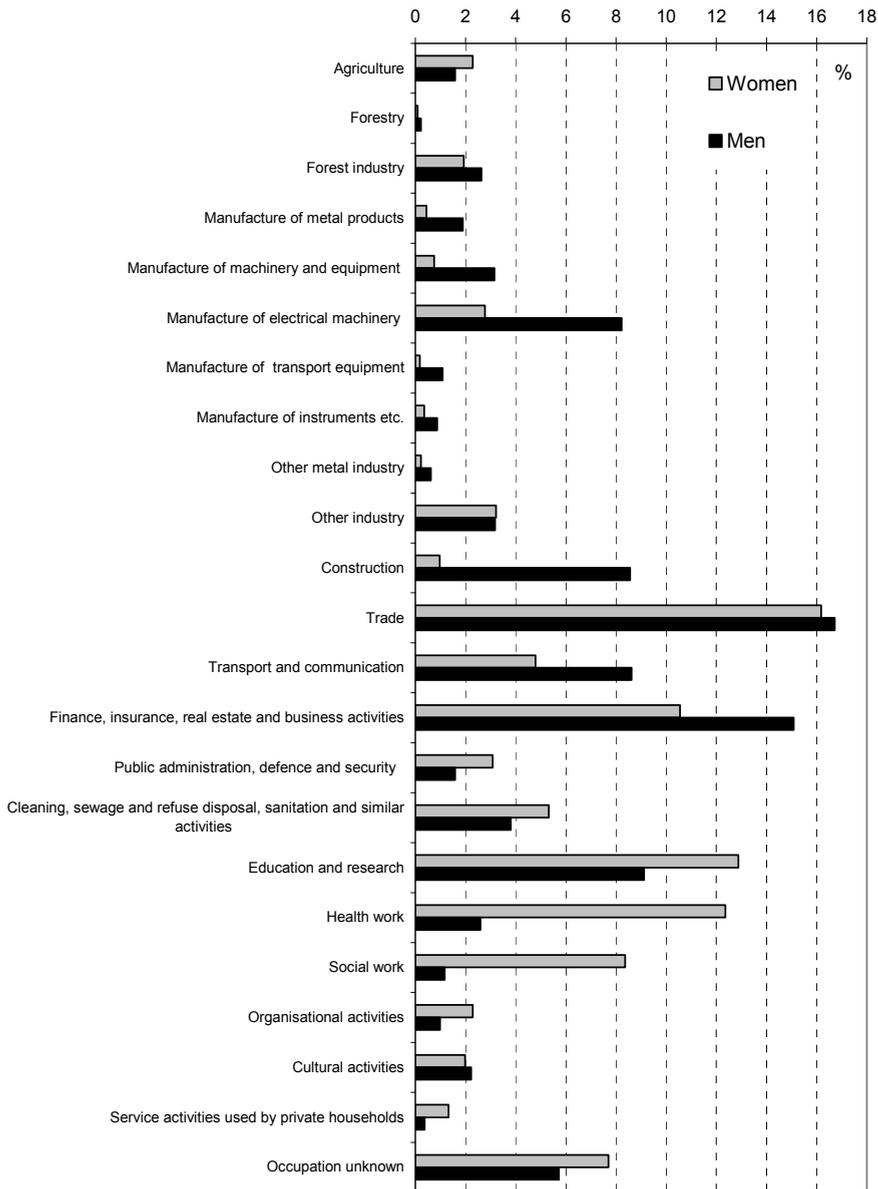


Figure 3 Employment of immigrants in different branches of activity, according to gender, in 2003 (Data: Statistics Finland)



The transport and communication and the construction sectors have become more important for immigrant men. This decade has been a time of intensive construction, which requires new labour. A new feature in the transport sector has been immigrant men working as bus drivers, especially in the centres of Southern Finland. Industry has employed many men, and the manufacture of electrical machinery has been especially important.

Immigrants' employment situations also differ among the five biggest origin groups. Of the return migrants to Finland in 1994, 29 % (899 persons) were employed a year after

arrival. Of these, 17 % were employed within trade and 10 % within finance, insurance, real estate and business activities, as well as 10 % within the education and research sector.

Of those born in the Soviet Union, who in 1993 immigrated to Finland 12 % or 244 persons were employed in 1994. For almost one quarter of them, the occupation was unknown. 13 % were employed in trade and 10 % in cleaning, sewage and refuse disposal, sanitation and similar activities. Of the Estonians, 140 persons (14 %) were employed and the most important sector was cleaning, sewage and refuse disposal, sanitation and similar activities (14 %). The second most important sector was trade (11 %). For one fifth of them, the occupation was unknown.

Of those born in the former Yugoslavia, 78 persons were employed, only 6.5 %, and 42 % of these had an unknown occupation in 1994. 10 % were employed in trade and in education and research. Of the Chinese who had immigrated in 1993, a third, or 67 persons were employed in 1994. A third of them worked in cleaning, sewage and refuse disposal, sanitation and similar activities, and a fourth in the trade sector. A tenth of the employed were active in education and research.

More than half (2 763 persons) of the return migrants to Finland in 2002 were employed in 2003. The most important sectors were finance, insurance, real estate and business activities as well as trade and health work. A fourth (478 persons) of the immigrants born in the former Soviet Union were employed a year after the arrival. Trade, as well as transport and communications, were their main employment sectors, both employing 12 %. For 20 %, the occupation was unknown.

451 of the Estonian immigrants (59 %) were employed a year after their arrival, in 2003. A fifth of them worked in transport and communication and another fifth in construction. The next important employment sector for Estonians was trade. Half of the native Swedes, 229 persons, were employed in 2003: around 15 % in trade and in finance, insurance, real estate and business activities. Half of the Chinese were employed (128 persons), mostly in trade (26 %), in education and research (23 %), and in the manufacture of electrical machinery (18 %).

The educational background of immigrants according to main activity

Figures 4 and 5 illustrate the main activity of working-age immigrant men and women, according to education. The data have been gathered for the end of 1994 and 2003, a year after immigration. The diagrams of 1994 show that the proportion of the employed grows

with better education. Employment rates vary considerably according to level of education; namely, unemployment decreases as education improves. Of the men with only primary education 42 % were unemployed, but of those with doctoral education, only 4 % were unemployed. The unemployment rate for women with primary education has been lower than for men (33 %) because many belong to the “other” -category not included in the labour force. When analysing unemployment level according to the concept of a labour force, immigrant women with primary education have higher unemployment (75 %) than men (70 %).

In all classes of education, except for “the lower higher education”, the relative employment rate for men is higher than it is for women. The difference between men and women is greatest in the category of “lowest higher education”: the employment rate for men is 66 % and, for women, only 52 %. Again, it is important to note that more women than men belong to the “other” -category, which is by definition outside the labour force. Membership in that category has decreased for both genders when employment has improved with education. Also, the share of students decreases when education improves.

Immigrant men still had a better employment situation than women in 2003 (Figure 5). The employment rates were, however, higher than in 1994 and for those with primary education, the rate has doubled regardless of gender. The employment rate increases as education improves, but the growth is not as strong and the differences between education levels are not as great as in 1994.

For women there is a small variation in the relative employment rate, and the relation of employment to educational level is not as accentuated as for men. Women with at least “higher lower education” have a lower employment rate in 2003 than in 1994. Thus, women with “upper higher education” had an employment rate of 75 % in 1994 and only 57 % in 2003. The phenomenon is explained by those who, during this decade, have become unemployed, students or entered the “other” -category. If this group of women is seen as part of the labour force, the differences between the decades are not so great: women with “upper higher education” had an employment rate of almost 90 % in 1994 and 83 % in 2003.

In 2003, unemployment observed evenly in all education levels for both men and women, while in 1994, those with less education were more often unemployed. Membership in the “other” -category decreases as education increases, especially for men. The share of students generally diminishes as the educational level rises. Now there are more students than in 1994, and students can also be found in those categories where a better basic education exists.

Figure 4 Main activity of working age immigrant men and women according to education in 1994, one year after immigration to Finland (Data: Statistics Finland)

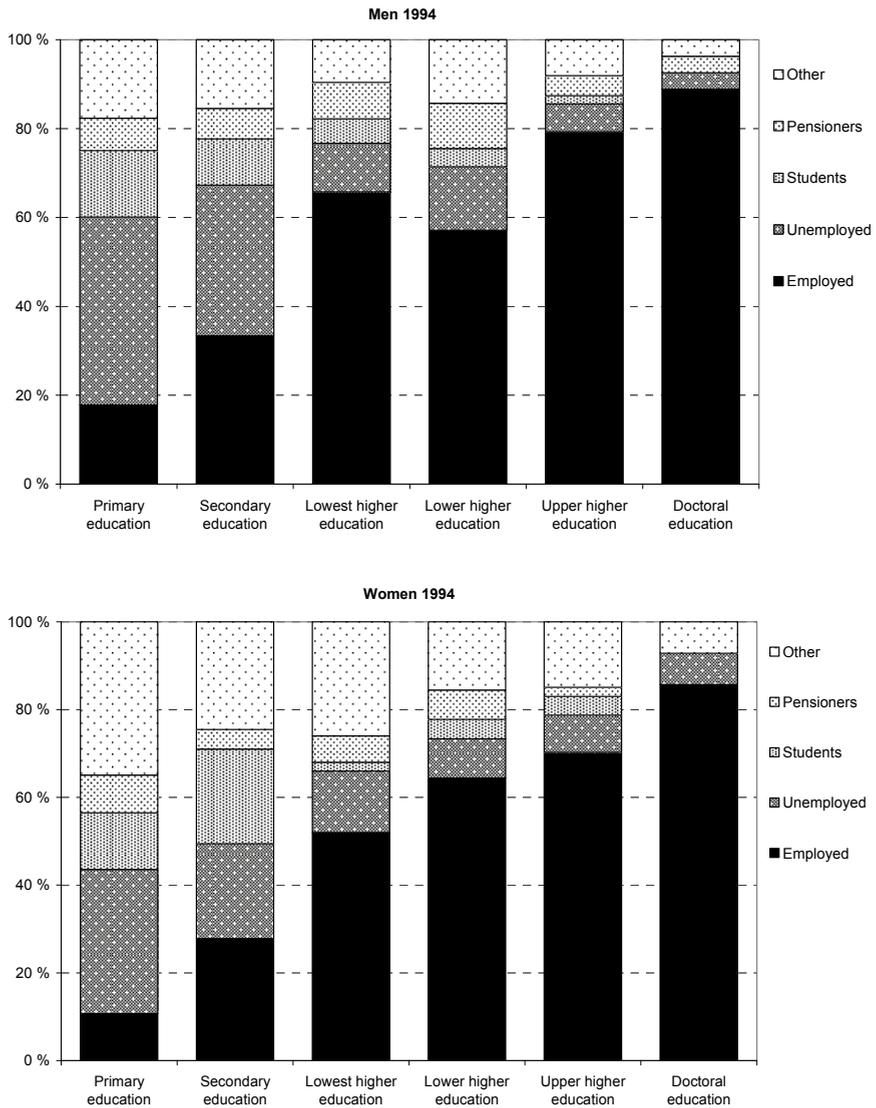
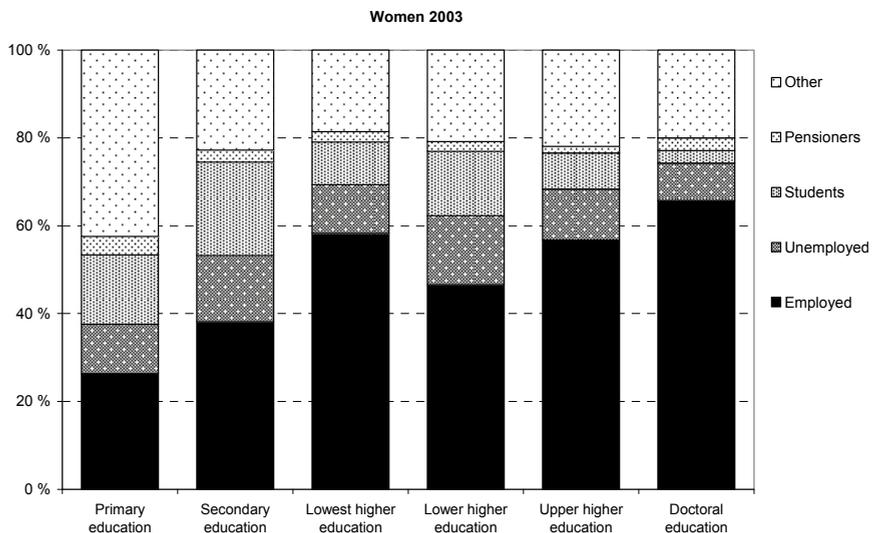
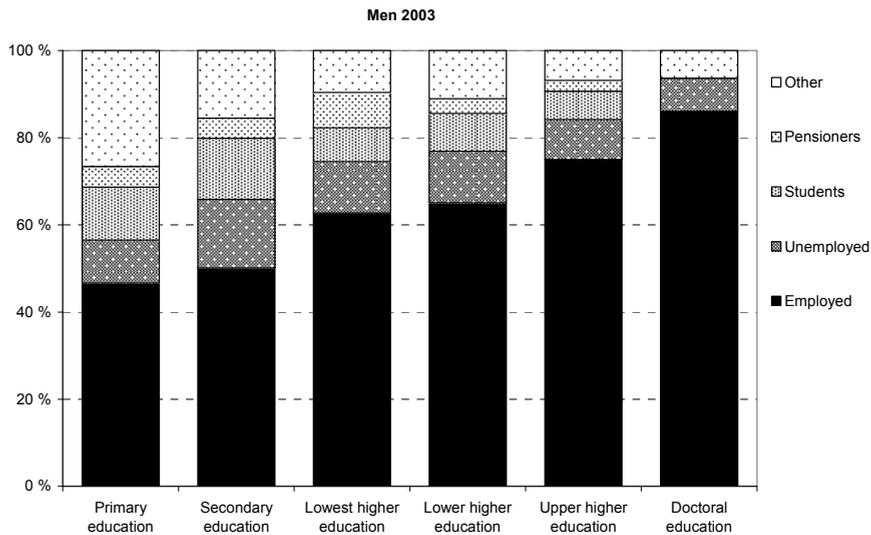


Figure 5 Main activity of working age immigrant men and women according to education in 2003, one year after immigration to Finland (Data: Statistics Finland)



Summary

Neoclassical economic theories emphasize differences between countries in terms of wages, employment and standard of living, as the initiating migration forces. This kind of economic gap exists between Finland and the southern and northern countries around the Baltic. The difference in standard of living is greatest between Finland and Russia. The difference in GNP between Finland and Russia is one of the biggest – if not the greatest – in Europe; and it had increased during the 1990s. Compared to Estonia, Finland's wages are three times higher with respect to purchasing power (Heikkilä & Järvinen 2004: 14–15).

If individuals choose to emigrate in order to maximise their income and welfare - i.e. for calculated reasons, as economic theories propose - the goals of migration are not always achieved in the individual's life. One indicator of such is the high unemployment of immigrants. In a variety of countries, including Finland, there has been a demand for certain types of labour, such as in the ICT-sector and in other professions. Refugee immigrants have faced employment difficulties, and when they have found work, it has not always corresponded to their education.

The situation in the labour market is a central indicator of the social status of immigrants and ethnic groups. Both in Finland and in other industrialized countries, it is more difficult for immigrants to find work than for the native population and thus the former often have many times higher unemployment rates than the latter (Heikkilä & Peltonen 2002: 5–6; Sopemi 2005: 62). The employment rate of immigrants has improved with the economic upturn in our country. Refugees, such as those from Iraq, have faced difficulties in finding employment: their situation has essentially not improved during the different economic cycles, and is worse than for immigrants in general.

According to Network Theory the individual would profit from his/her own social networks by finding an active role on the labour markets. According to Pikkarainen's (2005) survey, the networks are useful, because they allow people to find open jobs that are not advertised in the papers or on the Internet – in other words, so-called hidden labour markets (see Ahmad 2005). Also Joronen (2005: 76) has observed that information on open jobs is nowadays often spread through informal communication. At the turn of the millennium, the situation was different, at least for friends of foreigners, as Jaakkola showed in his research (2000: 43): only 10 % of the immigrants found jobs through them, and even fewer found suitable jobs.

Discriminating attitudes are revealed especially in the seeking of work. In some cases, Finnish nationality has been groundlessly required, and in some cases, the employer has falsely told immigrant applicants that the position has been filled. Also, employers have made exaggerated demands for language skills. The number of immigrants in Finland is still so small that most employers have no experience of immigrants. Therefore, ethical practices must be developed well in advance (Etnisten suhteiden neuvottelukunta 2005: 29–30). Multiculturalism should be seen as part of business and as competition advantage (Työministeriö 2003: 51).

According to World System Theory, migrants are drawn more easily to neighbouring countries; also a common language and cultural proximity are important. A good example of this is the Finnish emigration to Sweden of recent history. Also the differences in standard of

living as factors initiating migration have been seen in the migration between Finland and Sweden.

Finland has, during the period of study, received immigrants from neighbouring countries: return migrants, immigrants from the former Soviet Union and from Estonia. At the beginning of the last decade, many immigrants came as refugees from the former Yugoslavia and from Somalia. In this decade, the number of Swedish immigrants has doubled in comparison to the era of economic recession. Also, Chinese and Iraqis have immigrated to Finland, and in 2002, immigrants also arrived from Thailand and from Turkey. After Finland joined the European Union, we received many migrants from Great Britain and Germany. In Finland in 1993, there were no immigrant groups from Western Europe among the ten largest immigration groups according to the country of birth. The common labour markets have therefore eased mobility within the EU.

The Finnish labour markets face changes because a large part of the population will soon retire. Especially the health sector and other labour-intensive sectors will demand more labour. At the same time, educational level in Finland will rise. The vacated jobs will not be attractive to the native population, because many of those are in the low-paid and low-status sectors. It is a common belief that the number of immigrants in these sectors will increase.

Many post-industrial countries have both a labour deficit and labour reserves. The rapidly expanding industrial production and service sector have especially faced labour deficit. It is difficult to find people for low paid, low-status, heavy and monotonous jobs (see Wiman 1975: 46). Such sectors are e.g. agriculture, construction and service sectors such as cleaning. Immigrants are over represented in the construction sector, in hotel and restaurant jobs and in domestic service. Their employment rates within these sectors are higher than their general employment rate (Sopemi 2005: 66). So-called entry-level jobs, which introduce immigrants to the labour markets, are often within these sectors (e.g. Forsander 2002: 43).

Primary and secondary labour markets, in accordance with the dual labour market theory, exist in Finland. In the former, human capital is fully utilized, and in the latter, this might not be the case, i.e. work and education do not correspond. Educations, thus human capital, are essential for employment. In Finland, it can clearly be observed that good education guarantees employment during economic up- and downturns. Jaakkola (2000: 91) refers in his research to winners and hard-workers. Well-educated westerners invited from abroad are the winners, while the hard-workers are those with little education and work experience; they are often refugees coming from the third world countries.

Finally, there is much active potential among the immigrants who expect to take part in society. The immigrants who already live in Finland do not suffice to remedy the

threatening labour deficit. Thus it is important that Finland increases its appeal as a country of work opportunities and attracts more educated, working-aged immigrants to a variety of economic sectors.

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**LABOUR MIGRATION AND ECONOMIC DEVELOPMENT:
THE CASE OF DENMARK**

Mete Feridun¹⁾

This article aims at investigating the nature of the causal relationship between immigration and economic development measured by GDP per capita in Denmark using Granger causality test. The results on the unit root test indicate that all the series are non-stationary and are in $I(1)$ process. The Johansen cointegration test reveals that there is no cointegration among the data sets. The Granger causality test shows that when the level of immigration increases, GDP per capita also increases. It has also been found that immigration has no impact on unemployment, and vice versa.

Key words: Economic development, population growth, unemployment, cointegration

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1 Introduction

As is the case for many developed nations, Denmark faces the challenges of an ageing population. The combination of the demographic effects of the baby booms that marked the immediate post war period, the fall in fertility rates that began from the late 1960s, and longer life expectancy have led to a very marked acceleration of the population ageing process in Denmark. This has serious implications for the sustainability of the pension and benefit systems and for labour market equilibrium. With more elderly persons and fewer young persons, Denmark is expected to experience a fall in the labour supply within the next few decades. This will have to be accompanied by an increasing number of persons of foreign origin entering the labour market. Inflow of aliens into the country in the last decade has made immigration and immigration policy a major public issue in Denmark. Danish people are concerned that immigration reduces employment opportunities for the existing workforce, depresses wage rates in already low-wage labour markets, and financially strains taxpayers via their receipt of transfer payments and use of social service programs. In this respect, it is essential to assess the impact of foreign workers on GDP per capita and unemployment to assist policy-makers in designing policies regarding immigration. International migration and the role that it plays in the economies of the originating and receiving countries has frequently been a topic of interest. To our knowledge, such study does not exist in the literature particularly for Denmark. The present study aims at filling this gap in the literature through investigating the nature of the causal relationship between immigration and two macroeconomic indicators, GDP per capita and unemployment using Granger causality tests based on Danish data during the period between 1983 and 2003. This paper is structured as follows. Next section reviews some of the existing studies on the impacts of foreign workers on the economy and unemployment. Section III provides a theoretical framework through which immigration may have an impact on the economy of the host countries. Section V

reviews the data and presents the results obtained. Last section provides conclusions and policy implications that emerge from the study.

2 Literature Review

Literature on the economic impact of immigration focuses primarily on the effects of immigration on the unemployment of domestic workers. Marr and Siklos (1994) studied the relationship between immigration and unemployment in Canada using quarterly data for the period 1962-1990. They used Granger causality and found that before 1978, changes in immigration levels did not affect the Canadian unemployment rate, but after 1978 immigration rates contributed to changes in the unemployment rate.

Marr and Siklos (1995) investigated the relationship between immigration and unemployment in Canada using annual data from 1926 to 1992. They used both Granger causality tests between unemployment and immigration and the unrestricted VAR approach involving time series regression of unemployment, immigration, wage (per capita total labour income), and real GDP. The Granger causality tests revealed that immigration was not caused by past unemployment; however, past immigration did cause unemployment. Evidence also suggested that immigration and unemployment rates were inversely related and the past unemployment rate had a quantitatively smaller impact on immigration than past immigration had on current level of unemployment. Konya (2000) tested the Granger causality between immigration and long-term unemployment in Australia in the period between 1983 and 1998. Using quarterly, both seasonally adjusted and unadjusted data, she found that there was a negative unidirectional Granger causality, both between the seasonally unadjusted and adjusted series, running from immigration to long-term unemployment. Akbari and DeVoretz (1992) analyzed Canadian data to assess the impact of immigrant workers on the employment of Canadian-born workers for 125 Canadian industries using 1980 data. They used translog specification of the production function. The estimated cross elasticities suggested no economy-wide displacement of Canadian-born workers by immigrants.

Withers and Pope (1993) studied Australian data spanning the period between 1861 and 1991 using both structural disequilibrium modelling and causality testing. They found that unemployment caused immigration no evidence in the opposite direction. They also found structural breaks in the relationship that originated from government policy changes. Withers and Pope (1985) studied quarterly Australian unemployment and immigration data from 1948 to 1982. They used both statistical causality techniques and conventional structural models to investigate the relationship between immigration and unemployment. They run Granger causality tests on quarterly data with twelve lags and reached the conclusions that

there was no evidence of causality from immigration to unemployment, unemployment did influence subsequent immigration, immigration did not significantly affect structural unemployment; and migrants created as least as many jobs as they filled.

Winegarden and Khor (1991) investigated whether undocumented immigration caused any substantial increases in joblessness among the vulnerable groups in U.S workforce. They used 1980 U.S. census data on the state distribution of the alien population to analyze the relationship between this population and unemployment among youth and minority workers. They also estimated a simultaneous equation model involving unemployment and immigration as endogenous variables. Evidence show that undocumented immigration has not caused any substantial increases in joblessness among the presumably most vulnerable groups in U.S workforce, although small amounts of displacement were detected. Gross (1997) used Canadian data and analyzed the ability of a regional market, British Columbia, to absorb the growing flows of immigrant workers with declining levels of skills in times of relatively high unemployment. He found that immigration is positively related to unemployment in the short-run and negatively related to unemployment rate in the long run. He also found that higher average skill level among immigrants makes them more competitive in the short-run.

Marr (1973) examined the relationship between immigration and unemployment rate for Canada for the period 1950 to 1967. He found a significant negative relationship between immigration flows and the Canadian unemployment rate and argued that a high unemployment rate led to a lower flow of immigrants. But when total flows were disaggregated by sending area, he found that higher unemployment rate led to lower immigration except for immigration flows from Asia, Central America and South America. Altonji and Card (1991) studied the effects of immigrants on less-skilled natives in 1970 and 1980 data on U.S. cities. They found little evidence that inflows of immigrants are associated with large or systematic effects on the employment or unemployment rates of less skilled natives.

There exists a vast empirical literature on the effects of immigration on the income of the host country citizens. Laryea (1998a) analyzed the impact of foreign-born labour on wages in Canada using data from Labour Market Activity Survey for the period 1988-1990. They used a random effects model to analyze the wage impacts by broad industry groups and also by gender. Results from the regressions show that for the total sample, foreign-born and native born were complements in production. The relationship also held for the male and female sub-samples. However, when the data was disaggregated by industry, wage suppression by immigrants was detected in the primary, transport and storage, wholesale and retail trade industries.

Laryea (1998b) employed a generalized Leontief production function to analyze substitutability or complementarity relationships between Canadian, old foreign-born and new foreign-born workers, using data from the 1991 census. He also extended the analysis to broad occupational groups. The results showed that Canadian and new foreign-born workers were substitutes in production with adverse impacts on Canadian-born wage. The earlier immigrants, on the other hand, were found to be complements to Canadian-born workers. In case of occupational group, professionally trained immigrants and unskilled Canadian-born workers were found to be substitutes. However, the relationship between unskilled immigrants and Canadian professionals and skilled Canadian workers were found to be complementary.

Gruen (1986) studied the per capita growth rates in the OECD countries using cross-country regressions and found that high rates of population growth are negatively associated with per capita GDP growth where 1% growth in the immigration rate as a proportion of the population leads to a 0.7% fall in per capita growth in GDP. On the other hand, Jolley (1971) examined the impact of migration on Australia's economic growth using a neoclassical production function, adjusted for cyclical demand-driven fluctuations. The results suggested that immigration had raised GDP but had slightly lowered GDP per capita. Easton (1990) attempted to appraise the growth performance of the New Zealand economy using descriptive statistics. He concluded that one of the reasons behind the relatively poor post-war economic growth performance was a high rate of population growth. On the other hand, Grossman (1982), using cross sectional U.S. data, found that a 10% rise in migration causes a 0.8% fall in native employment and the long run wage elasticity suggests that the same rise in immigration will reduce natives' wages by 1%.

3 Theoretical Framework

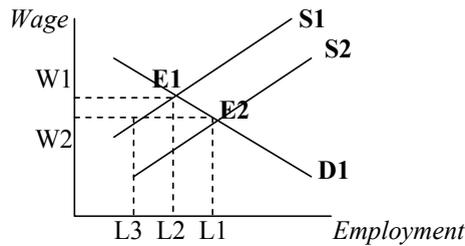
This section presents the theoretical framework through which immigration may affect the labour market in the host country. Effects of immigration on the income of the host country citizens can be studied in two ways, namely supply side effects and demand side effects. In the Supply side effects, inputs, i.e. foreign labour force and domestic labour force, can be either substitutes or complements. When two inputs are substitutes in production, an increase in the supply of an input will decrease the demand for its substitute.

An increase in the labour supply through increased immigration in a given labour market will lead to an increased competition for jobs among immigrants. This would reduce the market wage for immigrants. Depending upon their skill requirements, employers are likely to substitute immigrant labour for the native worker since the former is cheaper. This

competition for jobs in the local labour market between natives and immigrants would reduce the earnings of natives. If variation in the number of immigrants relative to the native born workers across selected labour market demonstrates that a higher ratio of foreign-born to native-born worker is associated with a lower wage rate of native born, then immigrants and native born are substitutable labour inputs in production. In this case, foreign-born workers would affect the earnings and job opportunities of native workers adversely.

When immigrants and native workers are perfect substitutes, they compete for jobs in the same labour market and the effects are shown in Figure 1. We assume that the labour supply curve for natives is upward sloping, shown by the line S1, and (L2 – L3) immigrants enter the labour market shifting the labour supply curve to the right to S2. We further assume that the demand for labour is fixed with or without entry of immigrants. The market wage rate falls from W1 to W2 and that L1 – L3 amount of native workers will be displaced by immigrants.

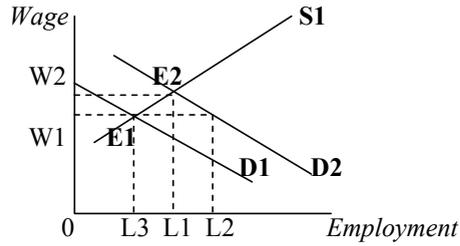
Figure 1 Impact of immigration on the income of the host country citizens
 (When immigrants and native workers are perfect substitutes)
 Source: Feridun (2005)



In the case of complementary inputs, immigration flows could lead to increased wages for native workers. If there are skill shortage in the host country and immigrant relieve these bottlenecks, it would expand job opportunities in general, resulting in an increased demand for labour and eventually leading to higher wages of native-born workers. In this case immigrants and native workers are employed in two distinct labour markets and they are complementary inputs in production. When they are complements in production, then an increase in the demand for labour can increase the wage rate of indigenous workers. When foreign-born and the native born are complements in production, an inflow of foreign-born worker would augment the productivity of native workers. Therefore, the demand for native-born workers goes up, as shown by the shift in the demand curve from D1 to D2 in Figure 2. These will cause an increase in the wage rate from W1 to W2.

**Figure 2 Impact of immigration on the income of the host country citizens
(When foreign-born and the native born are complements in production)**

Source: Feridun (2005)

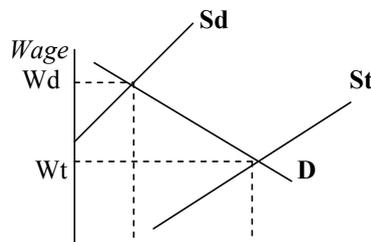


When we study demand side effects, we assume that the product demand is fixed. However, immigration has both demand and supply side effects in goods market. Immigrants demand goods and services, make expenditure and therefore the expenditure generated by the inflow of immigration causes the demand curve for goods and services to shift rightward. This will, in turn, cause an increase in the demand for labour. When both demand and supply effects are present, the net effect on the native would depend on the immigrants' marginal propensity to spend and the chance of getting job relative to natives. If, for example, immigrants' relative expenditure is less than their relative employment, then the demand for labour will shift to a less extent than the supply of labour and therefore some natives will lose their jobs.

Impact of immigration on the level of unemployment in the host country can be studied through two perspectives. Some people contend that the employment of immigrants decreases the employment of domestic workers on a one-for-one basis. They argue that a given number of jobs exist in the economy and that if one of these positions is taken by an immigrant, then that job is no longer available for a legal resident. At the other extreme is the claim that immigrants only accept work that resident workers are unwilling to perform and thus take no jobs from native workers. According to McConnell et al (2003), immigration does cause some substitution of illegal aliens for domestic workers but the amount of displacement is most likely less than the total employment of immigrants.

Figure 3 Impact of immigration on the level of unemployment in the host country

Source: Feridun (2005)



$$0 \quad \overline{Qd \quad Qt} \quad \textit{Employment}$$

D is the typical labour curve, Sd portrays the labour supply of domestic workers, St reflects the total supply of domestic and immigrant workers. Given the presence of the illegal workers, the market wage and level of employment are W_t and Q_t . The presence of the immigrants increases the total number of jobs in the market. With the illegal migration, the number of jobs is Q_t . Without the inflow it is Q_d . Therefore, it can be said that native employment would increase by the amount Q_d upon the deportation of Q_t immigrants.

In light of this theoretical background, this study aims at testing two null hypotheses. The first hypothesis assumes that the immigrants and the native workers are perfect substitutes, and states that immigration will lead to decreased per capita income in the host country. The second hypothesis states that immigration leads to unemployment in the host country.

4 Data and Methodology

This study uses data that consists of annual observations spanning the period between 1983 and 2003. All data are obtained from the World Bank World Development Indicators database and were transformed into logarithmic returns in order to achieve mean-reverting relationships, and to make econometric testing procedures valid. Immigration, denoted by IMMIG, is measured by the size of foreign or foreign-born residents as a percentage of total population. GDP per capita, denoted by GDP, is calculated as gross domestic product divided by midyear population. Unemployment, denoted by UNEM, refers to the percentage of the total labour force that is without work but available for and seeking employment.

Table 1 presents the descriptive statistics of the logarithmic transformations of time series data. The measures of skewness and kurtosis as well as the probabilities of the Jarque-Berra test statistic provide evidence in favour of the null hypothesis of a normal distribution for all data sets. In addition, simple correlations are estimated for the first differences of the series for each country and no evidence of correlation was found as can be seen in Table 2.

Table 1 Descriptive Statistics
 (Source: Author's calculations based on data from World Bank World Development Indicators database)

Immigrati Unemploym GDP

	on	ent	
Mean	23.54	31.77	3.67
Median	9.13	3.64	5.55
Maximum	16.07	31.32	7.83
Minimum	2.36	1.74	2.32
Std. Dev.	2.54	1.36	0.27
Skewness	0.02	0.42	0.05
Kurtosis	2.97	2.84	2.27
Jarque-Bera	1.56	2.63	1.65
Probability	0.54	0.44	0.43
Sum Sq. Dev.	13.54	0.25	15.37

Table 2 Correlation Matrix
(Source: Author's calculations based on data from World Bank World Development Indicators database)

	GDP	UNEM	IMMG
GDP	1	0.13	0.55
UNEP		1	0.03
IMMG			1

4.1 ADF Unit

Root Tests

The first necessary condition to perform Granger-causality tests is to study the stationarity of the time series under consideration and to establish the order of integration present. The Augmented Dickey-Fuller (ADF) (1979) unit root test is used in examining the stationarity of the data series. It consists of running a regression of the first difference of the series against the series lagged once, lagged difference terms, and optionally, a constant and a time trend. This can be expressed as:

$$\Delta y_t = \beta_1 y_{t-1} + \beta_2 \Delta y_{t-1} + \beta_3 \Delta y_{t-2} + \beta_4 + \beta_5 t \quad (1)$$

The test for a unit root is conducted on the coefficient of $yt-1$ in the regression. If the coefficient is significantly different from zero then the hypothesis that y contains a unit root is rejected. Rejection of the null hypothesis implies stationarity. If the calculated ADF statistic is higher than McKinnon's critical value then the null hypothesis is not rejected and it is concluded that the considered variable is non-stationary, i.e. has at least one unit root. Then, the procedures are re-applied after transforming the series into first differenced form. If the null hypothesis of non-stationarity can be rejected, it can be concluded that the time series is integrated of order one, $I(1)$.

Table 3 Augmented Dickey-Fuller Unit Root Test Results

	Test with an intercept		Test with an intercept and trend		Test with no intercept or trend	
	<u>Levels</u>	<u>1st differences</u>	<u>Levels</u>	<u>1st differences</u>	<u>Levels</u>	<u>1st differences</u>
Immigration	1.76	-11.57	3.76	-12.52	0.37	-7.46
GDP	2.06	-6.94	2.85	-7.34	2.58	-11.24
Unemployment	1.77	-5.63	3.55	-6.33	1.32	-10.32
CV* (1%)	-3.49	-4.03	-5.55	-5.65	-2.74	-2.64
CV (5%)	-3.37	-3.5	-3.68	-3.76	-1.92	-1.87

* *McKinnon Critical Value*

The lag length was determined using Schwartz Information Criteria (SIC)

Table 3 summarizes the results of the ADF unit root tests on levels and in first differences of the data. Strong evidence emerges that all the time series are $I(1)$.

4.2 Cointegration Tests

Next, we perform cointegration analysis. Cointegration analysis helps to identify long-run economic relationships between two or several variables and to avoid the risk of spurious regression. Cointegration analysis is important because if two non-stationary variables are cointegrated, a VAR model in the first difference is misspecified due to the effect of a common trend. If cointegration relationship is identified, the model should include residuals from the vectors (lagged one period) in the dynamic Vector Error Correcting Mechanism (VECM) system. In this stage, Johansen cointegration test is used to identify cointegrating

relationship among the variables. Within the Johansen multivariate cointegrating framework, the following system is estimated:

$$\Delta z_t = \Pi_1 \Delta z_{t-1} + \dots + \Pi_{k-1} \Delta z_{t-k+1} + \Pi z_{t-1} + \mu + \varepsilon_t; \quad t=1, \dots, T \quad (2)$$

Where Δ is the first difference operator, z denotes vector of variables, $\varepsilon_t \sim \text{niid}(0, \Sigma)$, μ is a drift parameter, and Π is a $(p \times p)$ matrix of the form $\Pi = \alpha\beta'$, where α and β are both $(p \times r)$ matrices of full rank, with β containing the r cointegrating relationships and α carrying the corresponding adjustment coefficients in each of the r vectors. The Johansen approach can be used to carry out Granger causality tests as well. In the Johansen framework the first step is the estimation of an unrestricted, closed p th order VAR in k variables. Johansen (1995) suggests two tests statistics to determine the cointegration rank. The first of these is known as the trace statistic

$$\text{trace}(r_0 / k) = -T \sum_{i=r_0+1}^k \ln(1 - \hat{\lambda}_i) \quad (3)$$

where $\hat{\lambda}_i$ are the estimated eigenvalues $\lambda_1 > \lambda_2 > \lambda_3 > \dots > \lambda_k$ and r_0 ranges from 0 to $k-1$ depending upon the stage in the sequence. This is the relevant test statistic for the null hypothesis $r \leq r_0$ against the alternative $r \geq r_0 + 1$. The second test statistic is the maximum eigenvalue test known as $\lambda \max$; we denote it as $\lambda \max(r_0)$. This is closely related to the trace statistic but arises from changing the alternative hypothesis from $r \geq r_0 + 1$ to $r = r_0 + 1$. The idea is to try and improve the power of the test by limiting the alternative to a cointegration rank which is just one more than under the null hypothesis. The $\lambda \max$ test statistic is

$$\lambda \max(r_0) = -T \ln(1 - \lambda_i) \text{ for } i = r_0 + 1 \quad (4)$$

The null hypothesis is there are r cointegrating vectors, against the alternative of $r + 1$ cointegrating vectors. Johansen and Juselius (1990) indicated that the trace test might lack the power relative to the maximum eigenvalue test. Based on the power of the test, the maximum

eigenvalue test statistic is often preferred. Table 4 presents results from the Johansen cointegration test among the data sets. Neither maximum eigenvalue nor trace tests rejects the null hypothesis of no cointegration at the 5% level.

Table 4 Johansen Cointegration Test Results

Null Hypothesis	Trace Statistic	5% Critical Value	Maximum eigenvalue Statistic	5% Critical Value
$r = 0$	33.66	39.74	19.27	23.29
$r \leq 1$	13.72	24.22	10.57	21.45
$r \leq 2$	4.16	10.45	6.33	11.44

r is the number of cointegrating vectors under the null hypothesis.
A linear deterministic trend is assumed.

4.3 Granger-causality Tests

According to Granger (1969), Y is said to “Granger-cause” X if and only if X is better predicted by using the past values of Y than by not doing so with the past values of X being used in either case. In short, if a scalar Y can help to forecast another scalar X, then we say that Y Granger-causes X. If Y causes X and X does not cause Y, it is said that unidirectional causality exists from Y to X. If Y does not cause X and X does not cause Y, then X and Y are statistically independent. If Y causes X and X causes Y, it is said that feedback exists between X and Y. Essentially, Granger’s definition of causality is framed in terms of predictability.

Granger (1969) originally suggested the Granger test, which was improved by Sargent (1976). To implement the Granger test, we assume a particular autoregressive lag length *k* (or *p*) and estimate equation (5) and (6) by Ordinary Least Squares (OLS) regression.

$$X_t = \lambda_1 + \sum_{i=1}^k a_{1i} X_{t-i} + \sum_{j=1}^k b_{1j} Y_{t-j} + \mu_{1t} \quad (5)$$

$$Y_t = \lambda_2 + \sum_{i=1}^p a_{2i} X_{t-i} + \sum_{j=1}^p b_{2j} Y_{t-j} + \mu_{2t} \quad (6)$$

F test is carried out for the null hypothesis of no Granger causality $H_0 : b_{i1} = b_{i2} = \dots = b_{ik} = 0, i = 1, 2$. where F statistic is the Wald statistic for the null hypothesis. If the F statistic is greater than a certain critical value for an F distribution, then we reject the null hypothesis that Y does not Granger-cause X (equation (5)), which means Y Granger-causes X .

A time series with stable mean value and standard deviation is called a stationary series. If d differences have to be made to produce a stationary process, then it can be defined as integrated of order d . Granger (1983, 1983) proposed the concept of cointegration, and Engle and Granger (1987) made further analysis. If several variables are all $I(d)$ series, their linear combination may be cointegrated, that is, their linear combination may be stationary. Although the variables may drift away from equilibrium for a while, economic forces may be expected to act so as to restore equilibrium, thus, they tend to move together in the long run irrespective of short run dynamics. The definition of the Granger causality is based on the hypothesis that X and Y are stationary or $I(0)$ time series. Therefore, we can not apply the fundamental Granger method for variables of $I(1)$.

The classical approach to deal with integrated variables is to difference them to make them stationary. Hassapis et al. (1999) show that in the absence of cointegration, the direction of causality can be decided upon via standard F -tests in the first differenced VAR. The VAR in the first difference can be written as:

$$\Delta X_t = \lambda_1 + \sum_{i=1}^k a_{1i} \Delta X_{t-i} + \sum_{j=1}^k b_{1j} \Delta Y_{t-j} + \mu_{1t} \quad (7)$$

$$\Delta Y_t = \lambda_2 + \sum_{i=1}^p a_{2i} \Delta X_{t-i} + \sum_{j=1}^p b_{2j} \Delta Y_{t-j} + \mu_{2t} \quad (8)$$

Since, maximum eigenvalue and trace tests do not reject the null hypothesis of no cointegration at the 5% level, aforementioned VAR method can be used. Table 5 shows the results of these regressions.

Table 5 Granger Causality Test Results

<u>Null Hypothesis</u>	<u>F - Statistics</u>			
	<u>Lag 1</u>	<u>Lag 2</u>	<u>Lag 3</u>	<u>Lag 4</u>

Immigration does not granger cause GDP per capita	53.52*	5.03	0.64	0.63
GDP per capita does not granger cause immigration	1.75	1.94	0.55	0.47
Immigration does not granger cause unemployment	1.46	1.33	1.33	0.54
Unemployment does not granger cause immigration	1.24	0.35	1.56	3.36

* *Reject the null hypothesis at the 5% level.*

Results of Granger-causality test show that the null hypotheses of immigration does not *Granger cause* GDP per capita is rejected in 1 year lag, at the 5% level. Results show no evidence of reverse causality. On the other hand, the null hypotheses of immigration does not *Granger cause* unemployment is not rejected in any lag at the 5% level. Again, results show no evidence of reverse causation either.

5 Conclusions and Policy Implications

The aim of this paper is to assess the impact immigration has on economic development and unemployment in the Denmark. The results on the unit root test indicate that all the series are non-stationary and in $I(1)$ process. The Johansen cointegration test reveals that there is no cointegration among the data sets. The Granger causality test shows that when level of immigration increases, GDP per capita also increases. It has also been found that immigration has no impact on unemployment, and vice versa.

A number of policy implications emerge from the study. As the analysis has shown, the future development of the Danish society will depend among other things on whether the country is capable of securing a successful integration of foreigners. This includes not only the residing foreigners in the country but also those that are expected to immigrate in the future. A number of actions should be taken in order to cope with the expected decline of the labour force. For instance, Denmark may choose to mobilize the latent labour supply among various target groups such as the ageing population, inactive and unemployed youth, inactive adults and inactive and unemployed foreign born residents. As evident from their positive impact on GDP per capita growth, immigrants and their children will be a great asset to Denmark in the future. Therefore, taking care of immigrants' basic requirements and making Denmark attractive to foreign employees must be a priority for the policy makers. Policies should be developed to educate domestic societies to tolerate the temporary and permanent presence of an increasing number of people with foreign background. However, authorities should determine how many and what type of immigrants are needed. Denmark has to define

clear goals and guidelines for their immigration and integration policies. In this respect, restricting the immigration of people with low qualifications to prevent integration difficulties and the negative impact on the economy can be considered as a policy option.

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**ASSESSING THE DETERMINANTS OF EMIGRATION
INTENTIONS IN LATVIA AFTER THE EU ENLARGEMENT**

This paper analyses the structure of emigration from Latvia after the EU enlargement. We use the data from the 2005 survey on emigration intentions from Latvia to find out which factors determine emigration intentions of individuals belonging to different ethno-linguistic groups, males and females, as well as people living in the capital area and outside it. We conclude that younger individuals are more likely to emigrate and foreign work experience is an important emigration driver for the majority of the respondents. However, important inter-group differences exist with respect to other determinants of emigration. Living in the capital diminishes the probability of emigration for Latvian-speakers and males. Income is negatively linked with the willingness to move for Latvian-speakers, females and those living outside the capital, while Russian-speakers are more likely to emigrate when their income is higher. The networks are relatively unimportant emigration drivers for females, Russian speakers and those living in Riga. Finally, on average, ethnic minority respondents are more likely to go working abroad.

Keywords: Emigration, EU enlargement, Latvia, ethnic minorities, networks

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1 Introduction

The recent enlargement of the European Union (EU) has shown how delicate international labour flows are, even within a relatively homogeneous space such as the enlarged EU. While immigration continues to be an important issue for receiving states⁸⁵, the governments of some new EU member state are becoming increasingly concerned by the massive outflows of domestic labour. For instance, it is estimated that up to 10% of the total workforce of Latvia – one of the poorest EU state – have left, temporarily or permanently, in search for higher earnings, principally to the UK and Ireland, and the trend is not decreasing. Besides the new states which joined the EU in 2004, emigration pressure is particularly high in Romania and Bulgaria which will join the Union in 2007. The instantaneous effect of emigration on the growth of new EU members is certainly negative, and emigrants' return incentives are still not strong enough.

This paper analyses the determinants of emigration intentions from Latvia. We use the data from a 2005 survey⁸⁶ where the respondents were asked to evaluate their probability of going working abroad. The sample contains 1060 observations (in-depth face-to-face interviews) and is highly representative. Besides analysing the whole sample, we are also

⁸⁵ E.g., immigration plays an important role in the negotiations over Turkey's accession to the EU.

⁸⁶ The survey was realised by the Marketing and Public Opinion Research Centre (located in Riga, Latvia: www.skds.lv) at the request of the Ministry of Foreign Affairs of Latvia in order to assess the ongoing process of mass work emigration.

interested in determining the profile of a potential migrant in different respondents' groups: males and females, ethnic minority and majority, as well as individuals living in the capital and outside it.

The remainder of the paper is organised as follows. Section 2 reviews the main theories explaining individual's emigration probability. We present the data and regression results in section 3. Conclusions summarise the work.

2 Insights from emigration theories and their implications for Latvia

Ever since the age of mass migration over a century ago, economists, social scientists and politicians have tried to explain why people move from one place to another. The numerous migration theories developed so far rarely include all aspects of workers' movement across borders and regions, certainly due to complex and multifaceted nature of migration phenomena. It can be argued that the general theory of migration flows has not appeared yet. However, all existing theoretical approaches provide useful and interesting, though incomplete, insights into migration explaining⁸⁷.

The neo-classical migration theory is the oldest and, probably, the most influential one. Based on the pillars of neo-classical economics – rational choice and individual utility maximization, its main idea is that flows of workers are contingent primarily on wage differential between source and destination region or country⁸⁸. Migration is the result of individual decision made by rational actors who seek to increase their well being by moving to places where the reward of their labour is higher, taking into account the tangible and intangible costs associated with the move (Todaro, 1976). Sjaasted (1962) views migration as a form of investment in human capital, since it implies incurring certain costs in order to receive higher benefits from one's labour. In such a framework, *inter alia*, younger individuals should have higher probability of migrating.

The wage differential between source and destination countries is by no means the most important driver of migration, but certainly not the only one. For example, the neo-classical theory cannot explain why two immigration receiving countries with similar welfare and wage levels have different immigration rates, or emigration intensity is not the same in two economically similar source countries. This approach, which concentrates almost only on

⁸⁷ Arango (2000) notes that “*the usefulness of theories that try to explain why people move is in our days dimmed by their inability to explain why so few people move. Theories of migration should not only look to mobility, but also to immobility. The classic pair ‘push’ and ‘pull’ should at least be complemented with ‘retain’ and ‘repel’.*”. See Arango (2000) for a critical review of theories explaining migration.

⁸⁸ The importance of economic arguments as primary migration drivers was already recognized at the end of 19th century by Ravenstein (1885): “*bad or oppressive laws, heavy taxation, an unattractive climate, uncongenial social surroundings, all have produced and are still producing currents of migration, but none of these currents can compare in volume with that which arises from the desire inherent in most men to “better” themselves in material respects*”.

income differentials at macro level, and practically excludes the human dimension of migration, was complemented by a set of new theories, such the new economics of labour migration and network theory, in the last quarter of the 20th century. The new migration-explaining approaches highlight the not only economic, but also human nature of peoples' movement across borders.

The new economics of labour migration also assumes rational behaviour of migrant, but views him more as the family or the household than the individual migrant. The migration is now a family strategy that is aimed not only to maximize income, but also to diversify sources of income, and minimize risks. Moreover, the migrants do not necessarily maximize their income absolute terms, but rather relative to other members in their reference group. Stark and Bloom (1985) and Stark and Taylor (1989) call this "relative deprivation", and argue that migration will be more pronounced in societies with higher income inequality where relative deprivation is felt more intensively. Obviously, the probability of emigrating will be higher for individuals at the bottom of income distribution, even when the wage level of the rich in the sending country is considerably lower than that in the potential destination country. Thus, wage differential between countries is not the only sufficient condition for migration to occur, as predicts the neo-classical approach.

The third theory explaining migration flows recognizes the existence and importance of migration networks. Massey et al (1998) define them as sets of interpersonal relations that link migrants with relatives, friends or fellow countrymen at home. They convey information, provide financial assistance, facilitate employment and accommodation, and give support in various forms. In so doing, they reduce the costs and uncertainty of migration and therefore facilitate it. Furthermore, as migration networks are cumulative, they induce "chain migration". Importantly, migration network approach provides a missing link between the macro focus of the neoclassical theory and micro focus of the new economics of migration.

Next, a demand-driven migration approach is provided by the dual labour market theory. Its main idea is that advanced economies with segmented labour markets demand foreign labour for unattractive, unstable and low-productivity jobs in labour-intensive sector. This theory states that potential migrants must fill the pre-existing jobs upon arrival, which may not be always the case.

Finally, a political dimension of international migration should necessarily be taken into account. Negative attitudes towards immigration which lead to restricted admission policies of immigrants dissuade the majority of would-be migrants who would move if only economic factors mattered. Political factors are nowadays much more influential than differential wages in determining international mobility or immobility (Arango 2001).

What emigration patterns would predict the above-mentioned theories for the Latvian case? With the EU enlargement in May 2004, bilateral free labour agreements have been established Latvia (as well as other new European states) on the one hand and the UK, Ireland and Sweden on the other. Finland and Spain are expected to lift restrictions of free work entry in 2006. While the outflow of Latvian workforce was non-negligible prior to the EU accession, it has been particularly intensive since 2004, mostly to the UK and Ireland. Therefore, the political reduction of entry barriers was crucial in intensifying emigration. But, the outflow would not be that pronounced if income differential were not that high. Indeed, Latvia remains the poorest EU economy, with income amounting to 40% of the EU-25 and 30 % of the EU-15. Apart from income differential as migration driver, another important prediction from the neoclassical and human capital theory is that younger and non-married individuals are more likely to move.

As to income and education levels, are relatively poorer, and hence, less educated individuals will be more likely to move, since they feel relatively more deprived with respect to other members of their reference group. I also expect that migration networks would have a significant and positive effect on emigration from Latvia, particularly given that significant communities of Latvians have established in the UK and Ireland.

3 Data and regression results

We use the data from the survey on emigration intentions of Latvian workforce realized by the Marketing and Public Opinion Research Centre in December 2005. The database consists of 1,060 observations (face-to-face in-depth interviews), corresponding to 0.1% of Latvian workforce. The sample is highly representative, insofar as it closely replicates Latvia's age, gender, ethnic and territorial distributions.

The survey contains information on different respondents' socio-economic characteristics: age, sex, income, education, place of residence, marital status, household size, labour market status (student, unemployed, retired), first language spoken, foreign work experience, and information about family and friends networks abroad. The means of all variables are summarized in table 1 below. We focus only on the respondents aged 55 or younger, since older respondents have relatively low probabilities of going working abroad.

Table 1: Socio-economic characteristics of the respondents

	Whole sample	Native language		Gender		Place of residence	
		Latvian	Russian	Male	Female	Riga agglomeration	Other city or urban area
Age (continuous)	34.88	34.64	35.26	34.63	35.11	33.80	35.75

variable)							
Sex (male)	48.5%	46.7%	51.4%			50.8%	46.7%
Married	56.9%	54.6%	60.6%	60.8%	53.1%	52.9%	60.1%
Child	53.6%	53.8%	53.4%	53.9%	53.4%	49.8%	56.7%
Household size	3.16	3.20	3.10	3.20	3.12	3.19	3.13
Income (continuous variable)	112.92	114.77	109.98	125.33	102.91	151.39	84.41
Student	14.2%	14.8%	13.0%	14.4%	13.9%	15.7%	12.9%
Unemployed	7.1%	7.6%	6.3%	6.7%	7.6%	4.5%	9.2%
Empl. in public sector	25.1%	29.9%	17.3%	18.3%	31.4%	19.9%	18.3%
Empl. in private sector	47.0%	43.2%	53.2%	58.3%	36.4%	54.7%	58.3%
Primary education	15.8%	17.7%	12.7%	19.4%	12.3%	13.3%	17.8%
Secondary education	21.0%	20.3%	22.2%	19.7%	22.3%	21.8%	20.4%
Secondary Vocational education	31.3%	28.2%	36.3%	34.2%	28.5%	26.9%	34.8%
Higher non-finished education	11.3%	11.8%	10.6%	10.8%	11.8%	13.9%	9.2%
Higher education	20.6%	22.1%	18.3%	15.8%	25.1%	24.2%	17.8%
Riga (capital)	29.6%	21.6%	42.6%	31.7%	27.7%	66.5%	
Other city	39.4%	37.6%	42.3%	36.4%	42.1%	16.6%	57.7%
Rural area	31.0%	40.8%	15.1%	31.9%	30.1%	16.9%	42.3%
Worked abroad	4.7%	4.1%	5.6%	6.4%	3.1%	6.0%	3.6%
Network info	68.3%	67.7%	69.4%	68.1%	68.6%	65.3%	70.8%
First language (Latvian)	61.7%			59.4%	63.9%	53.5%	68.4%

Before turning to estimation of the determinants of emigration intentions, it is worth mentioning several differences in socio-economic characteristics of the respondents belonging to distinct groups. First, about 38% of the respondents belong to the ethno-linguistic Russian speaking minority group. Compared to the Latvian-speaking majority, they share similar distributions of educational attainment and mean income, but are under-represented in the public sector, over-represented in the private sector and are more urbanized. Second, females are likely to have lower income, are more educated and are less two times less likely to have foreign work experience than males. Finally, the mean income of the respondents living outside Riga agglomeration is two times lower than that in the capital area, they have less foreign work experience and are more likely to be unemployed.

The survey question which is of central interest for this study is “*How high is the probability that you will go working abroad during the next two years?*” Given that the respondents were asked to describe their willingness to move as “very high”, “rather high”, “rather low” or “very low” (a categorical and ordered variable), and the fact that the differences between the ranks are not necessarily equivalent, the model may be appropriately addressed by an ordered *probit* approach.

Along with variables which explain the willingness to emigrate and are available from the survey (see Table 1), we introduce several interacting variables: *age*male*, *age*married*, *age*child*, *age*unemployed* (to find out whether emigration propensity of men, married, respondents with child(ren) and unemployed increases or decreases with age), *child*unemployed* (whether having a child speeds up emigration of an unemployed person), *child*unemployment rate* and *married*unemployment rate* (whether bad future prospects reflected by high unemployment rate increase emigration propensity of married and those with child(ren)). To test Stark's relative deprivation theory, we introduce a variable *relative income deprivation* which is calculated by dividing respondent's income by the mean income of the community she lives in (corresponding to 25 administrative districts). Note also the variable *household size*, which, apart from the respondent herself, may include her children, spouse and parents. Unfortunately, the survey does not contain information on the number and age of respondents' children.

Tables 2-5 report the determinants of emigration intentions of respondents in the mixed sample (Table 2), Latvian and Russian-speakers (Table 3), males and females (Table 4) and respondents living in Riga agglomeration (Riga and Riga district) and other cities and urban areas (Table 5).

Table 2: Determinants of emigration intentions, whole sample

	Ordered probit regressions, whole sample , age < 55					
	Dependent variable – probability of emigration (1- very low.... 4 – very high)					
	1	2	3	4	5	6
Age	-0.027***	-0.027***	-0.037***	-0.037***	-0.026***	-0.026***
Household size	-0.167	-0.155	-0.268	-0.254		
Household size ²	0.016	0.015	0.026	0.024		
Male	0.151	0.144			0.143	0.137
Married	-0.088	-0.091			-0.151	-0.151
Child	0.075	0.079			-0.003	0.007
Unemployed	0.217	0.227			0.209	0.220
Age*male			0.004	0.003		
Age*married			0.011**	0.010		
Age*child			0.000	0.000		
Age*unemployed			0.009	0.009		
Child*unemployed			-0.475	-0.479		
Child*unemployment rate			-0.044***	0.020		
Married*unemployment rate			0.021	-0.043***		
Public sector	-0.046	-0.045	-0.038	-0.036	-0.042	-0.044
Student	0.195	0.201	0.099	0.111	0.130	0.138
Riga	-0.345**	-0.357***	-0.354**	-0.371***	-0.358***	-0.362***
Rural area	-0.158	-0.160	-0.147	-0.151	-0.176	-0.173
Unemployment rate	-0.017	-0.015	-0.006	-0.005	-0.017	-0.016
Primary education	-0.031	-0.028	-0.050	-0.044	0.001	0.001
Secondary education	0.188	0.190	0.207	0.209	0.201	0.203
Higher non-finished education	0.047	0.042	0.090	0.083	0.048	0.042
Higher education	0.115	0.100	0.115	0.097	0.111	0.097
Income	-0.0004		-0.0006		-0.0002	
Relative income deprivation		-0.022		-0.037		0.003
Worked abroad	1.274***	1.250***	1.295***	1.267***	1.235***	1.217***
Network information	0.394***	0.393***	0.411***	0.410***	0.390***	0.389***
Latvian language	-0.234**	-0.237**	-0.211*	-0.214*	-0.231**	-0.234**
# of obs	494	494	494	494	494	494
Prob>chi ²	0.000	0.000	0.000	0.000	0.000	0.000
Pseudo R ²	0.085	0.085	0.091	0.090	0.084	0.084

Note: Robust standard errors used to calculate coefficients' level of significance: * - if a coefficient is significant at 10%, ** - at 5%, *** - at 1%. Pairwise correlation between variables male and age*male, child and age*child, married and age*married, unemployed and age*unemployed varies between 0.88 and 0.94, therefore they are not included in the same specifications. Reference for education: secondary vocational. Reference for Riga and rural area: other city. *Household size* is equal to the number of family members including the respondent. *Unemployment rate* is the unemployment rate in 2005 for the administrative district (region) in which the respondent lives (source: Central Statistical Bureau of Latvia). *Relative income deprivation* is equal to the ratio of individual income over the average income (based on this survey data) in the administrative district (region) in which the respondent lives (altogether 25 districts). *Network information* dummy is equal to 1 if a respondent has family members or close friends who are currently working or have (recently) worked abroad. *Latvian language* dummy equals to 1, if a respondent is a native Latvian speaker, 0 – if Russian speaker.

Table 3: Determinants of emigration intentions, by gender

Specification	Ordered probit regressions, males, age < 55 Dependent variable – probability of emigration (1- very low.... 4 – very high)				Ordered probit regressions, females, age < 55 Dependent variable – probability of emigration (1- very low.... 4 – very high)			
	1	2	3	4	5	6	7	8
Age	-0.026***	-0.026***	-0.033***	-0.032***	-0.025***	-0.025***	-0.037***	-0.037***
Household size	-0.352	-0.324	-0.433*	-0.400	-0.039	-0.049	-0.130	-0.133
Household size ²	0.039	0.036	0.048	0.045	-0.003	-0.002	0.003	0.004
Married	-0.243	-0.252			-0.039	-0.009		
Child	0.252	0.253			-0.074	-0.076		
Unemployed	0.480	0.506			-0.064	-0.050		
Age*married			0.002	0.001			0.020***	0.020***
Age*child			0.007	0.007			-0.005	-0.004
Age*unemployed			0.021*	0.022*			-0.004	-0.003
Child*unemployed			-1.196	-1.198			0.183	0.173
Child*unemployment rate			0.009	0.009			0.021	0.016
Married*unemployment rate			-0.018	-0.017			-0.085***	-0.081***
Public sector	-0.036	-0.056	-0.003	-0.024	-0.103	-0.086	-0.120	-0.104
Student	0.154	0.145	0.193	0.187	0.101	0.133	-0.041	-0.001
Riga	-0.513***	-0.496**	-0.483**	-0.469**	-0.177	-0.264	-0.241	-0.329*
Rural area	-0.392	-0.380	-0.336	-0.326	-0.016	-0.054	0.009	-0.034
Unemployment rate	-0.011	-0.010	-0.005	-0.005	-0.019	-0.012	0.002	0.011
Primary education	-0.070	-0.061	-0.025	-0.018	0.052	0.050	-0.106	-0.093
Secondary education	-0.138	-0.135	-0.162	-0.160	0.432**	0.433**	0.466**	0.473**
Higher non-finished education	-0.025	-0.039	-0.031	-0.046	0.072	0.085	0.139	0.151
Higher education	0.076	0.040	0.058	0.023	0.203	0.198	0.222	0.211
Income	0.000		0.000		-0.002*		-0.002**	
Relative income deprivation		0.088		0.077		-0.236*		-0.246**
Worked abroad	1.197***	1.159***	1.186***	1.149***	1.506*	1.473*	1.576**	1.527**
Network information	0.684***	0.676***	0.679***	0.671***	0.216	0.211	0.164	0.162
Latvian language	-0.338**	-0.341**	-0.320**	-0.325**	-0.061	-0.064	-0.049	-0.053
# of obs	223	223	223	223	271	271	271	271
Prob>chi ²	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Pseudo R ²	0.128	0.129	0.133	0.133	0.070	0.069	0.087	0.086

Note: Robust standard errors used to calculate coefficients' level of significance: * - if a coefficient is significant at 10%, ** - at 5%, *** - at 1%. Pairwise correlation between variables male and age*male, child and age*child, married and age*married, unemployed and age*unemployed varies between 0.88 and 0.94, therefore they are not included in the same specifications. Reference for education: secondary vocational. Reference for Riga and rural area: other city. *Household size* is equal to the number of family members including the respondent. *Unemployment rate* is the unemployment rate in 2005 for the administrative district (region) in which the respondent lives (source: Central Statistical Bureau of Latvia). *Relative income deprivation* is equal to the ratio of individual income over the average income (based on this survey data) in the administrative district (region) in which the respondent lives (altogether 25 districts). *Network information* dummy is equal to 1 if a respondent has family members or close friends who are currently working or have (recently) worked abroad. *Latvian language* dummy equals to 1, if a respondent is a native Latvian speaker, 0 – if Russian speaker.

Table 4: Determinants of emigration intentions, by native language

	Ordered probit regressions, Latvian speakers, age < 55 Dependent variable – probability of emigration (1- very low.... 4 – very high)				Ordered probit regressions, Russian speakers, age < 55 Dependent variable – probability of emigration (1- very low.... 4 – very high)			
	1	2	3	4	5	6	7	8
Age	-0.031***	-0.030***	-0.035***	-0.035***	-0.023**	-0.022**	-0.037***	-0.035***
Household size	-0.148	-0.145	-0.290	-0.286	-0.206	-0.138	-0.216	-0.147
Household size ²	0.016	0.016	0.031	0.031	0.017	0.010	0.014	0.007
Male	0.061	0.045			0.266	0.249		
Married	-0.017	-0.009			-0.177	-0.196		
Child	-0.030	-0.036			0.192	0.187		
Unemployed	-0.093	-0.086			0.624	0.661*		
Age*male			0.001	0.001			0.008*	0.007
Age*married			0.008	0.007			0.014*	0.013*
Age*child			-0.006	-0.005			0.001	0.001
Age*unemployed			0.005	0.005			0.010	0.012
Child*unemployed			-0.657	-0.674			0.684	0.680
Child*unemployment rate			0.032*	0.029			0.031	0.035
Married*unemployment rate			-0.014	-0.012			-0.090***	-0.091***
Public sector	-0.026	-0.014	-0.020	-0.009	-0.118	-0.143	-0.051	-0.079
Student	0.090	0.122	0.084	0.123	0.339	0.345	0.040	0.045
Riga	-0.421**	-0.486**	-0.449**	-0.513***	-0.292	-0.213	-0.319	-0.249
Rural area	-0.251	-0.264*	-0.233	-0.246	-0.160	-0.067	-0.250	-0.163
Unemployment rate	-0.023*	-0.018	-0.034*	-0.028	-0.009	-0.017	0.023	0.014
Primary education	0.117	0.120	0.070	0.079	-0.314	-0.275	-0.245	-0.226
Secondary education	0.096	0.096	0.092	0.094	0.277	0.282	0.370	0.373
Higher non-finished education	0.146	0.154	0.177	0.185	-0.339	-0.316	-0.247	-0.229
Higher education	0.202	0.162	0.180	0.138	0.047	-0.004	0.067	0.023
Income	-0.0016***		-	0.0016***	0.0018		0.0017	
Relative income deprivation		-0.164*		-0.168*		0.324**		0.295*
Worked abroad	1.738***	1.700***	1.765***	1.725***	0.701*	0.695*	0.669*	0.664*
Network information	0.586***	0.580***	0.594***	0.588***	0.224	0.230	0.267	0.272
# of obs	303	303	303	303	191.000	191.000	191.000	191.000
Prob>chi ²	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Pseudo R ²	0.105	0.104	0.111	0.109	0.085	0.088	0.098	0.101

Note: Robust standard errors used to calculate coefficients' level of significance: * - if a coefficient is significant at 10%, ** - at 5%, *** - at 1%. Pairwise correlation between variables male and age*male, child and age*child, married and age*married, unemployed and age*unemployed varies between 0.88 and 0.94, therefore they are not included in the same specifications. Reference for education: secondary vocational. Reference for Riga and rural area: other city. *Household size* is equal to the number of family members including the respondent. *Unemployment rate* is the unemployment rate in 2005 for the administrative district (region) in which the respondent lives (source: Central Statistical Bureau of Latvia). *Relative income deprivation* is equal to the ratio of individual income over the average income (based on this survey data) in the administrative district (region) in which the respondent lives (altogether 25 districts). *Network information* dummy is equal to 1 if a respondent has family members or close friends who are currently working or have (recently) worked abroad. *Latvian language* dummy equals to 1, if a respondent is a native Latvian speaker, 0 – if Russian speaker.

Table 5: Determinants of emigration intentions, by the place of residence

	Ordered probit regressions, Riga and agglomeration, age < 55 Dependent variable – probability of emigration (1- very low.... 4 – very high)				Ordered probit regressions, other cities and rural areas, age < 55 Dependent variable – probability of emigration (1- very low.... 4 – very high)			
	1	2	3	4	5	6	7	8
Age	-0.018*	-0.017*	-0.038***	-0.036***	-0.037***	-0.037***	-0.052***	-0.052***
Household size	-0.288	-0.265	-0.448**	-0.410*	-0.238	-0.239	-0.369	-0.374
Household size ²	0.029	0.027	0.046*	0.043*	0.030	0.029	0.043	0.043
Male	0.214	0.194			0.092	0.083		
Married	-0.036	-0.056			-0.095	-0.075		
Child	-0.058	-0.055			0.111	0.103		
Unemployed	-0.122	-0.126			0.630**	0.631**		
Age*male			0.006	0.006			0.001	0.001
Age*married			0.022	0.022			0.015*	0.015**
Age*child			0.016	0.015			0.002	0.002
Age*unemployed			-0.008	-0.006			0.021**	0.021**
Child*unemployed			0.059	0.068			-0.523	-0.538
Child*unemployment rate			-0.115	-0.106			0.015	0.012
Married*unemployment rate			-0.168	-0.175			-0.047**	-0.045**
Public sector	0.028	0.032	-0.155	-0.156	0.039	0.054	0.064	0.081
Student	-0.088	-0.094	-0.092	-0.087	0.393	0.412	0.199	0.223
Rural area					-0.100	-0.115	-0.096	-0.114
Unemployment rate					-0.033***	-0.029**	-0.016	-0.011
Primary education	0.340	0.325	0.369	0.355	-0.261	-0.267	-0.236	-0.236
Secondary education	0.080	0.084	0.087	0.091	0.221	0.215	0.227	0.220
Higher non-finished education	0.036	0.032	-0.015	-0.017	0.047	0.047	0.087	0.090
Higher education	-0.149	-0.177	-0.159	-0.192	0.303	0.285	0.295	0.273
Income	0.000		0.000		-0.002**		-0.002**	
Relative income deprivation		0.108		0.077		-0.167*		-0.194*
Worked abroad	0.987**	0.964**	1.024**	0.992**	2.070***	2.014**	2.148***	2.087***
Network information	0.289	0.284	0.318	0.310	0.527***	0.535**	0.556***	0.566***
Latvian language	-0.360**	-0.375**	-0.287*	-0.305*	-0.256*	-0.258*	-0.207	-0.211
# of obs	212.000		212.000	212.000	282.000	282.000	282.000	282.000
Prob>chi ²	0.009	0.008	0.021	0.023	0.000	0.000	0.000	0.000
Pseudo R ²	0.072	0.074	0.080	0.081	0.128	0.127	0.135	0.134

Note: Robust standard errors used to calculate coefficients' level of significance: * - if a coefficient is significant at 10%, ** - at 5%, *** - at 1%. Pairwise correlation between variables male and age*male, child and age*child, married and age*married, unemployed and age*unemployed varies between 0.88 and 0.94, therefore they are not included in the same specifications. Reference for education: secondary vocational. Reference for Riga and rural area: other city. *Household size* is equal to the number of family members including the respondent. *Unemployment rate* is the unemployment rate in 2005 for the administrative district (region) in which the respondent lives (source: Central Statistical Bureau of Latvia). *Relative income deprivation* is equal to the ratio of individual income over the average income (based on this survey data) in the administrative district (region) in which the respondent lives (altogether 25 districts). *Network information* dummy is equal to 1 if a respondent has family members or close friends who are currently working or have (recently) worked abroad. *Latvian language* dummy equals to 1, if a respondent is a native Latvian speaker, 0 – if Russian speaker.

Our main results are summarized by the following points:

Age. The negative and significant coefficient of age is consistent with the neoclassical theory of migration. However, the potential emigrants living outside Riga agglomeration (compared to those living in other cities and rural areas), as well as Latvian speaking emigrants are likely to be younger (the absolute value of the age coefficient is higher).

Gender, marital status and children. On the whole, we do not find that being male or female, being married or single or having children affect the probability of emigration. Nevertheless, higher unemployment rate diminishes the propensity to emigrate of the respondents who are married and have children (spec. 3 and 4 in Table 2). Interestingly, the probability of going working abroad of married women, married ethnic minorities and married individuals living outside the capital increases with age (spec. 7 and 8 in Tables 3-5). These three categories of respondents are also particularly unlikely to go abroad from if the area where they live is hit by high unemployment. These findings suggest, first, that not only young and single individuals are the only potential migrants, since more aged married people whose children are probably already independent may have also non-negligible willingness to emigrate. Second, high unemployment rate (which is a reflection of disadvantageous economic conditions) may represent an obstacle to emigration for several groups of married individuals.

Living in Riga. Because of the higher standard of living in the capital, we expect that those living in Riga will be less likely to emigrate. The negative and highly significant *Riga* dummy (spec. 1-6 in table 2) confirms this. However, contrarily to the Latvian speakers, living in the capital does not prevent Russian-speaking minority respondents from going abroad. This may be explained by the fact that a half of all ethnic minority population live in Riga, whereas the respective share for the ethnic Latvians is only 20%. Similarly, *Riga* coefficient is negative and highly significant for men, but not women. This could be related to the fact that in the capital there is a high demand for male labour (e.g. in construction). Therefore, staying in Riga may represent an alternative for emigration.

Unemployed status. We do not find that unemployment status affects emigration decision for the whole sample. At the same time, the unemployed are more likely to emigrate if they live outside Riga agglomeration or belong to the Russian-speaking minority group. Another interesting result is that the probability of emigration of the unemployed increases with age for males and for those who live outside Riga.

Education. Education dummies are insignificant in all specifications, except for the females group where we find that women with secondary education are more likely to emigrate (we have used secondary vocational education as a reference value). Note the insignificance of the education dummies does not come from the possible multicollinearity with other explanatory variables (e.g. income). In specifications not presented in this paper, we excluded the variables that are likely to be correlated with educational attainment, but still did not find any significant effect of education.

Income. While for the whole sample income does not appear to be an emigration driver, it is significant in several sub-samples. For respondents living outside the capital area, as well as for women, the probability of emigration diminishes with income (spec. 5 and 7 in Tables 3 and 5). For Latvian speakers, higher income is associated with lower probability of emigration (spec. 1 and 3 in Table 4), and for Russian speakers income coefficient is non-negative⁸⁹ (whereas the coefficient is not significant in spec. 5 and 7 in Table 4, this is most likely due to multicollinearity). Among other things, these results confirm the absence of the financial constrain to migration (Faini and Venturini, 1994, Lopez and Schiff, 1998), since in several respondents' groups the lowest income is associated with the highest probability of emigration.

Relative income deprivation. We find that ethnic Latvians, women and respondents living in cities other than Riga and urban areas are more likely to emigrate if their income is lower than the average income of their district (region) if residence. This result is consistent with the theory of relative income deprivation à la Stark. However, for the ethnic minority individuals the theory “works” in the opposite direction – Russian-speakers are more likely to emigrate in their income is higher than the average in the community they live in. This is an interesting result suggesting that for the ethnic minority there are additional incentives for emigration which will be discussed in a while.

Foreign work experience. We find in all specifications that the respondents who have already worked abroad are more likely to repeat their migration experience. This result implies the circular or temporary nature of migratory flows from Latvia. Nevertheless, foreign work experience is a two times more important emigration driver for Latvian speakers, compared to

⁸⁹ Whereas the coefficient is not significant at 10% in spec. 5 and 7 in Table 4, this is most likely due to multicollinearity. If we exclude variables related to income (e.g. Riga dummy or unemployment rate), the coefficient becomes significant at 10%.

Russian speakers. Similarly, respondents living outside Riga are two times more likely to go working abroad if they already have worked abroad, compared with similar Riga residents.

Network information. Our results confirm an extremely important role of network connections in emigration. Networks are particularly significant for Latvian-speakers, males and those living outside Riga. On the contrary, the networks coefficient is insignificant for Russian speakers, females and the respondents from Riga. Among other things, this result implies that in Riga more information is available on job opportunities abroad, and therefore the respondents rely less on family and friends networks for emigration.

Latvian language. Probably, the most intriguing result of this study is that individuals belonging to the ethno-linguistic minority group are more likely to emigrate. The language coefficient is significant in all specification for the whole sample, as well as for males and those living in the capital area. As argued earlier, this result means that Russian speakers face additional incentives to emigration. We provide several explanations why ethnic minorities could have higher emigration probability in Latvia today. First, the non-recognition of the main minority language (Russian) at the state level results in a particular type of labour market segmentation where minorities are under-represented in sectors where the knowledge of the state language (Latvian) is essential. For example, ethnic Latvians are over-represented in most public jobs, especially in the government, education and health (Zepa et al., 2005). In such a situation, Russian speakers could consider that their human capital is not appropriately rewarded in Latvia and would therefore be willing to emigrate. Second, Russian speakers could be concerned by the implementation of the education reform which stipulates a more intensive use of Latvian in Russian speaking schools and may be perceived as an attempt of assimilation. Note that our previous results also suggest these are ethnic minority individuals with higher income - and therefore more skilled – who are more likely to emigrate. This means that Latvia is experiencing a minority brain drain with all the negative consequences on the countries economic, demographic and social prospects and development.

4 Concluding remarks

This paper is the initial analysis of the 2005 Survey on emigration intentions from Latvia. The sample consists of 1,060 observations and is highly representative. Our objective is to determine the main emigration drivers for the whole population, as well as among different respondents' groups: males and females, ethnic majority and minority and individuals living in the capital area and outside it.

We find that age, network information and previous foreign work experience are important factors determining emigration probability of the majority of respondents. However, considerable differences exist in emigration “behaviour” of different groups of the respondents. The results suggest that ethnic Latvians and males are less likely to emigrate if they live in the capital area. The probability of emigration increases with age for married females and Russian speakers, and well as unemployed respondents living outside Riga. The willingness to emigrate is particularly low for respondents living in areas with high unemployment rates. The negative relationship between income and emigration probability is obtained for ethnic Latvians, females and respondents from rural areas and cities other than Riga. On the contrary, respondents belonging to the Russian speaking minority group are more likely to emigrate when their relative income (with respect to the district’s mean) is higher. Finally, Russian-speaking respondents are on average more likely to emigrate.

A more profound analysis of the different emigration “behaviour” of ethnic minority and majority groups is an important direction of our future research. In particular, we intend to explore the thesis that different kinds of anti-minority discrimination constitute an additional incentive to emigrate. The issue is all the more important in the context of increased migration opportunities in the enlarged European Union where the populations of the “new” member states comprise people with different linguistic, ethnic and religious origins.

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INTERNATIONAL MIGRATION AND MOBILITY OF THE EU CITIZENS IN THE VISEGRAD GROUP COUNTRIES: COMPARISON AND BILATERAL FLOWS

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The aim of this paper is to evaluate the international migration and mobility of the EU citizens - from the old Member States as well as from the new Member States in four selected Visegrad countries. Most of the international migration in Visegrad countries is related to their historical and geographical ties. Thus the role of migrants from the EU15 in the total immigration flows is relatively small. Today, the EU citizens in Visegrad countries come mainly from other new Member States. Despite their geographical proximity and former economic integration within CEFTA, the four Visegrad countries are not significantly linked with international migration flows except for the Czech and Slovak relation. With regard to evaluation of regional economic integration, we have found out that the Czech and Slovak Republics are also significantly interconnected with labor migration. The migration relations between the Czech and Slovak republics are stronger than the trade flows although both countries are relatively more integrated in the regional trade than Hungary and Poland. For the latter countries it is typical that if they are integrated in regional economy they are more likely trade than migration flows.

Keywords: international migration, Central Europe, EU enlargement and migration

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1 Introduction

Migration and mobility of workers among the EU Member States is very often mentioned as an important adaptation tool in economic and structural disruptions on the Single European Market and in asymmetric economic shocks for single European currency. However, the labour mobility has still the most barriers compared to trade or capital international flows, partly just because they are people who have to be moved. With regard to Eastern enlargement of the EU in 2004 most of the research studies in human migration were focused on the current and potential migration from the new Members to the old EU Member States (EU15)⁹⁰. Nonetheless, the new Members have experienced a changing migration history

⁹⁰ E.g.: Alvarez-Plata, Bruecker and Siliverstovs, 2003; Krieger, 2004; European Commission, 2001; Krichel and Levine, 2001; Straubhaar, 2001; Fassmann and Münz, 2002; Bruder, 2003; etc.

which we found very interesting. Our aim was to find out whether there is also a reverse flow in migration of EU15 citizens towards Visegrad Group countries. As a second step our aim was to evaluate how important the bilateral migration flows between selected Visegrad Group countries are, because after the enlargement they have become the intra EU mobility. The final question was related to the impact of enlargement and relaxed mobility barriers for the EU citizens on the immigration flows in Visegrad Group Countries.

We have selected the Visegrad Group Countries: the Czech Republic, Slovakia, Hungary and Poland because they are neighbour countries in Central Europe, they all have had a similar historical development in the last century and since early 90s they have undergone the economic transformation. They promoted regional trade with Central European Free Trade Area (CEFTA) agreement since 1993 and their association with the European Union ended as a full membership in 2004. Although these countries are often compared with each other we keep in mind that they differ in size (area, population) as well as in economic development. However, our hypothesis was that these four countries might also have tight relations in form of human migration.

The paper is divided into three sections: in the first one we briefly comment on the role of international migration in these selected countries. The second section is focused on the EU citizens among the international migrants in four selected countries. Finally, the third part analyzes the bilateral flows among the selected countries and compares migration to trade flows.

2 Migration experience in Visegrad Countries

Central and Eastern European countries were traditionally rather emigration then immigration countries. Although the migration flows were restricted after the Second World War up to the beginning of the 1990s, all selected countries recorded a slight negative net migration. According to R. Münz and H. Fassmann (1995: 2), more than 14 million people left Central and Eastern European countries during 1950-1992, out of which most were from East Germany (37%), Yugoslavia (17%), Poland (14%) and Soviet Union (12%)⁹¹. Emigrants targeted mainly Western Europe (2/3 moved to Germany) but also overseas destinations such as the USA, Canada, and Australia.

Turbulent early 1990s were typical with relaxed migration controls and large movements of people partly ethnic motivated, partly “freedom” oriented. Approximately 400 thousand people left four Visegrad countries in the early 90s.

⁹¹ K. Iglicka from Warsaw estimates that 6 million people emigrated from Poland alone in the post-war period (Iglicka, 2005).

Table 1 Average yearly net international migration in Visegrád Countries 1960-1999 (in thousands)

	1960-64	1965-69	1970-74	1975-79	1980-84	1985-89	1990-94	1995-99
Czech Rep.	-16.6	-0.4	-21.6	2.2	-6.6	2.4	-5.8	10.1
Slovakia	22.0	-5.3	-9.8	-3.0	-5.6	-3.5	-7.5	1.9
Hungary	0.9	0.9	-1.6	-1.0	-11.8	-26.7	0.1	0.0
Poland	-6.3	-20.1	-71.7	-40.3	-23.1	-41	-14.9	-14

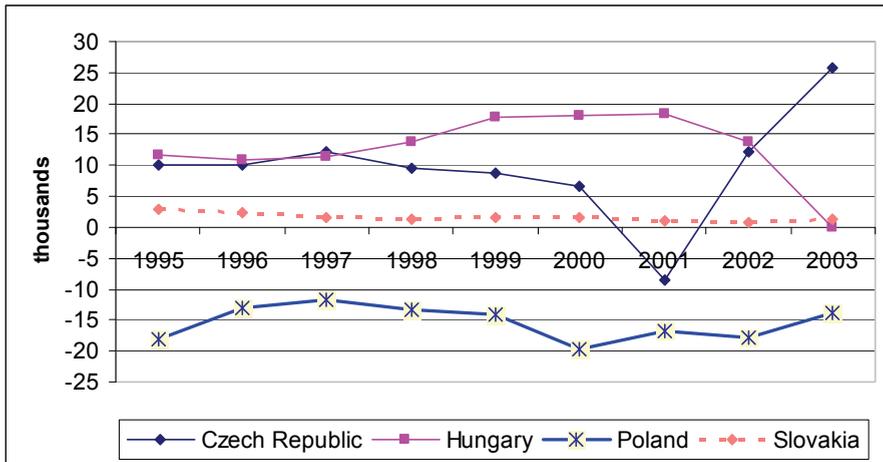
Source: European Social Statistics: Migration, European Communities (2002: 47)

Later on situation has changed: from emigration countries they became transit countries for migrants from Balkan, Eastern Europe and Middle East, and so called “buffer zone” between east and west. They started to host migrants on their territory while the emigration has become more temporary. The countries with more or less successful economic transition have become also target countries for international migrants.

From the *Graph 1* it is evident that this holds in particular for the Czech Republic and Hungary, while Slovakia and Poland still show significant emigration rates. We have to keep in mind that these data include quite undervalued numbers of emigrants and due to differences in migrant categories and changes in legislation; the international comparisons are quite difficult. The more advanced Czech Republic and Hungary show in most of the years rather positive net international migration resulting in growth of number of foreigners within their population. Although Slovakia shows positive net migration according to official figures, it is estimated that 10-15 thousand people leave the country annually resulting in net emigration rates (Divinsky, 2005). The Slovaks are the third biggest group of foreigners from new Member States who have applied for work in Great Britain in the first year of EU membership (following Poles and Lithuanians) (Home Office, 2005).

However, according to OECD data, the Czech and Slovak Republics belong to countries with the highest increase of foreign population. In Visegrad countries lived altogether 450 thousands of foreigners in 2003 (OECD, 2005). The highest share of foreigners in total population can be found in the Czech Republic and Hungary - over 1%, in Poland and Slovakia the share of foreigners in total population is very low. When comparing to western European countries still the role of international migration is smaller. Countries like Austria, Germany, Belgium or Switzerland reach the share of foreigners of 8% in total population (Salt, 2005). We would find higher numbers and shares of foreigners if we count foreign population as foreign born and not according to citizenship: in the Czech Republic 4.5% population is foreign born, while in Slovakia 2.5%, in Hungary 2.9% and in Poland 2.1% (OECD, 2005: 142).

Graph 1 Net migration in Visegrad countries 1995 – 2003 (in thousands)



Source: Data: Council of Europe (Salt, 2005)

Table 2 Number of foreigners and their share in total population in Visegrad Countries (in thousand, %)

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Czech Rep.	77.7	103.7	158.6	198.6	209.8	219.8	228.9	201.0	210.8	231.6	240.4
<i>As % of total population</i>	<i>0.8</i>	<i>1.0</i>	<i>1.5</i>	<i>1.9</i>	<i>2.0</i>	<i>2.1</i>	<i>2.2</i>	<i>1.9</i>	<i>2.0</i>	<i>2.3</i>	<i>2.4</i>
Slovakia	11	16.9	21.9	24.1	24.8	27.4	29.5	28.3	29.4	29.5	29.3
<i>As % of total population</i>	<i>0.2</i>	<i>0.3</i>	<i>0.4</i>	<i>0.5</i>	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Hungary	..	137.9	139.9	142.5	148.3	150.2	153.1	110.0	116.4	115.9	130.1
<i>As % of total population</i>	..	<i>1.3</i>	<i>1.4</i>	<i>1.4</i>	<i>1.4</i>	<i>1.4</i>	<i>1.5</i>	<i>1.1</i>	<i>1.1</i>	<i>1.1</i>	<i>1.3</i>
Poland	..	..	..	29.9	32.5	..	42.8	..	..	49.2	..
<i>As % of total population</i>	..	..	..	<i>0.1</i>	<i>0.1</i>	..	<i>0.1</i>	..	..	<i>0.1</i>	..

Source: OECD (2005): Trends in International Migration 2004, p. 334; Council of Europe (Salt, 2005)

Note: data for the Czech Republic include only permanent residents up to 2000, since 2001 include persons with asylum status and foreigners with long term residence (over 90 days) who are staying longer than 1 year. Data for Hungary include long term residence staying longer than 1 year. Data for Poland include foreigners with permanent residence and with restricted residence permit.

Foreigners in Visegrad countries are mainly citizens of neighbour and close by countries. One can observe that the geographical proximity as well as existence of ethnic groups, language and historical ties is very important. The most important groups of foreigners are:

- in the Czech Republic citizens of Slovakia, Ukraine, Vietnam and Poland;
- in Hungary citizens of Romania, Ukraine, Serbia, Montenegro (foreign born in Romania, Czechoslovakia, Soviet Union);
- in Poland citizens of Ukraine, Russia, Germany and Belarus;

- in Slovakia citizens of the Czech Republic, Ukraine and Poland (foreign born in the Czech Republic, Hungary, Ukraine) (OECD, 2005: 327).

Most of the migration is economic motivated although it is difficult to compare situation in selected countries because of different regimes of residence permits. The labour migration is the most important part of total migration flows. Migrants from certain countries create often recognizable and important segments on the labour markets, such as Ukrainians in the Czech Republic or Romanians and Ukrainians in Hungary working in construction industry or in seasonal work, while citizens of Vietnam or China work as traders or entrepreneurs in restaurants and retailing. Some of the migrants work without a valid work permit, usually in construction industry, agriculture, forestry or cleaning services. These data are difficult to collect. Many of the migrants headed towards the Western Europe but remained in the Central European transit countries. Lately, the networks of countrymen, experiences of the first comers and growing economies in Central European countries have attracted migrant workers to the Czech Republic, Hungary, Poland and Slovakia as to final destinations.

The foreign workers are unequally distributed within the host countries with majority concentrated in the capital cities (Prague, Bratislava, Budapest, and Warsaw) and prosperous regions. This is evident in particular in Slovakia (Salt, 2005).

Besides of the labour migration, the family reunification is very important and recently we observe high dynamics in education motivated migration (OECD, 2004: 293). Although Visegrád countries are not recognized as traditional educational centres (such as UK, USA, Australia, Germany) the number of students - foreigners raises dynamically every year as well as the share of foreigners in total student population (see Table 3). This is true in particular for the Czech Republic (Bicanova, 2004).

Table 3 Number of foreigner students in Visegrád countries in 1999 and 2002

	Number of foreigner students (in thousands)		Share of foreigners in total university students (in %)		Fivemost important countries of origin of students foreigners (2000/01)
	1999	2002	1999	2002	
Czech Rep.	4,583	9,783	1.9	3.4	Slovakia, Greece, UK, Russia, Ukraine
Slovakia	-	1,643	-	1.1	Czech Rep., Greece, former Yugoslavia, Ukraine, Israel
Hungary	8,869	11,783	3.2	3.3	Romania, Slovakia, former Yugoslavia, Ukraine, Israel
Poland	5,693	7,401	0.4	0.5	Ukraine, Belarus, Lithuania, Kazakhstan, Norway

Source: Eurostat Statistics in focus 1/2005; OECD (2004): Education at Glance 2004

Most of the migration statistics do not include asylum seekers. Since early 1990s Visegrád Countries have received many asylum seekers who have been refused in western European countries and returned to transit countries where they came from. In some selected countries in Central Europe (Czech Republic – in 2003 11,400, Slovakia – in 2003 10,300) the number of asylum seekers overtook numbers in some western European countries (OECD, 2005: 315).

3 Role of EU citizens in international migration

The EU membership has meant some important changes for Visegrad countries in the field of migration. As Czech Republic, Slovakia, Hungary and Poland became members (together with other countries) of the EU, their citizens became EU citizens with all their rights and freedoms with exception to free movement of workers which remains restricted for a transitional period (2+3+2 years). The movement of new Member States citizens in the old EU15 states has been discussed and feared most. However, the EU enlargement has brought also free movement of the EU15 nationals on their territory as well as free movement of other new Member States citizens, which is probably the most important change for migration reality in the new Member States. The countries also had to adopt all the rules of *acquis* in their legislation, including free movement of EU citizens and visa policy with regard to the third country nationals. Along with the EU membership, the Visegrad countries also became more attractive for asylum seekers and labour migration from the non EU countries.

Released obstacles for entry and work in new Member States have not changed trends in bilateral migration flows dramatically but they meant just easier access and possible higher underestimation of migration data. Although it is usually compulsory (or at least essential) for the foreign workers and residents to register according to national rules, many foreigners (EU citizens) do not obey these rules. As we will see in individual countries, when analyzing the mobility of EU citizens in the Visegrad countries, majority of these EU citizens come from new Member countries. The EU15 citizens usually come as entrepreneurs, specialists or professionals, often accompanying the investment of foreign companies (OECD, 2005).

The mobility of the new Member States citizens towards old EU15 countries can be only evaluated in UK, Ireland and Sweden, in countries which opened up their labour markets immediately after enlargement. According to British Home Office some 232 thousand citizens of new Member States registered for work within the first year (1.5.2004 – 30.6.2005). Most of the workers are young people who do not have dependants with them. The three biggest groups are citizens of Poland (131.3 thousands, 57% of all), Lithuania (33.8 thousands 15%)

and Slovakia (24.4 thousands, 11%). From the Czech Republic and Hungary only 14.6 thousand, respectively 6.9 thousand, workers registered in UK (Home Office, 2005). Since 1st May 2006 four other countries (Finland, Portugal, Greece and Spain) released barriers to entry on the labour market for new Member Countries. In the rest of the old EU countries citizens of new Member States need a work permit and have to respect national rules, although for some professions the access to work can be very easy.

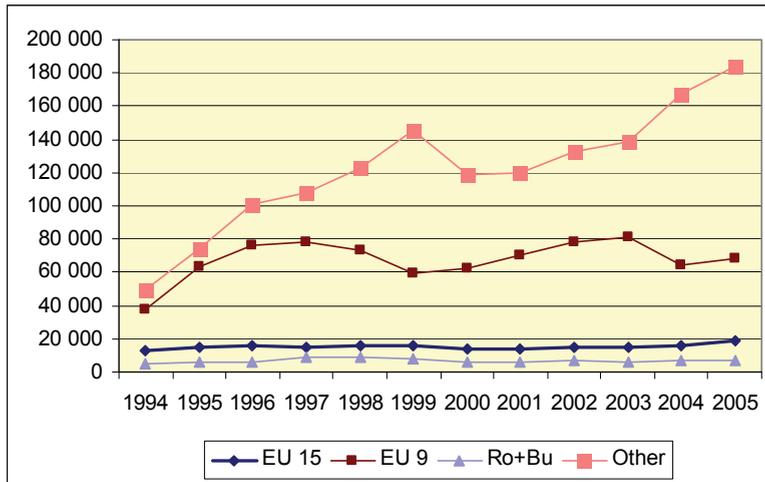
3.1 Czech Republic and the EU citizens' migration

Out of the selected countries, the Czech Republic hosts the highest number of foreigners on its territory. As of the 31st December 2006, there lived 278,312 foreign nationals in the Czech Republic, out of these 110,598 had a permanent residence permit and 145,909 had temporary residence permit (EU citizens and their family members). The rest of the foreigners (21,805) had long term visa for the period over 90 days. Recognized asylum holders (1,799) are not included (www.czso.cz).

According to data of the Czech Statistical Office, the number of EU25 citizens reached 87,142 at the end of 2005, out of which 18,784 were citizens of EU15 and 68,358 were citizens of the new Member States. The enlargement in 2004 increased the number of EU citizens residing in the Czech Republic 6 times: mainly because of entry of other new countries (Slovaks and Poles are important migrant groups), but also because of increased numbers of EU15 citizens. The share of the EU25 citizens in total foreigner population increased to 31.3% (www.czso.cz). The graph shows the number of foreigners according to their country of origin: EU citizens are divided into two groups to old and new Member States. The share of acceding countries Romania and Bulgaria is 2.5% of all foreigners.

The number of the EU15 citizens in the Czech Republic has been steadily increasing from the beginning of the 1990s to almost 16 thousand in 1999. In 2000 we could observe a drop to 13 thousand because of changes in the legislation. Since then their number increased again (by 30% between 2005/2003) and reached 18.8 thousand EU15 citizens in 2005 (www.czso.cz). Still the share of the EU15 citizens has been relatively low since 1997 between 6-7% of total number of foreigners. The most important groups of EU15 citizens are Germans (almost 40%), Austrians (12%), Britons (11%), Italians (9%), Frenchmen (8%), Dutchmen and Greeks. According to data of Czech Statistical office, the highest increase in total numbers of residing EU citizens between 2003 and 2005 was observed in case of Ireland, The Netherlands, Germany, Italy and UK (Bicanova et al, 2005).

Graph 2 Foreigners in the Czech Republic as of 31.12.

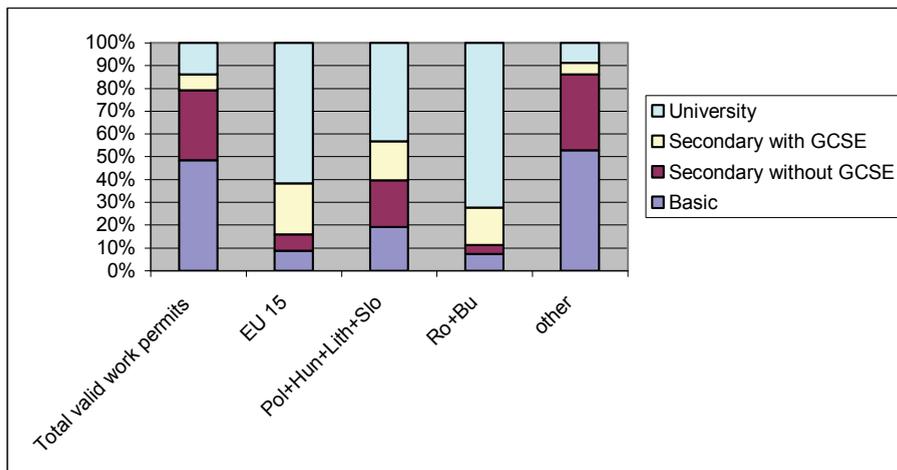


Source: Czech Statistical Office (www.czso.cz – Cizinci v ČR)

It is quite important to differentiate between the two groups of EU citizens, although they have the same treatment with regard to laws and rights. The migration of EU15 citizens is mainly economic motivated, two thirds of working foreigners work as employees (have working permit) and one third holds valid trade licence. Also looking at the age structure, more than 70% of foreigners are between 25-54 years. According to available data, the EU15 citizens work in highly skilled positions since 60% of work permits issued in 2003 to EU15 citizens required university education (www.czso.cz). We have also found out that the place of residence of EU15 citizens in regions of the Czech Republic is highly correlated with location of foreign direct investment (Bicanova, 2005).

The *Graph 3* shows required education for the work permits issued in the Czech Republic in 2003. Unfortunately these data do not include Slovakian citizens who did not need work permits according to bilateral agreement between the Czech and Slovak Republic and the Slovaks make up 50% of the foreign workers. We can estimate that the share of university educated foreigners from new Member States including Slovakia is lower than in case of the EU15 citizens.

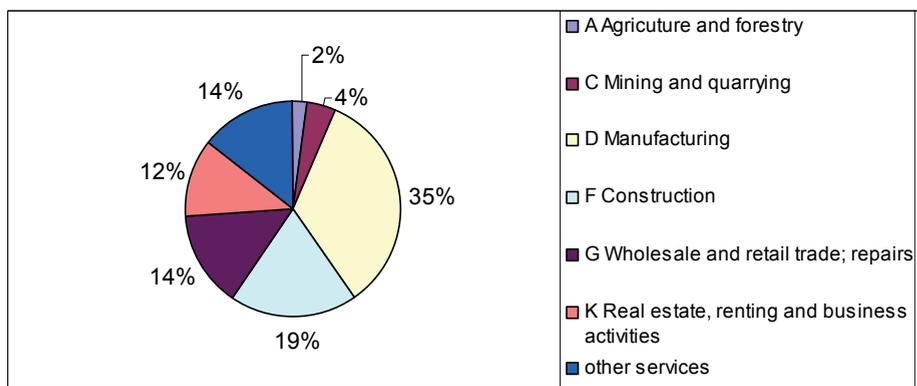
Graph 3 Work permits in the Czech Republic according to required level of education in 2003



Source: Czech Statistical Office

The *Graph 4* presents employment of EU25 citizens in NACE structure which differs with employment of other migrants who are dominantly active in trade activities (G) and construction (F).

Graph 4 Employment of EU25 citizens 31.12.2004



Source: Czech Statistical office

To sum up, the share of EU citizens in total foreign population in the Czech Republic increased due to the EU enlargement from 7% to more than 30% in 2005 and the share of EU citizens among working foreigners raised to 49% (4% EU15, 45% EU9).

3.2 Slovakia and the EU citizens' migration

Slovakia has been traditionally an emigration country, but since 1990s we consider it a transit country with positive net migration. According to Slovakian Statistical office, the positive net migration was largest in 2004 as a result of the EU entry as well as higher migration from South East Europe. However, according to unofficial estimates the net migration is negative with 15-20 thousand people leaving the country to the Czech Republic (42%) or Western Europe (Divinsky, 2005).

Citizens of Central and Eastern European countries are the most important group of migrants with 57% of all foreigners immigrating in 2004. These flows were mainly from the Czech Republic, Ukraine, Romania, Serbia and Montenegro, Poland, Macedonia and Hungary. The citizens of the EU15 represent 20% of all immigrants in 2004, in particular from Germany, Austria, UK, France, and Italy. According to Divinsky (2005: 47), their numbers are slightly increasing because of the relaxed entry conditions due to the EU membership and because of the raising role of foreign direct investment in the country.

The role of EU citizens is slightly higher in Slovakia than in the Czech Republic. According to official data, 8,343 EU25 citizens had a residence permit in April 2005 in Slovakia which represents slightly over 40% of all (permanent as well as temporary) residence permits in the country (total 22,802). The most important groups of EU citizens were at the end of 2004 citizens of the Czech Republic (3,583), Poland (2,468) and Hungary (1,519) making together 80% of the EU citizens in Slovakia, followed by Germany (988) and Austria (576) (Divinsky, 2005: 68 -77). After the enlargement, the EU25 citizens are the most important group of foreign workers, representing 77% of all work permits in 2004 (1,838 out of 2,379). However, Divinsky estimates that their number must have been at least twice as much (Divinsky, 2005: 77). It means that many of the EU citizens do not register for residence and work since there is no penalty and they use their right to move and settle freely within the EU.

We can sum up that as in the case of the Czech Republic, the increase in the share of the EU citizens occurred mainly because of the entry of other Central European countries in the EU. The citizens of the EU, in particular from Western Europe, work in highly qualified positions as managers, experts, company representatives. The number of the EU citizens will remain underestimated since many foreigners do not register with the relevant authorities.

3.3 Hungary and the EU citizens' migration

Hungary is a country with second highest international migration among the selected countries. While for much of the 20th century, Hungary was a nation of emigrants, since 1989, the trend seems to have turned and Hungary has become a desirable destination.

In January 2005 there lived 140 thousands of foreigners with residence permit in Hungary (Hungary, 2004: 10). Most of the foreigners come from neighbouring Central and East European countries with large ethnic groups of Hungarians. The most important groups of foreigners come from Romania, Ukraine, Serbia and Montenegro, Germany, Slovakia and China. This is reflected also on the labour market as out of 48 thousands work permits issued in 2004, 60% were granted to Romanians, 14% to Ukrainians, 3% to Serbians, and 3% to Slovaks (Statistics 2002-2005). The number of Czech and Polish nationals was even smaller than the number of work permits guaranteed to Japanese (0.8%) who accompany the foreign direct investment in Hungary.

In 2002 approximately 12.2 thousand EU15 citizens lived in Hungary, representing 10.5% foreign residents (Juhasz, 2003). The enlargement of the EU has brought 3times more Slovaks registering for work and over 9,350 new residence registrations for EU citizens in 2004 (Dunai, 2005). This does not necessarily mean an increase in total number of foreign workers but rather increase in legally employed Slovaks. Furthermore, the number of the EU citizens' applications increased between 2004 and 2005 by 38%. In 2005, the residence permit was granted to 12,898 EU25 citizens who account for approximately 19% of residence and settlement permit applications lodged in 2005. Most important groups of applicants in 2005 were Germans (4,569) and Slovaks (2,368), followed by Austrians, French and British nationals (each between 800 and 1,000) (Statistics 2002-2005).

To sum up, the migration of EU citizens is relatively less important in Hungary than in the Czech Republic, Slovakia and Poland, but this can significantly change with future enlargement which includes Romania and it is the most important migrants group in Hungary.

3.4 Poland and the EU citizens' migration

In contrast to formerly mentioned Visegrad countries, Poland is larger and more populous country which has been considered as an important source of migration and a reserve of labour in Europe. Poland is a country with negative net migration and the Polish Diaspora creates conditions for current migration outflows. However, the role of Poland in international migration trends has been modified by its geographical location between East and West and by its EU membership to a country with complete migration experience (emigration as well immigration, different kinds of migration,...) (Igllicka, 2005).

In 2002, 49 200 foreigners lived in Poland and they were mainly citizens of former Soviet Union countries (Ukraine 20%, Russia 9%, Belarus 6%, Armenia 3% of foreigners) (OECD, 2005: 251). These migrants represent temporary work migration, quite often illegal. Second most important group of migrants are Vietnamese and Chinese merchants and businessmen. The third group is comprised of highly skilled workers, often managers and professionals from western countries. Some of them are descendants of former emigrants, in particular to Germany). The re-emigrants and descendants of emigrants often come for doing business and support companies, as managers, experts, consultants, or teachers (UK).

In 2003, the EU15 citizens received 18 % of all residence permits, which were mainly granted to German citizens (permanent as well as temporary stays), French and UK citizens (temporary stays). The share of EU25 would be approximately 20% (Igllicka, 2005). Unlike in Czech and Slovak Republic, in Poland most of the EU citizens are from Western European Countries. The central European new Member States comprise a small share.

4 Bilateral migration flows in Visegrad countries

Although there are problems with data availability and international comparability in the field of international migration due to different kinds of permits, underestimation of undocumented migration, and different kinds of systems of data collection, we tried to identify the most important bilateral migration flows between Visegrad countries. Selected countries are neighbours and are economically related; possibly they can be connected also by migration flows.

The table 4 shows the most important migrations from other Visegrad countries ranked by the number of foreigners in host country in 2003. This corresponds with the number of working foreigners in Visegrad countries. We can observe that the bilateral migration relations are not most important (compared to other groups of foreigners in the Visegrad countries) with exception to the CR – SR relation. In absolute numbers, the Slovaks in the Czech Republic followed by Poles in the Czech Republic are the most important migration relations. When we use data of foreign born population in particular countries (third column in Table 4) we can identify two other important migrant groups: people born in the Czech Republic living in Slovakia and people born in Czechoslovakia living in Hungary.

Table 4 Most important bilateral migrations in Visegrád countries (last available year, in thousands)

Migration	Number of foreigners in host country	Number of working foreigners	Number of foreign born persons
1. Slovaks in CR (2003)	66.3	56.8	285.3
2. Poles in CR (2003)	16.3	6.8	24.7
3. Czechs in Slovakia (2003, 2002)	4.9	2	75.6
4. Czechs and Slovaks in Hungary (2002)	3.9	2.8 (only SR)	39.9
5. Poles in Slovakia (2003)	2.4	0.1	3.4
6. Poles in Hungary	1.9	0.3	2.7

Source: OECD (2005): *Trends in International Migration 2004*

Note: The data in the third column shows that e.g. 285.3 thousand people living in the Czech Republic were born in Slovakia.

Using these data we also calculated the relative importance of migrants from other Visegrad countries in total number of foreigners. The high relative importance (migration relation) can be found in case of the Czech Republic and Slovakia, in which the share of foreigners from other three Visegrad countries reached 35%, and 29% respectively. In Hungary and Poland, foreigners from other countries are more important.

When using data on foreign born population, relative relations are more important. The share of other three Visegrad countries in total foreign born population reached in 2003 70.5% in the Czech Republic, almost 81% in Slovakia, 14.5% in Hungary and 1.2% in Poland (use data OECD, 2005: 146-147). We believe that these numbers reflect common or relative history paths, national border changes or migration behaviour of previous generations.

Tab. 5 Relative importance of selected countries' citizens in total number of foreigners (%)

Host country → Home country ↓	CR (2003)	SR (2003)	Hungary (2002)	Poland (2002)
CR	x	16.7	3.4 ²	1.6
SR	27.9	X		< 0.1 ³
Hungary	0.2 ¹	< 5 ³	x	< 0.1 ³
Poland	6.9	8.2	1.6	x
Total Visegrád countries	35.0	< 29.9	5.0	< 1.8

Source: own calculation based on OECD data (*Trends in International Migration 2004: Tab. B.1.5*), and:

¹Czech statistical office (Cizinci v ČR 2004)

²this figure is a sum of shares of people with Czechoslovakian citizenship (2400) and Slovakian citizenship (1500). We assume that most of the Czechoslovakian citizens were Slovaks.

³these data correspond to the last quoted groups of foreigners in the statistics, the selected countries were not quoted thus their number must have been smaller.

Note: The figure 27.9 in first column and second row states that Slovakian citizens make up 27.9% out of all foreigners in the Czech Republic

We also analyzed the economic relations of Visegrad countries which created CEFTA in 1993, using the bilateral shares of migrant workers and trade flows. We found out that interconnection is higher when using numbers of employed foreigners than total foreign population (measured by citizenship) (see last row in tab. 6). It is also clear that the

interconnection is much higher in the Czech - Slovak relation than with other countries because of the common history as a one country until 1993. The bilateral flows of Czech and Slovaks make a very important part of international workers mobility in these two countries.

Tab. 6 Relative importance of workers from Visegrád countries in total employment of foreigners (%)

Host country → Home country ↓	CR (2003)	SR (2002)	Hungary (2002)	Poland (2003)
CR	x	42.5	< 0.7	< 1.2
SR	55.7	x	6.6	< 1.2
Hungary	< 0.3	< 2	x	< 1.2
Poland	6.7	2.1	0.7	x
Total Visegrád countries	< 62.7	< 46.6	< 8.0	< 3.6

Source: OECD (2005): Trends in International Migration 2004 (Tab B.2.4); own calculations

Migration linkages with other Visegrad countries are much smaller in Hungary and Poland, but we can see that in case of Hungary there is some evidence of workers migration from Slovakia. The Slovaks work in north-western Hungary where many of the foreign investment companies are located and demand labour force. Maybe even more people are commuting to Hungary (Dunai, 2005). For Poland the data are so insignificant, that they were not available.

When we compared the migration data with bilateral trade linkages we could observe that it was Slovakia which has the highest share of trade in the regional Visegrád relations (24% of exports, 20% of imports), followed by the Czech Republic, Hungary and Poland (see Table 7). Also this higher performance in trade is again the result of deep bilateral relations of CR and SR.

If we compare migration and trade linkages in the Visegrád countries, we can sum up:

- 1) economic engagement of CR and SR in the region is higher when using migration numbers than trade numbers;
- 2) both CR and SR are more engaged in the regional relations than Hungary and Poland, but this is the result of former Czechoslovakia and cultural proximity;
- 3) Hungary and Poland are less active in the regional relations but if they are engaged it is more by trade (7-9%) than by migration, this is true particularly for Poland;
- 4) Poland is an exporter of workers, partly to Visegrad countries (CR, SR) but mainly to western European countries;
- 5) in case of CR we were able to compare the migration flows with trade as well with FDI. The share of Visegrad countries in total FDI stocks to CR was 9% and in total stock of DI abroad 22.6 %. The Czech Republic is a provider of investments in Visegrad countries (data of Czech National Bank, www.cnb.cz).

Tab. 7 Share of exports to Visegrád countries in total export of CR, SR, Hungary and Poland (2004, %)

Host country → Home country ↓	ČR	SR	Hungary	Poland	Export to selected countries
ČR	x	8,36	2,74	5,10	16,20
SR	13,32	x	5,2	5,49	24,01
Hungary	2,37	2,17	x	2,86	7,40
Poland	4,32	1,79	2,57	x	8,68

Source: own calculations, national statistical offices and CNB

Note: 8.36 in first row and second column means that 8.36% of total Czech exports in 2004 went to Slovakia.

Share of imports from Visegrád countries in total imports of CR, SR, Hungary and Poland (2004, %)

Host country → Home country ↓	ČR	SR	Hungary	Poland
ČR	x	13,22	2,85	3,62
SR	5,29	x	1,77	1,65
Hungary	2,03	3,3	x	1,89
Poland	4,58	3,89	3,21	x
Import from selected countries	11,90	20,4	7,83	7,16

Source: own calculations, national statistical offices and CNB

Note: 13.22 in first row and second column means that 13.22% of total imports to Slovakia in 2004 came from the Czech Republic.

5 Conclusion

In average the EU15 citizens comprised one third of all foreigners living in EU15 countries in 2002 (the social situation 2003). This is now also true for new Member States where in CR the share of EU25 citizens in total foreigners reaches 30% and in Slovakia is over 40%. There are differences in Visegrad countries; the role of EU citizens in total migration is higher in the CR and SR because of strong bilateral relations and common past. In Hungary and Poland we observe higher relations with neighbour countries in South and East than with the EU25 countries. After the enlargement the share of EU citizens in Visegrad countries increased mainly by the fact that other important migration sources became Members too, partly by an increase in EU15 citizens (Poland). The role of migrants from the EU15 in the total immigration flows in Visegrad countries is relatively small. Anyway, the number of EU15 citizens has been gradually rising with the deeper economic relations of Visegrad Group countries with the European Union during the 90s and with investments (FDI). Migration from the old EU15 countries is mainly economic motivated: EU15 citizens usually work in highly skilled positions and they are located in regions with economic opportunities.

Although the Visegrad countries share borders, historical and economic path, the bilateral migration relations are not dominant except of CR-SR relation, and to some extent in case of Poles in the Czech Republic. The migrants in Visegrad countries are mainly citizens of other neighbour or geographically close or ethnically, historically or linguistic related countries. Other factors play more important role in migration relations rather than regional economic integration (CEFTA).

For the comparison of the form and depth of regional integration we used the relative share of number of foreigners from the rest three Visegrad countries in the total number of foreigners (measured as foreign workers) for every single Visegrad country and we also counted the share of imports and exports with the three Visegrad countries in total imports and exports for every single Visegrad country. We have found out that the Czech and Slovak Republics are also significantly linked with labour migration. There is also relation between Slovakia and Hungary with regard to labour force. The migration relations between the Czech and Slovak republics are stronger than the trade flows although both countries are relatively more integrated in the regional trade than Hungary and Poland. For the latter countries it is typical that if they are integrated in regional economy they are more likely trade than migration flows. Poland is an important labour exporter but these workers are mainly active in the old EU Member States. The strong Czech and Slovak regional participation can be explained mainly by their strong bilateral economic ties.

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**GERMAN TRADE UNIONS AND MIGRATION AFFAIRS:
STRENGTHENING CROSS BORDER COOPERATION AND
CAMPAIGNING FOR THE RATIFICATION OF THE U.N.
CONVENTION ON THE PROTECTION OF THE RIGHTS OF
ALL MIGRANT WORKERS AND THEIR FAMILIES**

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„We should not put our head in the sand or see only the risks of the enlargement. We are watching a start into a new era in Europe. Europe never ended at the river Oder”

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German trade unions have always supported the enlargement of the European Union. They see it as an important step to overcome old divisions, especially the east-west-division of Europe of the cold-war-area. A greater European Union means more democracy and social justice for the whole continent.

Poland, the Czech Republic, Slovakia, Slovenia, Malta, Cyprus, the Baltic States and Hungary have become members in the EU on May 2004. Romania and Bulgaria will follow soon. German trade unions very much hope, that this will lead to better living standards in all those countries and thus close the gap in real income, wages, employment and other social standards between the old and the new member-states, and we will help trade unions in all those countries to succeed.

But a greater European Union does not only bring advantages. Trade unions and their members and especially employees, who are not protected and organized in a trade union, also face the danger of social and wage dumping. A greater labour market means greater differences in wages and labour conditions. Employers, especially big companies, tend to look for places where they find cheaper labour, lower safety standards, longer working hours, and where they have to pay fewer taxes. A greater European market offers them a lot of such opportunities.

German trade unions therefore supported the EU-enlargement, but at the same time demanded regulations to prevent social dumping, especially wage dumping. One result of that demands was the introduction of a 7-year-transitional period, during which the movement of work-seekers from new member states to old member states of the EU was restricted. Only Malta and Cyprus were excepted from that restriction. This regulation was enforced as a means to prevent the misuse of cheap labour by companies and employers. The Cecchini-Report says: *“The common market would not make sense, if it would lead to social progress with a minus sign and start a competition between Europeans that endangers the basic rights of employees.”*

This 7-year-provision means that the labour market situation and the danger of cheap-labour-migration have to be reviewed two times, the first of which will happen two years after the EU-enlargement, that is until May 1st 2006. If it is found necessary to continue those restrictions, it has to be reviewed again 3 years later that is May 1st 2009. All restrictions end on Mai 1st 2011.

In addition to that there are further restrictions, at least in Germany. We have restrictions also for companies from new EU-member-countries, operating in the building sector, the cleaning sector and in the decorating business. On the other hand, a number of bilateral treaties have been signed between Germany and its neighbours allowing workers to take up to 300,000 seasonal jobs for a three month period each year in the agricultural sector, in the tourism sector and in hotels and restaurants. Another 5,000 jobs are allowed for qualified workers from Hungary, Slovakia, Poland and 10 further countries to continue their qualification in German companies. Another 9,375 jobs are allowed for so called “cross-border-jobs”, 90% of them for people living in the Czech Republic and working in German companies on the other side of the border.

Let me quote from a brochure published by the German trade union federation DGB, i.e. the umbrella organisation of German trade unions. Under the headline “consequences for the labour market” it says:

“They (i.e. many German trade union members) are afraid about lower wages and higher unemployment as a result of the new membership of middle- and east-European countries. These fears result on one hand from real experiences with companies that look only for short-time profits, on the other hand they result from the actual debate about off-shoring, from a lack of information about regulations regarding the enlargement of the European Union and finally from a lack of information about the economic development of many middle-east-European countries.”

In the same brochure the DGB criticises studies and propaganda brochures from conservative circles warning about the dangers of a so called “massive inflow” of cheap labour from the East. The IFO-Institute in Munich for example has published a study in 2001 in which it warned that more than 1.5 million labourers from Poland, the Czech Republic and Hungary would enter the German labour market in the 15 years beginning with 2002. This study ignored all restrictions against a free access to the German labour market that were already discussed at that time.

The DGB as well as all other German trade unions always combined their demand for restrictions against the free movement of workers in the first seven years with a strong pledge and support for a policy that tries to speed up, to accelerate economic growth in those countries. Our aim is to lower the differences in wages, social benefits and living standards as quickly as possible and by doing this to have less competition between workers in the old and in the new EU-countries.

The DGB also initiated and organised conferences with trade unions from the new member states, especially from Poland and the Czech Republic, to strengthen cooperation between trade unions on both sides of the border. Let me quote again from a speech, held by Dieter Scholz, regional chairman for Berlin and Brandenburg in the DGB, on a conference held on September 18th, 2003 in Berlin:

“Let us exchange experiences. We want to know each other better. Let us view the enlargement of the EU as a chance, not as a threat. I very well know that a building worker in Frankfurt/Oder has as many fears about loosing his job as a metal worker in Poznan or a female textile worker in Liberec. We should not put our head in the sand or see only the risks of the enlargement. We are watching a start into a new era in Europe. Europe never ended at the river Oder ... The DGB has always supported the singular historic challenge of the EU-enlargement. Since many years we have a close cooperation between the DGB, Polish trade unions and trade unions from the Czech Republic. We want to benefit from our common experiences we have made during many workshops, conferences and seminars. ... Borders have to be overcome in the hearts and minds of the people, too. ... Not a competitive mentality has to stand in the forefront, but the development of the potentials of our common living area. ... Border regions always are important, because these are the areas where people come together first. Here we have to reduce clichés and resentments; here we have to start building trust. ... The income gap must not be allowed to grow further. Our priority must be to reduce the differences in living and working conditions in Europe. More jobs, more employment has to be our first priority.”

In a statement issued on July 9th 2001 under the headline “*Making the EU-enlargement more social: Freedom of movement for employees and free market in the service sector*”, the federal board of the DGB demanded:

“The transitional regulations regarding the introduction of freedom of movement in the labour market must be checked within the set timetable. These checks have to be made not only by watching the economic criterions and the situation on the labour market, but also in order to use them as a means to promote and honour social progress in the new member countries. In the first place this means to establish operating structures for a social dialogue, in the second place it means to introduce laws and other legal regulations that allow unions and management, especially the trade union side, to act and protect the interests of their members. So far this aspect was only a marginal note during the negotiations with the new member states. Therefore these regulations covering the transitional period have to be used with the aim to promote legal and structural conditions for a social dialogue and a lively practice in the new member states. This must be supported by a strategy of information about working and social conditions in Europe that helps employees both in the old and the new member states.”

In the meantime one can hear new tones in German trade union statements regarding the EU-enlargement. You can hear more discussions about an offensive strategy than about building new barriers. Not because the danger of social dumping has become smaller. It even has increased, when we look at the outsourcing-strategy of big companies in the metal industry, car industry, electric and electronic. But at the same time trade unions discuss more about how to act offensive against these developments than only to react.

The federal board of the German metal trade union “IG Metall” for example, which is the second largest union in Germany with more than 2.5 million members, issued a brochure in January 2004 that stated: the greater market is already a fact. Investments of German metal companies in east and middle European countries have increased on an enormous scale during the last ten years. The total amount of German foreign investments in that countries increased from 0.9 billion Euro in 1990 to 40.5 billion Euro in 2001. Real wages are still very much low, in Poland for example wages are paid at a level of about 40 percent of the EU-level, in Hungary 55 percent, in Slovenia 73 percent. Companies will do all they can do to profit from that differences by continuing their strategy of outsourcing and increasing foreign investments. Trade unions must counter that strategy by strengthening their cross-border-cooperation in order to increase real wages and real incomes in the new member states as quickly as possible, to improve social security, public services etc.

At the same time the federal board of the IG Metall issued a second brochure with information about trade union structures in the new member states, contacts, addresses and telephone numbers in order to improve cross-border-cooperation between the IG Metall and trade unions in the new member countries.

Second thoughts can also be heard from “**ver.di**”, the trade union for the public service, the banking and finance sector, for transport and the private service sector including retail trade, which is the largest single union in Germany with nearly 2.7 Million members.

“**ver.di**” demanded in the past years restrictions against a free access of workers from new member states into the German service sector. They now realize that these restrictions lead to a situation where for example Polish female workers in the cleaning sector work pretend to be self-employed, i.e. one-person-companies. If a person pretends to be a one-person-company, you can’t organize him in a union. But that person still undermines social standards and wages, because his or her real position in the labour market is very weak, so that he or she cannot demand the necessary income or price for the service. Many of these people perhaps would like to become a union member to improve their wages and social security.

In order to change this and to be able to organize these workers in the service sector, “**ver.di**” has started giving the problem of restricted access to the German labour market a second thought. So far no official statement that changed the old positions has been published. But there is a lot of discussion going on in the background.

Such discussions are part of the general discussions in German trade unions about their future strategy towards globalisation and larger markets. It could mean that they are moving away from a more defensive strategy towards a more offensive strategy.

Volker Rossocha for example, who is in charge for migration affairs in the DGB, made that very clear during a conference in Berlin in the end of October 2004. The conference discussed Polish-German cross-border economic cooperation, and Rossocha stated very clearly, that he wants restrictions against labour migration to be reviewed in 2006. Those restrictions lead to a greater dependency of workers to their employers, make it more difficult for them to change their job and take up another, better paid job etc. On the other hand, Rossocha made it very clear, that many discussions in Germany about migration are overshadowed by political and ideological propaganda issues, especially by parties like the German Christian democratic and Christian social party, CSU and CDU.

Migration and migration policy is an old trade union issue. In August 1907 the international socialist congress in Stuttgart, i.e. the meeting of all social democratic parties and trade unions of that time, passed a resolution on migration affairs, which say as follows:

“This congress acknowledges the difficulties arising for the proletariat of a country with a high developed capitalism from a massive inflow of workers who are not organised, who are accustomed to a lower living-standard and come from mainly agrarian countries as well as the dangers that arise from a specific form of migration (i.e. unregistered or “illegal” migration, R.L.). But we do not find it suitable and even condemn under the point of view of proletarian solidarity positions that try to fight those dangers by excluding certain nations or races from immigration.”

This resolution was passed with a large majority. Only the US- and the British delegation opposed that motion, the first arguing with cheap black labour and the danger of cheap labour inflow from China, the second hinting at the danger of cheap labour from Ireland and the British colonies.

The period starting with World War 1st is today seen as a period of Nationalism and Racism, of closing borders against so called foreigners, as the beginning of a dark century with two terrible wars in Europe. Nowadays we move forward to an area of international cooperation and globalisation.

A human right group in Germany called the “Komitee für Grundrechte” (*committee for basic human rights*) in Cologne has started a petition to the German parliament early in 2004. This petition demands from the German government to sign and accept the UN-convention for migrant workers. This convention has come into force on the 1st of July, 2003, but has not been signed so far by any European Union member country. The German government as well as other EU-countries so far refuses to sign that UN-convention, arguing that it offers migrant workers and their families too many rights and therefore might lead to illegal migration. The refusal of the German government - as well as other industrial countries - is not acceptable to trade unions from a fundamental human rights point of view.

Trade unions in a lot of other countries, too, have actively campaigned for the ratification and effective implementation of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of the Families, as well as the two relevant ILO Conventions, no.97 and 143. Indeed, the UN Convention reinforces basic human rights included in the ILO Conventions, including the right to organize into trade unions and to bargain collectively.

For trade unions the UN Convention breaks new ground on several fronts. It represents a significant advance for the defence of the fundamental rights of workers – documented and undocumented – as well as their families. Moreover, it covers all aspects and dimensions of the migration process, from country of origin to country of destination. Migration is an integral part of growth and development processes – more significant in some times and in some countries than others. Nevertheless like many aspects of development there are both positive and negative impacts for the migrants themselves and for the countries of origin and destination. There is increasing recognition of positive contributions of migration through remittance flows, transfer of investments, technology and critical skills. The challenge is how to deal with migration in such a way that the positive effects are maximized, making it a positive phenomenon for migrants, their families, countries of origin and of destination.

Although a lot of migrants and their families have by and large benefited from migration, the numbers of those who toil under abusive and exploitative employment conditions without effective access to legal protection is still large.

A ratification of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families by member states of the European Union as well as by coming member states like Romania and Bulgaria would definitively be an important positive step to improve the situation of these migrant workers – not only in the signing countries, but worldwide.

HUMAN TRAFFICKING: COMPONENT OF THE ILLEGAL MIGRATION. WESTERN BALKANS PERSPECTIVE

Teofil Parasca *)

"Trafficking in human beings is a disgrace for all civilised countries"
Gérard Stoudmann, Director of the OSCE / ODIHR

Pacifying and Stabilization of the countries in the space of former Yugoslavia is a medium time process, if analyzed from a historical perspective. It is also a phenomenon followed with maximum attention by the neighbouring countries, including Romania, NATO and EU countries. There is to be very easily observed the contrast between the lack of resources of the local population in some areas and the waste of it, in other areas, in the effort of reconstruction of the area, waste which generated image of enrichments opportunities and grounds for human trafficking. In this article, by "Western Balkans" we will refer to Bosnia and Herzegovina, Republic Srpska, Serbia and Montenegro, Kosovo and Metohia, Macedonia and Albania. The Human Trafficking was a problem in this region mainly between 1996 and 2004. The main component was the trafficking of women for prostitution. Because the legal aspects of counterfeiting this phenomenon are technical and very much known, this paper will refer mainly to the political and experts actions in combating and prevention, as well co-operation between countries at institutional level

Keywords: trafficking in human beings, Western Balkans, OSCE, illegal migration

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Trafficking is still perceived and treated as an isolated social and criminal phenomenon to be addressed separately from other social and economic problems. We know that the root causes of trafficking – poverty, unemployment, discrimination, violence in the family, demand in the countries of destination – fuel human trafficking, but this knowledge has not yet been translated into policies and strategies. There are no initiatives to integrate anti-trafficking activities into development policies or poverty reduction strategies.

Trafficking in human beings is one of the most pressing and complex issues in the OSCE region. Women, children and men are trafficked to or from OSCE states into conditions amounting to slavery. The result is always the exploitation of the migrant's labour or person. Trafficking in human beings touches on issues of human rights, inequality,

discrimination, rule of law, crime control, law enforcement, corruption, economic deprivation and migration.

Trafficking is distinguished from illegal migration, or from smuggling of persons, in that it includes an element of force, deception or coercion for the purpose of placing a person into involuntary servitude or an otherwise abusive situation (See terminology definitions in Box.1). Due to the clandestine nature of both trafficking and smuggling of human beings, it is likely that trafficking networks make use of already established smuggling routes. Little risk and high profits are factors that make trafficking in human beings a serious business for organized crime across Europe. Coercion, threats and violation of fundamental rights await trafficked persons once they arrive in the country of destination. The need to reimburse a multiple of the actual fees for travelling costs and documents, accommodation, and other "services" drive trafficked persons into an additional dependency of their perpetrators. These persons have little possibilities to escape, as they often fear local authorities and deportation, and are exploited by their traffickers. Almost always, they are forced to surrender their travel documents to their traffickers. This viscous cycle represents a new form of modern-day slavery.

Terminology

Box.1

Forced labour: All work or service which is exacted from a person under the menace of penalty and which is undertaken involuntarily;

Organised criminal group: A structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with the United Nations Convention against Transnational Organised Crime, in order to obtain, directly, or indirectly, a financial or other material benefit;

Smuggling of migrants: The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a country of which the person is not a national or a permanent resident;

Traffickers: All those who are involved in the criminal activity of trafficking of persons. The term does not apply solely to persons convicted of human trafficking offences, but also refers to suspects, arrested and prosecuted persons who, through various means, have come to the attention of criminal justice system actors;

Trafficking in persons: The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Source: *Trafficking in Persons: Global Patterns*, United Nations Office on Drugs and Crime (UNODC), April 2006, p.6-7

Trafficking in human beings is expanding rapidly in the OSCE region, affecting all participating states of the OSCE either as countries of origin, transit or destination. "Trafficking in human beings is a disgrace for all modern and civilised countries", said Ambassador Gérard Stoudmann, Director of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), during the OSCE Ministerial Council held on 27-28 November, 2000⁹².

There are no research programs looking into the relationship between poverty, discrimination (especially gender discrimination and discrimination against ethnic minorities), child abuse and neglect and trafficking. Anti-trafficking programs that support potential and actual victims do not address the issues of violence against women, social exclusion, discrimination, poverty and unemployment in a structural way. Very little research has been done on the 'demand' side of trafficking in human beings in the region or on the relationship between EU migration policies, unregulated migration in the South Eastern Europe, demand for cheap unprotected labour and trafficking; there are no clear standards or procedures governing the work of agencies involved in anti-trafficking responses.

Awareness raising campaigns are the main tool used by NGOs, international organizations and governments to inform the general public and high-risk groups about trafficking. These campaigns, together with information and help-lines on trafficking operating in all the countries of the region, make up the core of anti-trafficking measures. Similar awareness raising activities are conducted in every country in the sub-region, regardless of the character of the country (origin, transit or destination) and prevalence of trafficking. More attention should be paid to campaigns tailored to the needs of the country. Expensive mass media campaigns are thought less effective by those working on the ground than small-scale campaigns – especially in countries where general awareness of trafficking is already high and groups with access to mass media have been reached.

Some local NGOs have innovative programs to raise awareness among high-risk groups at community level. These campaigns are more effective, much cheaper and involve local community's more than large-scale media events.

⁹² Office for Democratic Institutions and Human Rights (ODIHR) is the main OSCE institution dealing with the fight against trafficking. The OSCE has been dealing with the issue of trafficking in human beings since a commitment to combat trafficking was included in the Moscow Document (1991). In 1999, an Adviser on Trafficking Issues joined the OSCE's Office for Democratic Institutions and Human Rights (ODHIR). Since then, the Office for Democratic Institutions and Human Rights has supported a number of projects in various countries dealing with the issue of trafficking in human beings. Poland: training workshops for policemen, border guards, social workers, prosecutors, government representatives, journalists and others were held to raise awareness about trafficking in women. Russia and Romania: round tables on trafficking in human beings between non-governmental and governmental representatives. Ukraine: ODIHR supports counselling hot line services. Moreover, projects have also been implemented in Albania, Moldova and Central Asia. (*Source of information: OSCE's web-site, public data available at www.osce.org*)

Information on trafficking should be mainstreamed into other information and awareness raising campaigns. Anti-trafficking information should be included in, for example, anti-discrimination programs, programs aimed at minorities, HIV/AIDS prevention programs and social and economic development programs.

Re-integration is the most difficult area of anti-trafficking. Social inclusion should prevent further victimization of the trafficked people, and prevent re-trafficking. However, re-integration programs are costly and, where implemented, not always effective. Return and re-integration are seen as the main, if not the only, options for trafficking victims. The capacity of their countries to help them re-integrate is rarely questioned. But in a situation of widespread poverty, unemployment and weak social support structures, it is unrealistic to expect these countries to develop programs to give returning victims the chance of a completely new life. The factors that pushed women to take their chances with the traffickers do not disappear following their return but are, in fact, compounded by stigmatization and new problems.

Prevention initiatives that empower develop life skills and offer employment opportunities for high-risk groups should be the priority for governments and international organizations. At this point, such prevention programs are beyond the financial and technical capacity of the implementing agencies. Many countries now see trafficking victims as a vulnerable group in need of special attention and assistance, but practitioners do not clearly understand what “re-integration” should mean. Re-integration programs that can prevent re-trafficking are scarce, small-scale and reach very few returned victims, re-integration needs go beyond the financial and technical capacity of implementing agencies. There is no exchange of information or networking among organizations implementing re-integration programs, re-integration is seldom integrated into broader development or anti-discrimination programs. Some NGOs have developed very good, although small, re-integration programs which could be seen as models for re-integration.

There is a growing understanding of the need for reintegration programs, but they are still small-scale, short-term and supported by foreign donors. There has been no discussion about how long-term, locally owned re-integration programs could be implemented in situations of general poverty and unemployment. There has been no discussion on how prevention or re-integration programs should function when there are no social services in the countries of origin or how they should be integrated into planned reforms for social welfare systems.

The latest developments highlight the changing nature of trafficking, with girls and women increasingly trafficked within countries and men increasingly trafficked for labour. It

is found that an increasing number of repatriated victims in South Eastern Europe are returning from EU countries, rather than from other parts of South Eastern Europe. What is more, those judged to be trafficking victims often refuse the assistance that is available, as they do not want to return to their countries of origin.

Trafficking in the region is decreasing, as there has been a significant reduction in the number of victims assisted. Other sources consider trafficking is not declining at all, but has simply become less visible, with victims unwilling to seek assistance for fear of repatriation, deportation and stigma. It is simply not clear whether anti-trafficking efforts are succeeding or not. Few foreign victims in shelters are from the "transit" countries. Yet governments, international agencies and donors continue to set up new shelters. In 2002, women seeking assistance had no safe place to go. Today, either the victims are not being identified or those who are identified refuse to go to the shelters. There is a "victim hunt", with service providers trying to find women to put in shelters with high running costs and few users.

More interest in "borderline cases". The debate on trafficking in the region is broader than two years ago, with cases of domestic prostitution, under-age prostitution, street children, exploitation and abuse of women, children in Roma communities and children in institutions described and treated as cases of trafficking. Service providers accept women and children into their programs even if their situation meets only the broadest definition of trafficking.

The Stabilization and Association process is not simply a bilateral process with each country. The Zagreb Summit⁹³ placed considerable emphasis on the central need for regional co-operation as part of the EU's "contract" with the Stabilization and Association process countries. Similarly, the Stabilization and Association Agreements include a clear commitment to regional co-operation.

The main directions of actions should be⁹⁴:

- to encourage the countries of the region to behave towards each other and work with each other in a manner comparable to the relationships that now exist between EU Member States. An important means to this end will be the establishment of a network of close contractual relationships (conventions on regional co-operation) between the signatories of Stabilization and Association Agreements, mirroring the bilateral relationship with the EU as represented by the Stabilization and Association Agreements;

⁹³ Information about the Zagreb Summit, held on 25 November 2000 in Zagreb, Croatia, and *The Final Declaration of the Zagreb Summit*, could be found at: www.mvpei.hr/summit/index_eng.html

⁹⁴ For more information related to South Western Balkans and the EU enlargement, see European Commission's enlargement web page: <http://ec.europa.eu/enlargement> (From Regional Approach to the Stabilization and Association Process)

- the creation of a network of compatible bilateral free trade agreements (as part of the conventions mentioned above) which means that there are no barriers to goods moving between the countries of the regions themselves nor with the EU and, in effect, neighbouring candidate countries;
- to persuade the authorities in the countries of the region to work together to respond effectively to the common threats to the region's and the EU's security which come from organized crime, illegal immigration and other forms of trafficking. In many cases, e.g. on visa policy, a common approach by all the countries will be needed to deal with the threat effectively.

Program of Assistance for the Protection, Return and Reintegration of Trafficked Women and Children in the Western Balkans and Main Countries of Origin (PRTB) – Phase II will continue to facilitate the orderly, safe and dignified return and reintegration of trafficked persons, in particular women and children stranded in the Balkan countries.

IOM will do this in the context of IOM's global concern to prevent, assist and protect migrants who fall victim of trafficking. It will also continue to facilitate the collection of more detailed data on the phenomenon of trafficking in the region using the recently established Counter Trafficking Module Data Base. In cooperation with local government partners and NGOs, as well as international agencies, IOM will assist trafficked victims in need of return and reintegration assistance with pre-departure counseling, and return transportation to their home countries. Upon arrival of the victims, the IOM offices will, in coordination with local partners and according to individual's needs, temporarily lodge the victims in safe shelter if available.

In cooperation with NGOs, medical and social assistance services will be made available in order to possibly smooth the victims' reintegration process into their families of origin, as well as to facilitate access to vocational training and/or employment orientation courses.

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NAVIGATING MIGRANTS INTO THE GREEK LABOUR MARKET: THE ROLE OF MIGRANT ASSOCIATIONS – THE CASE OF EASTERN EUROPEAN MIGRANTS ASSOCIATIONS

*Dimitria Groutsis **

This paper examines the nature, role and significance of migrant associations in Greece with a specific focus on Eastern European women and their representation in these associations. Geographically this region comprises the largest source of migrants into Greece. The paper examines how the Greek labour market landscape has in recent years been transformed, a shift enforced by changes from within: with new areas of the labour market opening up; and by nature of in-migration. In spite of the rapid changes the formal state regulatory infrastructure has remained underdeveloped and ad hoc, resulting in weak links between the state apparatus and the demands of migrants. As a consequence, migrant associations have emerged to formalize what have been in the main informal community links between migrants from the same ethnic groups and across ethnic groups. The paper shows that while these horizontal links within and between community groups are significant it is the vertical links between the migrant associations and authority groups within the Greek political economy that must be established to navigate migrants out of their fixed labour market location.

Keywords: migration, labour market spaces, migrant associations, social capital

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1 Introduction

In the last two decades Greece has become a country of significant in-migration and now hosts between 900,000 and 1.2 million immigrants (Anthias and Lazaridis, 2000; Lianos, 2001; Pantazi, 2003; Petronoti and Triandafyllidou, 2003; Baldwin-Edwards with Kyriakou, 2004; Kasimis and Kassimi, 2004). While residence permits are required for all foreign nationals over the age of 18 residing in Greece (covered by Law 2910/2001), approximately 400,000 migrants remain 'irregular' in status, a consequence of the sudden impact of migration into Greece and the inability of the Greek state to administer legislation successfully (Tzilivakis, 2005).

Source countries contributing to the large-scale immigration include: Albania, Central and Eastern Europe and a variety of areas from the Middle East, Africa, South Asia, South East Asia and more recently East Asia. In terms of the gender breakdown we have seen a distinctive shift in migratory movements in recent years with an increasing feminization of

migration. According to a recent UN Report (2005), 49% of the world's international migrants are women. This gender shift also defines migration into Greece of Central and Eastern European groups. While Albanian and Romanian women come with spouses; Bulgarian, Georgian and Ukrainian women are the sole principal migrants (Greek Population Census, 2001; Pantazi, 2003; Cavounidis, 2004). Little research has engaged in this problematic, and even less so with a focus on migrant women's voices in the form of migrant women's collectives (Anthias and Lazaridis, 2000; Markova and Sarris, 2002; Cavounidis, 2003).

Although the migrant landscape is coloured by individuals from all parts of the globe Central and Eastern Europeans predominate as source country migrants. While other countries in Southern Europe have also experienced significant transformations in their resident constitution as driven by migration, what distinguish the Greek case are the shared borders with their migrant cohorts. Thus the close geographical proximity to Greece has made it a desirable destination for migrants⁹⁵.

In addition to spatial proximity, a central determinant fuelling and forging the migration of individuals from these countries have been the kinship and community ties with the host country. These ties provide the initial point of contact regarding migration to Greece and thus encourage the move to Greece⁹⁶ (Boyd, 1989; Portes, 1995; Sassen, 1995; Petroniti, 1996, Anthias and Lazaridis, 2000; Cavounidis, 2004). Although these informal ties are central as the initial points of contact and to providing vital information exchange, a by-product of the demand for access to and knowledge of services and information regarding settlement issues: including legal and labour market requirements, has been the emergence of migrant associations.

Labour geographers (Massey, 1984; Peck, 1996; Herod and Wright 2002; Herod, 2003) suggest that social actors shape the spaces and are participants in negotiating and renegotiating the entry into particular spaces. Simultaneously, the space they are entering shapes their actions and reactions to circumstances. The emergence of migrant associations in response to a lack of formal state apparatus shows how migrants in Greece draw on their social capital to navigate their way through the Greek labour market creating and shaping new labour market divisions. To understand and assess the spaces created by migrant associations, the paper draws on the work of Granovetter (1973), Putnam (1998), Narayan (1999) and Woolcock (2000) who distinguish network characteristics in social capital theory. Thus, the

⁹⁵ According to the population census of 2001, Albanians comprise 55.6% of the total foreign population; Bulgarians 4.7% of the total population; Georgians 2.9% of the total population; and Romanians 2.9% of the total population (Greek Population Census, 2001).

⁹⁶ Cavounidis (2004) reveals that 75% of Albanians had some links with Greece prior to migration – 60% had a relative, 15% had a friend; 28% Bulgarians had a relative, 3% had a friend; 46% Romanians had a relative, 35% Romanians had a friend.

paper is informed by two bodies of work: the work of labour geographers and the work of social capital theorists⁹⁷.

Before turning to an exploration of the nature, structure and role of migrant associations the paper maps the space migrants are navigating their way through with an examination of the Greek political economy and the manner in which it has managed migrant labour mobility into the Greek labour market.

2 Greek Politico-Economic and Labour Market Landscape

The Greek economy is comprised of distinct but interrelated hubs of economic activity: the formal and the informal economies (Baldwin-Edwards, 2002). It is this distinction that makes for the ad hoc and unstructured policy implementation process. The formal sector is dominated by state regulation and transparency while the informal is defined by a lack of state regulation and thus no formal monitoring. Although existing in a space beyond the reach of state regulation the informal sector has a significant and legitimate presence in the Greek political economy, contributing to 30% of economic activity (Council of Europe Group of States against Corruption, 2001; Baldwin-Edwards, 2004; Leventis, 2004)⁹⁸.

Demand for migrant labour exists predominantly in the informal sector where conditions are most precarious and the monitoring of worker's rights exists beyond the reach of policy and state regulation. A ready labour market in the informal structure reinforces the existence of illegal status, as it is not a demanded requirement to have legal status to gain employment in this area. Consequently, a large group of migrants remain embedded in clandestine spaces of existence.

While the polarity of the Greek labour market forges the legal/illegal migrant status, the lack of any meaningful state regulatory mechanisms to manage the flow of people into Greece has also frustrated efforts to gain resident status and work permits. The result is that migrants enjoy almost no institutional protection in their quest to find gainful employment.

Entry into the labour market is based on access to network connections. In a study conducted by the Employment Observatory (2004) investigating methods of labour market access for the local (Greek) labour market, it was shown that 37.2% of private companies recruit through social networks. This method of labour market entry is even more significant for migrant workers. According to figures released by the National Employment Observatory

⁹⁷ Detailed discussion of each of these bodies of work (as analytical devices) is not permissible in this paper. For detailed discussion on how labour geography is useful in understanding migrant labour mobility see Groutsis, D. (forthcoming): *Globalisation and labour mobility – migrants making spaces, migrants changing spaces: The case of overseas qualified professionals entering the Australian labour market*, in Hearn, M. and Michelson, G. (eds): *Rethinking Work*, Cambridge University Press, Australia.

⁹⁸ This activity rates higher than in any member state of the EU.

(2004) 61% of migrants found their job through a relative or friend living in Greece. This pattern is also confirmed in a study by Cavounidis (2004) who highlights the informal channels which allow migrants to gain access to the labour market. Of these networks Cavounidis (2004) notes:

“... they can be expected to be particularly crucial in the case of migrants because as newcomers, migrants are less familiar with, or less able to access, the formal methods of job search characteristic of host societies ... Such information problems are compounded in the case of unauthorized migrants, who attempt to minimize contacts with formal institutions or agencies and hesitate to approach employers or other individuals whose intentions are unknown.”

While providing a ready and effective route for certain labour force participants into the labour market, these network links close the door to individuals who are not appropriately connected whereby particular groups are ushered into certain areas while these areas remain impenetrable to others. The result is that this method of labour market entry reinforces the labour market divisions that define the Greek labour market. This divided labour market features a large sector of self-employment (Gavroglou for Employment Observatory Research-Informatics, 2003); a bloated public sector (Gladstone, 2002); a predominance of small organizations (Gavroglou for Employment Observatory Research-Informatics, 2003); a predominance of full-time labour force participants (with only few entering part time employment sectors) (Gavroglou for Employment Observatory Research-Informatics, 2003); and an informal labour market soaking up particular groups, notably in the domestic and personal care services and building and construction (National Employment Observatory, 2004). While the Greek labour market remains structurally fragmented the definitive characteristics of workers entering certain areas reinforce the labour market schisms. The Greek labour market is segmented according to gender (Chletsos for Employment Observatory Research Informatics SA, 2003), ethnicity (National Employment Observatory, 2004) and migrant resident status (legal/illegal) (National Employment Observatory, 2004; Levinson, 2005).

Where are migrants located? What is the migrant labour market profile?

Migrants are overwhelmingly located in the secondary labour market in both the formal and informal sectors, a labour market location which emerges regardless of the skills, training and vocational experience of the individual (Markova and Sarris, 2002; OECD, 2002; Pantazi, 2003; Cavounidis, 2004; Leventis, 2004; National Employment Observatory, 2004). The National Employment Observatory (2004) notes that the majority of male migrants are located in the building and construction area and blue and white collar works in heavy and

light industry; women, in domestic and personal care services; and a very small proportion – which is undifferentiated by gender - work as salespeople, scientists and artists.

Labour market location is based on gender and ethnicity a condition which is reinforced not only because of the pre-existing spatial arrangements which foster the entry of particular groups into certain areas but also because of the way in which migrants gain entry into the labour market: invariably from people within their community who are working in similar areas. The result is the continued reinforcement of labour market divisions (Cavounidis, 2004).

In sum, the significant in-migration in recent years has resulted in a reconfiguration of the labour market driven by those coming into the country and the areas of the labour market which have opened up to absorb this new stock of labour. New divisions have emerged in the Greek labour market opening up a market for immigrant women in domestic and personal care services and for immigrant men in the building and construction industries. Entry into these areas is overwhelmingly influenced by network connections. What role do migrant associations play in assisting migrants to negotiate the labour market spaces available to them? The role, nature and significance of these associations/networks is critically evaluated by drawing on social capital literature.

3 Migrant Associations – Creating Spaces of Engagement for Migrants in Greece

Migrant associations representing Eastern Europeans in Greece emerged in the 1980s⁹⁹, as loosely formed groups bringing together people as a means of sharing in ethno-specific cultural celebrations. A Romanian spokesperson noted:

“When Romanians first came to Greece in the 1980s there were not many migrants ... well, we were not an obvious presence. We would find out about members of our community and come together to celebrate particular cultural events; to provide support through what was really a social event ...”

(Romanian representative, Interview February, 2004)

This is reiterated by an Albanian spokesperson:

“When we first came to Greece with my family there were not many Albanians here ... there were not so many migrants. In this new country we found support by

⁹⁹ The 1980s saw the first wave of migration from Eastern Europe.

coming together with other Albanians ... in a social and festive setting...”
(Albanian representative, Interview April, 2005)

While information exchanges regarding settlement and labour market issues were discussed in this informal setting, the process was ad hoc. As noted by a Romanian spokesperson:

*“... We would also discuss how to get a job ... where jobs were available. Things were very different in the 80s. There were not many of us (migrants) here. We came with skills and many of us were accepted in areas where we could use our skills. There was none of this legalization process, as there is now ... There were not as many obstacles to working. Many of us had Greek friends who had studied in Romania and we could get information on the labour market through them and in this way we passed it on to other people from our community living here ...
.....It was just in conversation; at our gatherings.....It wasn't structured information.....But it didn't need to be. Not like now.”*
(Romanian representative, Interview February, 2004)

Overall, this initial phase of the community network brings to bear the overlap between cultural and social capital, which incidentally continues in present day migrant associations. Gould (2001) considers cultural capital and social capital as interdependent forces, suggesting that when shared occasions emerge for cultural reasons, relationships are being enhanced and social capital networks are extended. The emergence and development of migrant associations suggests this is the case.

Into the 1990s, migrant associations have developed structurally as lobby groups. A stock-take of registered associations shows that of the seventy-eight, twenty-three represent Central and Eastern European migrants. While continuing to engage as a hub for cultural collectivism, these associations act as centres of information regarding labour market issues and related settlement issues: including information on gaining residence and work permits. This form of social capital exchange within community networks is considered the bonding phase of community development and while seeking to support and inform community group members this information exchange remains closed to those outside the specific community (Granovetter, 1973; Putnam, 1995; Putnam, 1998; Narayan, 1999; Woolcock, 2000).

In addition to the independent force of migrant associations representing the interests of their specific communities is the united coalition known as the Greek Forum of Migrants which is comprised of migrant representatives from twenty-eight communities including Central and Eastern European community representatives¹⁰⁰. This coalition pools the varied community resources to lobby for collective interests while filtering information to community representatives to pass onto their specific communities. Issues tabled include:

¹⁰⁰ Notably the website lists only 22 communities, with an absence of Eastern European representatives who are active members.

legalization responsibilities and the impending reforms to the legalization process; labour market issues; migrant children's education; access to health care services; available training opportunities; general rights and community gatherings. The forum then acts as an information hub and the representatives as nodes, reaching out to the rest of the community in the independent community groups.

This structure is an instance of bridging defined by cross-community overlap featuring a sharing and exchange of resources. The bridging phase sees to an extension of the initial stage of network development defined in the closed community network exchange (Putnam, 1998; Narayan, 1999; Woolcock, 2000). Regarding the operation of the Greek Forum of Migrants a Bulgarian spokesperson noted:

"I come here to get information for people in my community. We exchange information here and we also work together. For instance we learn about labour market rights and we report this information to our community members. In the Forum we also provide information on what is happening within our community."
(Bulgarian representative, Interview March 2005)

This is reiterated by an Albanian representative who noted that participation in the Forum was useful because:

"We keep up to date with issues that concern all our members. We keep up-to-date with changes in the legislation (regularization process) ... just through discussions with other representatives in the Forum we also find out about jobs that may be of interest to our community members. So, here we get information and we transfer it back to our community members. It is useful because sometimes in your own community you miss out on information ... so, we are all better informed like this ..."
(Albanian representative, Interview March 2005)

The point of the two-way information flow between the community groups in the Forum is noted by a Ukrainian representative:

"Coming together at the Forum means that we can tell everyone what we know and we can take back to our community information from other communities in discussions that we have here as a Forum ... it is very useful"
(Ukrainian representative, Interview March 2005)

The bonding and bridging stages illustrate the horizontal links within and between communities – enhancing the exploitation of social capital for the purpose of assisting migrants in Greece. The horizontal process of information and resource exchange firmly situates the migrants group within the migrant community. That is, the third stage known as

“linking” remains unfulfilled. This phase is defined by the establishment of links between the migrant communities and authority structures, in this case the state apparatus. Social capital exploitation between the migrant communities and authority relations does not occur. The lack of vertical relations thus raises questions regarding the possibility for transforming the fixed location of migrants in the Greek political economy in general, and more specifically in the Greek labour market (Portes, 1998).

Of note within the community network structure is the lack of a formal structured female voice. While women represent their communities in the Greek Forum of Migrants, including: Albanian, Bulgarian, Ukrainian, Polish and Georgian representatives, all women noted the need for a migrant women’s network representing their specific needs, rights and interests.

“We have different needs we are in different areas of the labour market to men and we need to support other women migrants. We are trying to create a better understanding of how to get a job in Greece...we try to provide information to women in our community and beyond - of jobs available. It is better to get a job through contacts in the community rather than to go to an employment agency. We have heard of many big problems with these agencies. So we try to help with information about jobs that we hear about ... and this is the way we help other migrant women.”

(Albanian representative, Interview April 2005)

“I got my friend a job and we find out about jobs for other friends...other women ... and now that we have more to do with other communities, we tell other community members about jobs ...”

(Bulgarian representative, Interview March 2005)

When asked about the labour market location that these connections lead to the response was immediate.

“... it is in domestic area, as cleaners, as carers. We know that this is all that is available for us. I am a lawyer. I may be able to assist better with legal issues with community members who need my help, but I cannot work as a lawyer ... It doesn't matter what you are – teacher, doctor, lawyer, university lecturer you work in the domestic area ... These are the jobs available in Greece and these are the jobs we find out about. It is too hard to get a job in your field ... I think it is impossible ... We must be realistic. We come here to work and this is what we can work in. The best we can hope for is a good employer and good conditions but not work in our area.”

(Bulgarian representative, Interview March 2005)

While women meet informally within their respective communities they are in the process of extending reach across communities.

“... so we can discuss all our issues between our communities....We will follow the structure of women’s organisations formed by Filipino women and Nigerian women. We will then elect representatives who will come together to discuss issues and then they will report these discussions to their community groups ... We thought of bringing all the women together to discuss our issues, but there are too many of us ... Well, this is the plan but we do not have resources.”
(Albanian representative, Interview March 2005)

While the organisation of a group representing women’s voices is significant for migrant women in Greece, representing a more structured forum of information exchange within and between community groups, the collective does not provide the opportunity to establish broader links within the Greek political-economy and within the Greek labour market.

4 Conclusion

The changing pattern in the movement of people into Greece in recent years has transformed the composition of the labour market with foreign workers accounting for as much as 15% of the workforce (Lianou, 2003). This stock of labour has created new labour market divisions and has fed into pre-existing labour market segments. Over time, patterns and processes of labour market behaviour have become locally embedded and to a degree self-perpetuating: a process which is reinforced by the pre-existing labour market space in Greece, the way in which migrants gain access to the Greek labour market, underscored by the horizontal relations between and within community networks (Massey, 1984).

While community kinship networks are fundamental to migrant’s choice of destination, settlement and labour market entry, the way in which these networks are drawn on is significant in terms of solidifying the spatial embeddedness of this group. To shift the current labour market location defining the migrant experience in Greece, migrant coalitions need to negotiate links beyond the ethnic community, extending to the local decision making apparatus, a condition reliant on authority groups also extending their reach to negotiate with migrant coalitions.

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EXCLUSION AND INCLUSION OF MOROCCAN MIGRANTS: EMPIRICAL EVIDENCES FROM ALMERÍA, SPAIN¹⁰¹

Martin Geiger ¹⁾

The empirical study reveals the significance of social actors (e.g. trade unions, immigrant organisations, local administration, NGOs, political parties and employers' associations) in providing immigrants with access to social benefits. The study is based on fieldwork in the province of Almería (conducted in 2003 and 2004). It focuses on the social inclusion of Moroccan immigrants working in greenhouse agriculture. In contrast to a great variety of other studies concentrating on this issue, research has been conducted on social inclusion as an outcome of a local bargaining process, constituted by collective actors and their strategies to include or exclude migrants from different spheres and benefits of the receiving society. Against the background of the local situation, the implications of failing immigration and integration policies in connection with unbridled economic neo-liberalism will become evident. In the chosen local context the project of an inclusive society so far remains an unfulfilled dream - more financial, political and public support for migrants and organisations working in the field of inclusion is needed. Although the study didn't focus on Romanian migrants it could be however offer interesting insights, as since some years the number of Romanian migrant workers in Almería is growing, the dynamics illustrated in the local context could be applied to other contexts of new immigration countries.

Keywords: European Union, Spain, Moroccan immigration, local actors, integration policies and strategies, local conflict, labour market, political and social participation

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Introduction

Situated within the autonomous region of Andalusia, the province of Almería certainly is one of today's focal points of Moroccan immigration to Spain and Europe. In 2002, the number of foreigners living in this area was nearly twelve times higher than in 1991. This increase appears quite impressive in comparison to the total immigrant population of Spain, which in the same time experienced just a quadrupling. At the end of 2002, about 36,000 foreigners lived in the province of Almería and counted for more than seven per cent of the total

¹⁰¹ Thanks to a research scholarship granted by the German Academic Exchange Service (DAAD) I have been able to conduct extensive fieldwork in the province of Almería in the time between summer 2004 and spring 2004. This paper, summarising the main results of a Master Thesis in Geography, reflects the local situation in the mentioned time period. However, it has to be mentioned, that although several years passed since my research, the situation concerning Moroccan migrants in the province of Almería has hardly changed. My paper could therefore be regarded as reflecting a still existing 'status-quo' as regards the locally existing patterns of inclusion and exclusion. I am thankful to my supervisor Prof. Hans Dieter Laux (Dep. of Geography, Rheinische Friedrich-Wilhelms-Universität Bonn, Germany) for his guidance and to Prof. Gunther Dietz (at the time of research professor at the University of Granada, Spain) for his local support and supervision during the time of my field studies. Furthermore, I would like to thank Marek Canek and Megan Shea (Multicultural Centre Prague) for their careful reading and editing of an earlier version of this paper (published on the website of migrationonline.cz in spring 2006).

population while the national average concerning the percentage of foreigners living in Spain was around three per cent¹⁰².

More than half of the foreigners registered in the province of Almería at that time were of Moroccan origin. Two thirds of the Moroccan population were male, unmarried and belonged to the group of people between 20 and 30 years old (see Ministerio de Interior 2003: 80, 481, 484; INE 2003a). The significance of seasonal or return migration as well as family migration, especially with regard to Moroccan workers in agriculture (serving often for them as the first niche of the local labour market), has been very low.

The attraction of the province of Almería as a destination for migrants is mainly due to the evolution of an internationally competitive greenhouse agricultural industry (see Checa 2003: 106-107). Paradoxically, this agriculture has evolved despite the fact that this province covers one of the driest areas in Europe. Before highly sophisticated technological innovations had been made, the possibilities for agricultural use were quite bad. The province of Almería therefore has been for centuries a traditional place of origin of emigrants. Its transformation into an area of destination has been induced by a dramatic agro-economic transformation, initiated in 1941 by the authoritarian government of General Franco. By drilling wells to exploit the salty ground water, the area became usable for agricultural purposes, mostly the production of vegetables under glasshouses. Small parcels of newly cultivated land were given to (Spanish) landless migrants from neighbouring mountainous areas and other parts of the Iberian Peninsula.

Due to agricultural innovations and adaptations, the province of Almería soon experienced a remarkable growth in agricultural productivity. Since the year 2000, the area covered with greenhouses increased more than thirteen times. With approximately 25,000ha, the province of Almería then possessed more than 60 per cent of the Spanish and about 25 per cent of the total area covered with glass within the European Union (see Eurostat). Formerly impoverished, the area is now among the Spanish provinces with the highest rates of economic growth and lowest rates of unemployment (Ideal Granada, El País). Producing half of Spain's paprika output and about a quarter of all tomatoes, the province of Almería is one of the most important European exporters of vegetables (see INE 2003b; Eurosur Consultores 2003: 178-182). As a consequence of increased productivity, the new proprietors who once had been seasonal agricultural (migrant) workers on their own, became dependent on additional non-familiar workers (see Martínez Veiga 2001: 27). It has to be said that the international competitiveness of today's local greenhouse agriculture is largely dependent on

¹⁰² Until today the number of foreigners in Spain has risen considerably. Numbers given reflect the statistical data that was available at the time of empirical research.

the very low salaries migrants get for their work– salaries that are often 15 Euros per working day and less (interviews with migrants).

The local agricultural employment system is characterised by a high degree of informality and semi-legal or illegal employment practices (see Martín Díaz 2003: 45-50). Due to an effective technological adaptation to natural conditions, seasonal variations of the agricultural production have been reduced drastically: Today, local farmers are for nine to twelve months per year in need of agricultural labourers of foreign origin. Although farmers still recruit on a day-to-day basis (a cheaper and more flexible system), it has to be stressed that this does not imply that their labourers therefore can be seen automatically as merely a seasonally employed workforce that may return to their country of origin or to other provinces like they "wish." The day-to-day recruitment – often misunderstood as the employment of migrants who are only "seasonally" living in the province – is hiding the fact that there is nearly no seasonality of agricultural production anymore and local agriculture is in need of high numbers of migrants all year-round as they have substituted the former family-based working force. Migrant workers in the agriculture of Almería - in contrast to the traditional construct of a seasonal guest-worker - have to stay temporarily flexible, have to be ready to take up work every time farmers want them to work (otherwise they get easily substituted by other workers) and are forced to stay within the province although some days, weeks or months they don't find guaranteed employment. In addition, the closure and fortification of Spanish borders to third countries, has on the first hand had the negative side-effect of forcing illegal migrant workers to stay in Spain and not return on a seasonal basis because the chances to get back (legally or illegally) have been drastically reduced. On the second hand, an illegal residence and employment status means that these workers remain even more bound to the local agriculture of Almería because this province, in contrast to other provinces and city regions of Spain, is characterised by an extremely low level of law enforcement. Any forms of control are a rare exception.

It is estimated that per year up to 30,000 foreigners are employed in greenhouse agriculture, approximately half of them not possessing valid documentation. Although there have been some changes in the composition of the foreign workers population among agricultural labourers following the incidents of *El Ejido* (see below) when local farmers started to substitute Moroccan workers for Latin American and Eastern European workers, until today Moroccans form the biggest share of agricultural workers. Given the fact that most workers have an illegal residence status (therefore mostly unregistered) and against the background that in Spain there is a general lack of trustworthy and reliable statistical data - with regard to legal as well as illegal immigrants as well as with regard to their employment -

it is difficult to give exact numbers (see Martín Díaz 2003: 47-48). This is also due to the fact that most migrant workers – due to their illegal (unauthorised) employment – are not registered in the social security system. In addition, the number of migrant workers can only be estimated because the overwhelming majority of contracts are made verbally.

The employment and legal status of Third Country Nationals in Spain

Spain, like many other contemporary societies affected by immigration, demonstrates a paradoxical situation: While the economy is in need of foreign, low-skilled and low-paid labour, migrants' entry, permanent stay and employment are more and more restricted (see Brochmann 1999: 325). Since 2000 the Spanish foreigner's law (Ley de Extranjería) has been revised twice. In the case of third country nationals (Moroccan migrants belong to this group) who are not citizens of a member state of the European Union, the latest version (Law No. 8/2000, revision 2003) holds unrestricted access and residence possibilities for a longer period of time only for family members of legal migrants already present in Spain as well as acknowledged asylum seekers (see Martínez Atienza 2002: 304-358; Ley Orgánica 8/2000). Generally, possibilities for third country nationals to live and work in Spain, even temporarily, are reduced to a minimum. A visa to reside and work is only granted if the Spanish employer can prove that he has not found a Spanish worker. Furthermore, migrants can apply for employment opportunities only through Spanish embassies and consulates in their home country. Each initial work permit is then restricted to a distinct employment sector and working contract. As the job contract ends, simultaneously the work allowance and permit to stay become invalid (see Apap 2002: 173-174).

In Spain as in other countries a sharp line has been drawn hereby to divide legal and illegal migrants by the existing legislation. While nowadays, citizens of other EU-countries are been granted far-reaching rights and privileges, third country nationals find themselves confronted by exclusion from nearly all possibilities to enter, reside or work under conditions of "legality." To a wide extent a consequence of Spain's membership in the European Union (EU), judicial restrictions together with more rigorous border controls are the instruments of Spain as the south-western guardian of the European Union to manage the "migration pressure" originating mostly from the African continent (see Goytisolo and Nair 2000: 122). Among other Southern and Eastern European countries, Spain is one of the main actors to put into effect EU restrictions on immigration according to the Treaties of Maastricht and Amsterdam and the decisions of the European Council of Thessalonica in 2003. While Spain's foreigner law grants immigrants possessing legal residence permits extensive rights, the fight against illegal forms of migration results mainly in the withholding of civil, political

and social rights from those migrants without legal residence or employment status (see Table 1).

With regard to agricultural employment in the greenhouses of the province of Almería, the majority of migrants do not possess a formally written work contract. In general, migrants are employed on a day-to-day basis; contracts exist only as verbal agreements. Locally, the presence of migrants with an illegal residence status who simultaneously do not possess a working permit is to a wide extent tolerated. Police controls are the exception. Although the current foreigners' law holds severe punishment for employers recruiting illegal migrants (up to 60,000 Euros per illegally employed person, imprisonment up to 5 years), still today migrants with illegal status are able to find work in agriculture. The province of Almería, in contrast to other Spanish provinces, thus is an important staging ground for illegal migrants due to missing/inadequate controls. As a consequence, in front of administrations or police most migrants can hardly prove that a prolongation of their permit is economically justified or that they should be granted a legal status.

Many migrants who have entered Spain and have started working under legal conditions often find themselves repeatedly in an illegal residence status (and thereby simultaneously are perceived as working illegally - that means without a valid employment permit that is directly depending upon their residence status). Generally these juridical categories are quite flexible. From time to time illegal migrants have been re-legalised by government campaigns. However, most immigrants afterwards have dropped again into an illegal status after the work contract, a prerequisite of the legalisation, ended (see Laparra and Martínez de Lizarrondo 2003: 53; Apap: 2000: 175; Tapinos 2000: 14; OECD 2000: 63-65). As a consequence, migrants often applied repeatedly for legalisation. At the beginning of 2004 it was estimated that more than one million people are living illegally within Spanish territory, hereby accounting for a third of Spain's foreign population (see ABC) – to be in illegal residence status therefore rarely can be regarded as to be an exceptional case! As a consequence, at least this part of the foreign population as well as the rest of non-EU migrants who have to fear falling back into this status, do not possess a secure access to membership rights and can be considered as “*margizens*.” Migrants are only eligible for permanent legal status, and according to Hammar (1990: 21; 1994: 188-189) then “*denizenship*,” when they can prove five years of continuous legal status. Under the contemporary realities, the majority of Spain's immigrant population is therefore far away from this more stable “*denizen status*.” In provinces like Almería the main factor determining the legal status of migrants has to be seen in consistence with the dynamics of the local labour market – due to the high degree of informality and the non-existence of state controls it becomes evident that agricultural

workers are even more likely to live permanently in a insecure status on the edge between *margizen-* and *denizenship* or are effectively kept away – due to economic interests and the inflexibilities of bureaucracy – from becoming “*denizens*.”

The quest for inclusion: Migrants and the receiving context

The social inclusion of migrants in Spain as a socio-political challenge is mainly delegated from the national to the regional (Autonomous Regions, for example Andalusia) and to an important part to the local level (provinces and municipalities). Established in 2001, the programme GRECO (Programa Global de Regulación y Coordinación de la Extranjería y la Inmigración) is the main instrument for the social integration of immigrants in Spain. On the national level, GRECO is based on four goal organising principles, including: “*the design and co-ordination of immigration as a desirable phenomenon for Spain*” as well as “*the integration of the foreign population who contribute actively to the economic growth of Spain*” (own translation; see Martínez Veiga 2002: 614-652). It becomes evident that “integration” in this sense has a restrictive character: the integration of these “good migrants” is intended because they do contribute economically. A need for the integration of unemployed and older migrants as well as their dependents, not economically-active family members, is not foreseen in the national action plan (see Torres 2002: 63). While GRECO simultaneously emphasises the need for state action to fully guarantee the membership rights of migrants as granted in the foreigner’s law and the Spanish constitution, in principle, integration is only foreseen for legal migrants who are willing to adapt and accomplish the economic pre-condition (see Torres 2002: 63). In the framework of this questionable concept most of the public funding for integration measures is being made. This is due to the fact that GRECO serves as the main instrument to co-ordinate different ministries and other political authorities and thereby heavily influences the approaches of these actors. Simultaneously, a co-ordination between the autonomous regions and the central state is intended by GRECO. Including principally an understanding of integration linked to control and pressure to adaptation, it seems problematic that in addition also most of the financial contributions from the central state to non-state actors also are distributed within the co-ordinating framework of GRECO (see Laparra and De Lizarrondo Martínez 2003: 52).

Although this public funding of non-state actors, like humanitarian and immigrant organisations, is low and in comparison with other European countries reflects the young history of immigration in Spain, non-state actors are bound in their activities to the fundamental concept of integration. As a result, NGOs are limited in their activities; some assistance can only be given to legal migrants as integration is only foreseen for them.

However, indirectly these civil state actors are in some way entrusted with the quite delicate task of giving assistance to the huge number of illegal migrants living in Spain (see Arango 2000: 270).

Thus, since its establishment, GRECO is criticised vehemently by non-governmental organisations, trade unions, political parties, immigrant organisations as also some governments of autonomous regions like Andalusia (see Laparra and De Lizarrondo Martínez 2003: 52; Zapata-Barrero, Adamuz and Martínez Luna 2002: 83, 88). Due to the autonomy of the Spanish regional governments in welfare, housing, culture, education and health service, regions like Andalusia have developed additional integration programmes. In some provinces especially affected by migration processes, local plans also exist. Most of these action plans on the sub-national level also stress the importance of non-state actors and delegate tasks and funding to these organisations (see Laparra and De Lizarrondo Martínez 2003: 37-39; Zapata-Barrero, Adamuz and Martínez Luna 2002: 89; Agrela Romero and Dietz 2004).

In the opinion of Zapata-Barrero et al. outsourcing and the delegation of public tasks to a multitude of actors are leading to a growing confusion about which institutions in deed are responsible for the integration of migrants in Spain (see Zapata-Barrero 2003: 71-75; Zapata-Barrero, Adamuz and Martínez Luna 2002: 83, 88-89). This leads to the assumption that the Spanish provinces are the most important political entities regarding immigrants' inclusion, and civil state actors as well as authorities on this administrative level are the regulators of immigrants' inclusion.

Due to the mentioned juridical and bureaucratic practices of decentralisation and burden sharing (see also Agrela Romero and Dietz 2004 and Faraco, Amrute and Pfohman 2004), as well as the unbridled controlling economic dynamics of labour markets, the study focused on the province of Almería as a sub-national political entity and the specific situation in local agriculture. Confronted with a huge number of legal and illegal migrants, the local administration's capacity to act, to provide social benefits for economically welcomed migrants, is put to a key test. Since the year 2000 the issues of social inclusion have locally become even more sensitive and complicated than anywhere else in Spain. After the riots against Moroccan immigrants in the town of El Ejido, committed by several thousand Spaniards, following the murder of two farmers and a young woman by Moroccans, the whole province of Almería became a symbol for growing social conflicts and xenophobic tendencies within the Spanish receiving society (see for example Martínez Veiga 2001, Checa 2003 and Europäisches Bürgerforum 2000).

In the following empirical study, firstly, it was intended to analyse the social inclusion¹⁰³ of Moroccan agricultural workers within the local context: To what extent are they members and included - in the understanding of having access to a certain range of social benefits - in different spheres of local society? While in a juridical and political perspective, immigrants are entitled to certain social benefits, like education or health care, this argument is based on the assumption that entitlements are translated into practice by various local actors, both of political authorities and civil society, in a locally specific bargaining process¹⁰⁴. While describing the currently existing local pattern of inclusion, the local mechanisms of inclusion will be analysed by discussing the role, significance and the strategic behaviour of various actors who are involved in the local bargaining concerning immigrants' inclusion: Which kind of inclusion mechanisms are utilised in the local context?¹⁰⁵ How do local actors contribute to increasing (or minimising) Moroccan migrants' inclusion?

Inclusion locally evaluated

Agricultural labour – the gate to economic inclusion

Certainly the most important sphere of immigrants' inclusion within the local receiving society, it is the greenhouse agriculture and the existing working conditions within this locally important economic sector which have to be analysed. In general, working conditions for both illegal as well as legal immigrants are harsh in agriculture: NGOs like Mujeres Progresistas and Acoge are describing the current employment practices as *“modern forms of slavery and exploitation in its extreme form.”* In addition to very low salaries, most immigrant workers suffer from high temperatures, herbicide and pesticide exposure, and resulting health problems. Claiming higher wages or better working conditions mostly results in losing one's job as a large number of other migrants is locally present and willing to work and to accept the conditions, however unsafe.

The Spanish quota system for migrant workers (known as the “contingentes”) is currently only applied in some exceptional cases. Local farmers prefer hiring workers in the traditional (informal) way, which allows them to pay low salaries and avoid taxes and social

¹⁰³ The term “inclusion” (exclusion as the opposite) is hereby seen as a status constituted by the access (lack of access) of migrants to certain spheres and benefits (see also Kronauer 2002: 45–46) of the receiving society.

¹⁰⁴ Inclusion (exclusion) in this sense is regarded as the extension (limitation) of migrants' access to certain spheres and benefits.

¹⁰⁵ To get access and understanding of the locally existing situation literature, statistics and media information (Ideal Almería and La Voz de Almería) have been analysed. In the following, various expert-interviews with local (place-based) actors have been conducted between autumn 2003 and spring 2004. The author would like to thank all interview partners, including representatives of the following organisations: ATIME and Al-Itihad (Associations of Moroccan immigrants); Acoge, APDHA and Mujeres Progresistas (immigrant support groups); Cáritas and Cruz Roja (humanitarian organisations); CCOO, SOC and UGT (trade unions); Unidad de Inmigración (Provincia de Almería), Oficina Municipal de Inmigración (Roquetas de Mar) and Servicios Sociales (Vicar) (local authorities); Partido Popular (PP) (Political party); UPA, COAG and Coexphal (agricultural associations).

security contributions. In 2003, only one thousand migrant workers were granted a visa to work in the agricultural sector of Almería (see Ministerio de Trabajo y Asuntos Sociales) - comparing this number with the above mentioned estimation of up to 30,000 migrant agricultural workers, and it becomes evident that informal recruitment practices are much more important than the contingent system. Authorities of the central and regional state, Police, Guardia Civil and tax inspectors, turn a blind eye towards local employment practices and conditions. Within this framework of missing and failed controls, exploitation of immigrants and their inclusion in an extreme form of marginalisation is locally guaranteed.

As the foundation of local wealth and nearly every form of local development made in the last four decades within the province of Almería is linked directly to greenhouse agriculture, policies of protectionism are common. Farmers' associations generally do not feel any responsibility for the improvement of employment conditions, stating repeatedly that they give some bread to poor people working for them and cannot give more, employment activities are similar to those the families of today's proprietors had to endure before, in the time when they had been agricultural workers on their own (interview with UPA and Coexphal). As agriculture is immersed in a crisis of shrinking benefits and increasing international competition (see Ruíz Sánchez 1998: 183 and Oliver 2003: 39), both political parties as well as local administrations are interested in protecting their clientele in the most important local sector of capital accumulation and their biggest section of the electorate. Claims to better employment conditions for employees seem inappropriate and dangerous within this crisis of local agriculture – in contrast, it is even more important to produce more and to reduce local salaries (see Checa 2003: 142-144). Interest in employing illegal migrants therefore principally, rises, although central state authorities try to stop the illegal entry and residence of migrants. Representatives of local political parties, in general, show no interest in the integration of immigrants. Public and political discourse on this issue is either avoided or focuses exclusively on other topics like the criminal activities of immigrants or the claim to control Spanish borders more efficiently. The fact that the locally-created demand for migrants is the most important factor to explain the presence of immigrants is cut out from local political as well as media discourse. In contrast, farmers' associations (UPA, COAG) see themselves as "flooded" with too many immigrants demanding work. Quite naturally, in their view, thereby local salaries are minimising.

Against the strategic alliance, formed by the economical interest of farmers representing an important share of the local population, supported by political parties and local authorities, trade unions as well as organisations struggling for the rights of immigrants so far cannot exercise any bargaining power. Although trade unions and employers locally

have agreed on minimum salaries – the lowest ones of all Spanish provinces – this agreement is not transferred into practice. So far, local agriculture has been able to avoid the infiltration of trade unions: Immigrants engaging themselves in trade unions' activities are often excluded from any form of agricultural employment. Due to the formulations of the Spanish foreigners' law it is even forbidden for illegal immigrants to engage in or to affiliate with trade unions or to strike. As half of the local agricultural work force is constituted of immigrants in an illegal status, they are included in employment activities as lawless and extremely marginalised persons. Local humanitarian activists engaging themselves on behalf of immigrants have been repeatedly brand-marked (disgraced?) in public, like in the case of the representative of Mujeres Progresistas who had pamphlets set up in El Ejido claiming that she “*play(s) with the bread of local farmers*”.

The right to adequate housing

Living mostly in an unstable juridical residence status, suffering from harsh working conditions, agricultural workers see themselves confronted with the lack of adequate housing. Although employed continuously in agriculture, so far no attempts have been made to provide accommodation by local farmers, due to the fact that from a juridical point they are not forced to do this when their immigrant workers are not contracted via the quota-system (contingentes). While farmers thereby avoid further labour costs, local administration feels no responsibility to construct houses for immigrants and emphasizes that “*this is the task of their employers*” (Unidad de Inmigración). Especially when regarding the claims for adequate housing made by immigrants, their organisations and support groups, until today the construct of seasonal workers who work and stay only temporarily within the locality is reconstructed continuously: Why provide housing when they will leave soon? - This is the normal reaction and only answer when talking to both farmers as well as local administrations' representatives.

In addition, immigrant groups, some NGOs and trade unions also avoid discussing the construction of homes especially for agricultural labourers. In their views, this could lead to “*bonded labour in the most extreme form*” (Atime): immigrants reduced to pure labourers who have to work for their housing and would earn even less money than before and could be abandoned, left without home, when asking for too much. Political parties and local administrations also avoid putting housing projects for immigrants on their agenda. The fear of ghettos is widespread – this although extreme segregation already exists (see Checa 2003). Most immigrants have either to construct their own huts out of plastic along the streets, next to the greenhouses or to pay exorbitant rents for accommodation. In most cases they have to

share their space with other immigrants to be able to pay rents – for local residents consequently they seem to be “*people working like slaves, living like animals – people you don’t like to look at and just cut out of your daily perception*” (own interview). Social distance between receiving society and immigrants therefore grows. Especially Moroccan immigrants are confronted with xenophobia and do possess even more limitations of access to the housing market, following the incidents of El Ejido (Cruz Roja).

As no attempts have been made by local administration, the government of the autonomous region of Andalusia as well showed only little engagement, humanitarian organisations like the local Red Cross (Cruz Roja) failed in providing accommodation for agricultural workers. The plan of Cruz Roja to establish homes, meeting centres and other facilities for immigrants has not been possible due to intense public pressure, the local residents’ fear of the creation of ghettos in their neighbourhood, and the agitation of political parties, certain administration officials and individuals. In the view of the conservative party Partido Popular, any housing projects would lead to an increased inflow of illegal migrants, further worsening the existing conflict. This opinion is shared by all other actors excluding humanitarian and immigrant groups. In conclusion, immigrants face a coalition of local actors who, for distinct reasons, show little or no engagement in their lives. Like state control failures regarding illegal immigration and illegal employment practices, regional and local administrations as well as employers are responsible for the severe housing conditions of immigrants. Negatively, there is also nearly no general public debate on these issues or pressure exercised by local civil society. Immigrants’ inclusion in the local housing market thereby is similar to the situation within the agricultural employment sector.

Realisation of civil rights and political mobilisation

Extensive limitations both for legal as well as illegal migrants are provided by the Spanish foreigners’ law within the sphere of political and civil rights (see Table 1). Eligibility and suffrage is only possible for third country nationals who have been naturalised, which is quite an exceptional case within the province of Almería as a prerequisite in most cases is a recorded continuous legal residence status of five years. Migrants without valid documentation are denied all kind of rights to initiate and to participate in public gatherings as well as in demonstrations. In contrast to legal migrants they also do not possess any right to form associations or to affiliate in other interest groups. Consequently, immigrants’ abilities to usurp the power of employers and to participate in the local bargaining process are extremely limited. For most immigrants “*surviving, that means earning money and avoiding police control, counts*” (SOC). In the view of the pro-human rights movement Apdha,

generally immigrants do not involve themselves in political activities for fear of angering the local population and outbreaks like had happened in El Ejido (2000). Repeatedly, riots against Moroccans are noted, but mostly not discussed in local media and political discourse. Moroccans are generally seen as creating social conflict, while xenophobic tendencies of local receiving society are played down to a wide extent, though most local residents are aware of the fact that they have been brand-marked nationally and internationally since the year 2000. Since then local farmers have intended to replace Moroccan workers by inviting Latin American and Eastern European labourers to work in local agriculture. Farmers hereby play a game by declaring these new workers as “*the good ones*” while stigmatizing Moroccans as “*the bad ones*” or by making use of the more stigmatized Moroccans by employing them as foremen for other immigrant workers and therefore extending the gap of intolerance and creating resentment against Moroccans among other immigrant groups.

Due to the juridical regulations, the possibilities of mobilisation are extremely limited for Moroccans, especially in the case of illegal migrants. Despite this, in some cases Moroccans are initiating the first steps of mobilisation: Trade unions like SOC, UGT and CCOO emphasise the significance of certain Moroccan individuals intending to inform other workers about their rights and possibilities to mobilise. Due to a game of local farmers who play with different immigrant groups by favouring some while punishing others, so far only minor successes have been noted. Moroccans, as members of the most established immigrant group within the province of Almería, are becoming more likely to denunciate illegal employment practices- thereby, they “*attract more anger and hate as (than) others*” (Cruz Roja). So far, in the local context no social movement to support immigrants’ inclusion exists: the engagement for immigrants’ rights is limited to small circles of activists and their organisations, which lack the general support of the public.

While Moroccans are excluded from political parties and in the majority of cases also from trade unions and groups of the local receiving society like neighbourhood associations, some individuals are engaging themselves in local humanitarian organisations. Seen from this perspective, they have included themselves effectively in structures of the local receiving society, although this inclusion remains limited to some very specific groups. Some of these Moroccan activists intend to establish associations of Moroccan agricultural workers. So far, despite the high number of Moroccans living in the province of Almería, only few Moroccan organisations do exist whose engagement is directed towards the receiving society and claiming better living and working conditions. Most other Moroccan groups so far remain limited in the scope of activities and concentrate mainly on the construction of mosques.

The only pressure group organising strikes of agricultural workers is constituted of the small union of agricultural workers (SOC). In contrast to the bigger trade unions (UGT, CCOO) SOC is formed nearly exclusively of immigrants. As the established unions of the receiving country only possess limited bargaining power and show no interest in organising strikes, (not to mention the fact that their clientele is mainly formed by Spaniards), SOC, represents for most farmers a kind of trouble-making movement, and is cut off from public funding. For local immigrants' associations, like Atime and Al-Ittihad, the main source for funding is the central and regional state. In general, local administration shows no interest in any humanitarian organisation and immigrant support groups. The common interest of the native resident population in keeping the status quo and protecting agriculture, so far, is blocking all attempts to improve the situation of migrants. Support remains limited to some grass-root initiatives. In the view of Apdha and other local organisations, it is also due to the great variety within the group of Moroccans (ethnic aspects, religious practices, values and regions of origin) that, so far, all attempts to form a significant pressure group have failed. One additional factor to explain the lack of engagement of most immigrants consists in the belief, shared by most immigrants, that they are only temporarily living within the local society of Almería, and will leave this area as soon as possible when they have been legalised or have found a better employment opportunity.

The right to health care and social assistance

According to the foreigners' law, legal migrants and minors without consideration of their legal status can be regarded as nearly equal to Spanish citizens in their access to health care, education and welfare contributions, while in the national context important limitations to the mentioned benefits exist for illegal migrants, though within the Autonomous Region of Andalusia they possess unlimited access to health care. Since the introduction of the Andalusian health card (*tarjeta sanitaria*, see Junta de Andalucía 2003: 4), humanitarian organisations like the Red Cross shifted their activities towards social welfare, education and emergency assistance. With regard to health care, immigrants' inclusion is regardless of their juridical status as equal to Spanish citizens. Thanks to the engagement of the regional level, immigrants' health is not dependant on the goodwill of local farmers, and health care centres are financed directly by the regional government thereby by-passing local administration. Unfortunately for the immigrants, this practice is not applied in regards to housing projects in the local context. Although there had been repeated attempts by the regional government, an improvement of housing conditions for immigrants failed due to the lack of cooperation of local administrations to grant construction land.

In comparison to health care, education and social welfare are simultaneously provided by local non-state actors and local administrations. Immigrant minors are able to get education regardless their juridical status in all public schools, access for them is also provided without limitations to kinder gardens and any other public education facilities until they are 18 years old. Financed by the central state, via GRECO and other programmes, and the regional and local administration, some possibilities for education are also open even for illegal immigrants. Concerning illegal immigrants, funding is extremely limited: most humanitarian organisations have reached the limits and can only assist a small share of the local immigrant population. With regard to social welfare, the involvement of non-state actors makes it possible for immigrants to get some assistance, although they originally do not belong to the traditional Spanish welfare system, founded basically on catholic church's involvement as well as familiar mutual assistance. Benefits for immigrants are mainly limited due to overall lacking financial resources and transfers, regardless if they are provided by the central state or regional government. Local agriculture, so far, has blocked every attempt to be included in the provision of welfare and other transfers to immigrants. Generally welfare, health care and education are seen by farmers as being an exclusive responsibility of central state, regional and local administrations.

Almería - mirror and social laboratory

By revealing the inclusion of Moroccan immigrants within the province of Almería it became clear that in the case of Spain, due to decentralisation and burden sharing practices, the locally existing circumstances are of high importance. The province of Almería owes much of today's wealth and development to greenhouse agriculture, depending heavily on cheap and flexible foreign labourers. The locally existing employment practices, highly informal and flexible, as well as the strategic alliance between farmers, civil society, political parties and local administrations protecting agriculture as the foundation of local wealth and development constitute a locally specific setting for inclusion.

Due to the involvement of a majority of local residents in greenhouse agriculture and the existing informal employment practices, the presence of illegal migrants, as well as their exploitation is highly tolerated. Thanks to the involvement of other actors, like the regional administration of Andalusia and locally based non-governmental actors (in some part supported financially by the central and regional state), immigrants possess at least some access to important basic resources like health care, substantial welfare benefits and education. Regarding immigrants' accommodation and their inclusion as neighbours into the local receiving society, migrants are facing severe problems that cannot be solved without the

engagement of the most important local key player: the agricultural sector. Unfortunately, local farmers in most cases feel an extremely limited social responsibility towards their workforce. So far, all measures for immigrants' inclusion are regarded by the local economy as the exclusive responsibilities of state, regional and local administration. In principle, farmers are interested in keeping the status quo: firstly, to have a workforce constituted mostly of illegal migrants that is willing to work under poor conditions and is rather helpless due to their exclusion from local membership, and secondly a low engagement of local civil society in support of immigrants.

Due to the historical evolution of greenhouse agriculture, until today a local agreement between political parties, farmers and administration representatives exists "*not to touch*" agriculture and to avoid troubles: for local incomes and taxes generated by agriculture are great. Given this local agreement, nearly no possibilities exist for non-state actors or public actors of the regional and national level to intervene and alter the currently existing situation. So far, immigrants' inclusion regarding agricultural workers is constituted to a wide extent of pure grass-root initiatives based on humanitarian ideals. Generally these initiatives lack the public support of local civil society. This although the majority of the local population is quite conscious of the employment and housing conditions of immigrants - public pressure on local authorities is low.

With regard to the local administrations' action plan for immigration (Primer Plan Provincial de Inmigración 2000-2003; Diputación Provincial 2000) that emphasises the need to establish a co-operation of local actors in the field of immigrants' integration, it has to be said that this intended co-operation has not been achieved so far. Most NGOs and immigrant groups have left the negotiating table because no real agreement on improving the situation of immigrants was possible due to effective policy blockage, applied by agricultural organisations, political parties as well as local authorities. Resulting from this, all attempts of the Andalusian government to mitigate immigrants' marginalisation and stop their exploitation within the province of Almería have failed.

In 2000, the incidents of El Ejido were able to fundamentally change the Spanish context of immigration: using the images of El Ejido and stimulating public fear, the conservative party Partido Popular was able to win national elections. Consecutively, one of the first laws reformed and enforced by the new government was the foreigners' bill. Since then, immigration policy is regarded as being an important pillar for national security. Repeatedly the debate on illegal migration led to severe diplomatic disturbances between Morocco and Spain. The terrorist attacks of March 9 (2004, Madrid) led to further tensions between natives and Moroccan and other Muslim immigrant communities in Spain. In

summary, immigration and integration in Spain remain linked to the illusion that increased border controls are the panacea to stop illegal migratory processes. The conservative government of Partido Popular until 2004 avoided to face growing realities for a long time: the only reaction towards a continuously growing number of illegal migrants (at the end of 2003 their number was estimated up to one million; see ABC) was – according to the general pattern in most European states – to put even more emphasis on border controls. Legalisation campaigns were repeatedly denied with the argumentation that this step would even increase the attraction of Spain as a destination for illegal migrants. In contrary to all statements made by the conservative party, as well as its successor, the Socialist Government under Zapatero (formed in 2004), the huge Spanish informal economy - the most important employer of illegal migrants and most important pull-factor - remained untouched.

Despite the promises of the new socialist government (formed by PSOE in 2004) to bring a fundamental change for illegal migrants and to guarantee them an existence in Spain under conditions of legality, most NGOs (ACOGES, APDHA etc.) supporting the inclusion of migrants into Spanish society heavily criticised the legalisation campaign that was conducted in the spring of 2005. Although PSOE intended to legalise all illegal migrants, only a limited share of illegal migrants has actually been able to legalise themselves – some of the legalised migrants could in the mid-term future lose their status again as the precondition for legalisation remained the existence of a written employment contract - a document that most agricultural workers in Almería are unlikely to deliver. In addition, they had to deliver a proof that they had been inscribed in the local municipal register – although this registration officially was not permitted any more following the reform of the foreigners' bill in 2000 and a huge portion of illegal migrants therefore certainly avoided registration. However, it is important to emphasise that even those migrants who will become legalised will not possess a permanent working or residence permit! The new legislation – as in former campaigns – provides migrants only with a temporarily validation that remains to be bound to the existence of a contract. If legalised migrants lose their employment or if the contract ends and they are not able to find a new employment with contract they again will fall back into an illegal status.

It is often said in debates among members of the public as well as between politicians and other decision-makers that the province of Almería is one of the “*most conflictive and most problematic areas*” of insertion and contact between native citizens and immigrant workers in Spain¹⁰⁶. Unfortunately, this often seems then to serve as an excuse for outside

¹⁰⁶ Empirical evidences from local field research and through text-analyses of local, regional and national newspapers as well as scientific literature on Almería.

(not locally place-based) actors not to intervene in this area. The province of Almería is somehow portrayed as locally unique in the sense that the outside world never will be able to understand what happens/happened here (the big transformation of this impoverished area into a competitive and rich region, the suffering the native population once had to accept), so that any intervention from the outside is likely not to work as the native-insiders do not accept any interference into their “*daily struggle for survival*” (high level of competition on the European and global agricultural market). Often immigrants are blamed for any locally existing problem – the argument put forward is often that Almería suffers from its geographical position as a border region and staging ground for immigrants and that this region cannot cope with these high numbers of stranded people, storming this “helpless province” and thus creating social tensions. On the other side, however, the attractiveness and pull-effect of Almería’s informal economy and the locally created benefits are somehow forgotten in this debate. This Spanish region is therefore often construed as an “exceptionally different case” – a place that cannot be changed like other regions. This of course supports the further growth and existence of unbridled exploitation and xenophobia. Unfortunately, so far, no significant change of perspective has taken place: Almería might be a/the “worst-case scenario” in Spain, but little has been done to help and to de-stigmatize this area and bring this social laboratory, consisting of certain mechanisms of informal market insertion of migrants, high levels of exploitation but also high opportunities for clandestine residence of migrants, to a socially sustainable solution.

Local and European realities

The province of Almería clearly illustrates Europe’s current migration dilemma: While European and national policy makers struggle hard to create more legal channels for highly skilled migrants (for example through the new “Hague Programme” for economic migration, currently promoted by the European Commission), economies on the local level, especially former traditional agricultural economies and their labour markets, generate economic benefits by employing and exploiting unqualified Third country nationals. While the focus of policy-makers lies on better ways to attract and recruit high-skilled migrants – seen as generators for economic growth and as a “good” Europe should attract in order to show that it is competitive with other world regions in the global economy – the existence and necessity of labour markets to employ low skilled migrants in “traditional” sectors like agriculture but also in basis services is somehow avoided. Often this is explained by the fact that policy-makers avoid this more important section of migrant workforce in order to avoid public backlashes as,

against the background of high unemployment in most European countries, policies to attract low skilled migrants would mean an “affront” to the native electorate.

Almería stands only as one example (in addition to many other areas in Spain, Italy, Greece or Portugal) of the failure to implement an immigration policy, harmonized with Schengen and EU standards, on the national (central government) level that is rather the outcome of policy pressures imposed by other EU Member States and the necessity to become conform with the Schengen and EU-acquis than this migration policy actually recognizes the individual, nationally existing immigration reality in the country concerned, its specifics and dynamics on the actual local and regional level. Southern European border regions like Almería share the fact that local labour markets never have been regulated like labour markets in the Northern or Western European industrial societies. Consequently, the possibilities of the central government level and the overall European policy level to intervene are extremely limited. The only solution for the local problem would consist of intensified interventions by the central state to control and stop illegal employment of immigrants by transferring more financial and personal resources to the province of Almería as one of the most important entry-points for illegal migrants. The side-effect of such measures, however, would consist of an extremely decreased competitiveness of local agriculture in the European and world market, a likely increase in local unemployment rates as a result of stricter labour market controls that would also affect the native workforce and a further intensification of xenophobic discourses against immigrants.

On the other side, border regions like Almería (in Southern Europe but also in the new Eastern European member states) suffer from the fact that these regions are often left alone with the side effects of European migration policies. Border regions traditionally are seen as spaces where the national government demonstrates its independence and demarcates its territory. As a consequence, border regions are used as spaces to demonstrate to certain categories of cross-border movers that they are either welcome in the country or – in the other case – are not welcome. Almería like other European border regions thereby clearly illustrates the perversion of current European realities: locally, both categories of migrants are economically – and in the end also socially – included in certain niches of the local society, economic benefits are created (low prices of products for European consumers, income and stability for local natives, taxes for the state) despite the fact that borders have been ignored. Although politicians in general emphasize that these local labour market niches should become regulated and controlled, however, to date very little (if any) progress has been made in Spain or elsewhere to change “traditional” informal (with regard to migrants thereby semi-legal or illegal) employment practices that on the one side offer opportunities for immigrants

to “get in” but on the other side often simultaneously lead immigrants to “get trapped” in exploitive labour market and tense intra-society relations.

As EU-Europe gets bigger and bigger, and the border lines are expanding and border regions are “moving” to the territory of mostly poor new Member states that are struggling on their own, more emphasis should be paid to border regions at the European level: this emphasis should not consist exclusively of measures to combat illegal cross-border movements in these border regions but also in strategies to effectively govern local labour market patterns and social dynamics in these areas. Border regions like Almería on one side have to serve as spaces where illegitimate cross-border movements have to be avoided but these regions are also in need of more support from the national and European level to manage their individual local immigration realities actively “on the ground”: more support to strengthen and create social society structures and institutions is needed. Effective measures toward illegal immigration would consist of more effective controls of local labour markets and the fight against a local tolerance of illegal exploitation patterns – on the other side, NGOs and migrants should be enabled to exercise their political, social and economic rights and supported in finding effective ways to include migrants and create socially sustainable and tolerant neighbourhoods. To construct an unwelcoming “*cordon-sanitaire*” on European grounds by tolerating xenophobic attitudes and exclusion mechanisms in the end is likely to create more negative side-effects for receiving societies than it is helping to defend borders that never will be absolutely tight and secure.

Table 1 Share of rights for migrants in Spain, according to status of residence

legal residence status	illegal residence status
(limited) freedom of movement (art. 38)	no right to enter, remain and work in Spain (art. 38)
(limited) equality in employment (art. 10 and 32)	no affiliation in trade unions, no right to strike (art. 11)
Unlimited access to health and educational services equal to citizens (art. 12)	medical emergency treatment (art. 12) unlimited access to the educational and health service for minors (art. 9 and 12)
Access to social services and welfare benefits (art. 14)	only limited access to social services and welfare benefits (art. 14)
limited possibilities to perform political rights (e.g. art. 7 and 8)	no rights to organise and to participate in public gatherings and manifestations; no rights to affiliate in interest groups and to form associations (e.g. art. 7 and 7)

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REPRESSIVE FUNCTIONS OF SOCIAL NETWORKS IN MIGRATORY PROCESS: CASE OF MOLDOVAN MIGRANTS IN ISTANBUL

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In this study, I aim at the repressive and suppressive functions of migrant networks on the single migrants. Here I exemplified these functions within the networks of Moldovan In-House Services Workers working temporarily in Istanbul, Turkey. The literature widely focused on the beneficial functions of the migrant networks from the point of rational individual. It is strongly highlighted that there would be different impacts of networks on different migrants at different stage of migratory process. In its simplistic overview however, networks are taken as granted as essential assets in one's decision towards migration. Furthermore, it has widely been assumed that each of the networks has independent functions in accordance to its internalized patterns and dynamics and those are positive and rational from the point of migrants. However, It is rarely highlighted the repressive functions of networks. These are concretized at the latest-developed stage of migratory process. I will analyze the repressive functions in details by developing multi-level network approach.

Keywords: Migration, Network, Repressive Functions, Moldovan Women

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Introduction

As it is widely argued, the migration over all is a social phenomenon triggered mostly by solely economic incentives and follow up these incentives incessantly (Massey and Espinosa 1997). If we may conclude that the economic relations are the set of social organization of production process (Marx 1990), then the migration should be defined as a social process as well in every respect. If we agree on the fact that the process is social, we are inevitably required to develop a societal approach. This is also important from the state policy points of view that need prevention of the further unwanted flows in the case of Romania. The lack of societal approach towards the flows of people in any destination is the primary reason beyond the failure of the state migration policies.

In order to prevent unwanted migration, state agencies have mostly utilized the network approach in explaining migratory process. This frequent usage is of course not coincidental. The reason behind the common application of the network approach is clearly related with its power in analyzing the social relations within the migratory process. However, we have witnessed that the social relations at the beginning of the process developed by the migrants themselves may reshape the migratory process later on at the developed stage. From this statement, we may conclude that by solely focusing on the hitherto network approach we

always look for the social framework in which the process is developed in favour of migrant members. The contribution of the network approach to the explanation of migration is undoubtedly self-evident.

The point I would like to focus here is not the essentials of network approach but rather the functional aspects of networks. Here I focus on the functions within the network of networks rather than the functions in a taken granted single framework where each network functions in its own dynamics in isolation from other networks.

My argument is simple: First of all, networks are indubitably correlated with each other albeit the temporal and spatial differences. Second, the functions of networks might be critically different at each developmental stage of migratory process i.e., beginning, intermediary, and developed stages¹⁰⁷. The point here is that the networked relations after certain level of institutionalization may act as repressive factors rather than supportive factors. The repressive functional aspect is not limited only to trafficking women into sex business as it was commonly argued in literature and in the United Nations' policies. Especially in an example of Moldovan In-House Services Workers (IHSWs) in Turkey, network of networks as a system expands its repressive and suppressive functions on Moldovan women migration.

This is not the point considered sufficiently so far in arguments over networked social relations. We rarely highlighted the repressive functions of networks while emphases have always been on the beneficial functions from the point of *rational individual*¹⁰⁸. We do not mention any repressive and suppressive aspects of network functions in migration except in trafficking women. In its simplistic overview, networks are taken as granted as essential assets in one's decision towards migration. Furthermore, it has widely been assumed that each of the networks has independent functions in accordance to its internalized patterns and dynamics and those are positive from the point of migrants.

What I raise here is all about the coercive aspects of networks on migrants is that networks have also some requirements from single migrants while meeting with their needs. These aspects, I called repressive functions, are concretized at the latest-developed stage of migratory process. Before going into details, it is a pre-requisite to draw an introductory general framework over the migratory process and the well-known functions of networks in order to exemplify the repressive functions in different stages.

Since the presence of repressive functions of networks at the latest stages of the migratory process do not force us to disregard the hitherto functions of networks at the

¹⁰⁷ Here, the level of development in migration is materialized in its institutionalization level of network relations i.e. transportation, housing, services for visa and customs and so on at each stage.

¹⁰⁸ We do not consider possible irrational frameworks as well albeit most of the migration from Moldova to Turkey takes place in irrational incentives.

beginning of the same process, I would like to demonstrate these functions as I analyze the Moldovan migration from right at the beginning to the end. In the last part, I attempt to demonstrate the patterns and dynamics of repressive functions of networks.

1 Moldovan Migration in the Region: New Trend

We have witnessed massive flows of people, especially women from ex Soviet countries in general and from Moldova in specific case to neighbourhood countries during the early 90s. As European Union presumed that these flows would be towards EU countries, the parliament on behalf of European polity has not only applied very strict closed-door policies but also forced the possible EU candidate members or members to implement the very same strict policies in order to control the migration (Baldwin-Edwards and Arango 1999; Baldwin-Edwards and Schain 1994). Romania is one of these candidate member countries. We may speak of success of the members and candidate member countries for the application of the border-controls and restrictive entry policies. After closing the doors at members' borders, those migrants who cannot enter UE countries have headed towards neighbourhood countries. Furthermore, especially with the increasingly globalized economic and cultural relations, Istanbul became the major port not only for the demand but also for the distribution of the trafficked women migrants to neighbourhood countries and cities.

The largest part of these groups of migrants has come to Turkey in relation to the suitcase trade and they involved in informal commodity trade until the year 2000. Migration flows to Turkey has of course neither begun nor limited with the suitcase trade. Flows are intermingled with sex business in the form of trafficking women and later on with domestic sector as well. There have been the times even migrants have no idea what they initially wanted to do. In many cases, those came for suitcase trade begun working in sex business in order to accumulate the limited capital or those came to earn more and more money in sex business (Yükseker 2003) have to cover themselves in domestic sectors.

Moldovan women previously attaching to the Ukrainian migration networks for migrating to Turkey have gradually established their own transportation paths and then their network. It means direct transportation to the destination, thus the migration is possible for many migrants in terms of various costs. The initial flows have always been organized by individual efforts mainly done by friendship and later by family and community networks. Individualized efforts have been later on transferred into monetary benefits so needless to say that the institutionalization of networks turned out to be only inevitable choice for all kind of the migration at the end. In other words, migration as a process helped in developing network relations, and the networked relations in turn manage the migrants.

During the developing stage, functions of networks were always in line with the benefits of rational individual migrants. In other words, networks have been designed as tools to provide services to ease the process for single migrants.

2 Defending Networks: Understanding the Networks

As we evaluate the Moldovan migrant networks, especially during the institutionalization process, we have seen that almost all networked social relations have acted as catalyst in order to get closer the origin with destination in terms of conditions and possibilities. In other words, immigrants, former migrants and non-migrants are always networked by the surrounding sets of interpersonal associations based on the ties of kinship, friendship, gender and shared community origin (Boyd 1989; Brown and Mitchell 1988; Choldin 1973; Davis and Winters 2001; Faist and Ozveren 2004; Held et al. 1999; Hugo 1981; Kyle 2000; Miller Matthei and Smith 1996; Sassen 1995).

It is also not surprising that the network relations at initial stage of migratory process are all about the personal or communal relations based on the shared culture, ethnicity, or social values. These cultural, ethnic and social commonalities inevitably require a model of organization of social relations contingent upon a social capital (Faist 2000). Organized social relations in this model are always ready to help the members. Therefore, at this stage of networks' development, the presence and formation of social capital does not require complicated social relations since the monetary expectation is explicitly out of question.

Thus, it is almost impossible to reject the benefits of the networked social relations from the points of rational individual potential migrants. First of all, these networked correlations increase the likelihood of international movement of an individual, mainly members since they compose of a reciprocity and trust (Faist 2000). Migrants either in a community or in a small group of friends or family have always required a social support. In order to get support from other members, single individuals have to act in line with the assumed solidarity among the group. Thus, solidarity creates a trust and then trust, in turn, triggers the accumulation in solidarity. At the latest stages of networks in Moldovan case, we witnessed well-networked social relations based on the solidarity and reciprocity¹⁰⁹. These sort of social relations have provided the continual framework where it lowers the costs and risks of movement and increase the expected net returns to immigration (Boyd 1989; Davis and Winters 2001; Massey et al. 1998; Portes 1995; Sassen 1995; Tilly 1990). The support

¹⁰⁹ However, we are not always assuming that the solidarity is and would be playing decisive roles among the group or networked social relations at all level of network development. We also figured out the functions of un-solidarity at the latest stage of migration when the numbers of migrants became excessive, and the expected net returns are decreased.

form the community has necessarily established strong social relations between non-migrants at origin and migrants at destination as long as the expected return to the household has been relevant as primary asset. Therefore, in many instances, these relations have been responsible in an increase of numbers albeit the regulation efforts of the unwanted migration in any given destination by local authorities.

For mainly this reason, many scholarly works focused on nature of the migration processes and on the systems and networks of inter-linkages between the origin and destination countries. Especially after 1980s, these linkages became the *prima foci* of all scholarly works. The scholars initially has questioned why does migration as a process develop and change over time, and why do they develop between particular countries and involve always certain migrants but not others? Scholars assumed some roles of networks on the migratory flow as taken granted. First of all, it is only possible to explain the continuation of a migration process from its initiation as long as we take the networked relations into account (Lim 1987: 421). Secondly, they argue that the *prima foci* of the migration may be shifted from economic to social and cultural motivations. At this point, the strength of networks is important and might be fed up by the cultural ties along with the socio-political environment in which the networks operate (Lim 1987). Thirdly, they highlighted the importance of the household unit as a primary unit to analyze rather than the individual migrant. *“The central role of the family in making available resources for migration and in engaging in migration according to their stage in the life cycle was noted”*. (Lim 1987: 421)

The Scholars highlighted the fact that once migration begun, it tends to expand over time nationally or internationally. The process became self-sustaining, reflecting the establishment of networks of information, assistance and obligations which develop between migrants in the host society and friends and relatives in the sending area (Boyd 1989: 442). Thus, Boyd argues that due to the links, movements are not necessarily limited in time and space.

Furthermore, the networks have been seen as a bridging component of migration between macro and micro approaches, *“meso”* level approach (Faist 2000). This *meso* level approach requires an understanding that the concept of network helping the researcher who invoked structural explanations for migration while measuring migration as the movement of individuals or groups of individuals (Boyd 1989). It is simply because networked social relations both transmit and shape the effects of social and economic structures on individuals, families, and households (Boyd 1989:641-642). This is the essential statement for my counter argument as I focus later on. The networks as a methodological tool *“permit understanding migration as social product – not as the sole result of individuals’ decisions made by*

individual actors, not as the sole result of economic or political parameters, but rather as an outcome of all these factor in interaction” (Boyd 1989:642).

This interrelationship between individuals and the structure highlights another aspect of migration process, namely cumulative causation. As I rephrase it *networking overtime*, it also highlights the inevitable accumulation of all kind of information in social and economic relations. Thus, the cumulative nature of the social relations within and between networks turned out to be a cause in the latest increment in the volume and the direction of migration. In Moldovan migration, right at the end of the developing stages, we witnessed that cumulative aspect of migratory process becomes structure itself (Castles and Miller 1993). As cumulative relationships were deeply developed, most of the families with a member or relative worked at least once previously in Turkey as domestic worker began planning to send their members to Turkey.

This well observed accumulation in social relations is also decisive in performing the duties of networks in terms of *informing and weighing the credibility of ideas* that is crucial contribution to one’s decision making towards migrating (Haddad and Lam 1994; Parrillo 1991; Pierce and Elisme 1997; Portes 1997). Here networks undoubtedly provide direct or indirect assistance to members of a community by providing information on job opportunities, housing, food, transportation, reducing the costs, enhancing the benefits and limiting the uncertainty of migration, thus increasing the net benefits of migrating (Boyd 1989). *“Time, effort, and resources invested in such networks are to be cashed in the form of help, advice, or financial assistance when needed”* (Wallace 1999). At this stage of networking, we see that the accumulation embedded in social relations is based on friendship or ethnicity regardless of monetary expectations beyond the reciprocity. Therefore, social capital at the early stage of networking has nothing to do with the monetary concerns (Faist 2000; Portes and Landolt 2000; Portes and Sensenbrenner 1993; Portes 1995).

In the developing stage, the composition of networks such as ethnicity and gender inevitably influences the organization of migratory flows and serves to the possible migrants at origin. The composition of Moldovan-Russian networks in Istanbul serves towards shaping the patterns of migration whether it is represented by a certain ethnicity and gender, whether migrants go to one city rather than another and whether they find employment in certain occupational niches i.e., translator and In-House Service worker for Ukrainian and Moldovan women, respectively (Faist 2000). Furthermore, ethnic and gender dimensions of networks might be self-reproducing since each network members call her friends or relatives (Waldinger 1994). The form of networks we mention in turn accentuates the concentration of migrants from a certain country or region in certain occupations. Additionally, recent studies

show that women migrants may depend more on female networks as well as their own kin networks, and that they are more likely to choose occupations where the network of female migrants has already established a niche (Davis and Winters 2001; Hondagneu-Sotelo 1994; Kossoudji and Ranney 1984). This is another essential in understanding the repressive functions of networks as the composition of networks moves towards further institutionalization. I will return the details later on.

Finally, various intermediaries also play a positive role in migratory process at the developing stages (Castles and Miller 1998). The demand for a specific type of work can be met through intermediary agents as an alternative means of recruiting labour over long distances¹¹⁰. Beside the agents, there might be a mediation based on *sibling* or *friendship* relations as well as direct contacts with the future employer (Eelens and Speckmann 1990). In other words, the direct principle intermediary might be the migrant who mediates the process through the local contacts for other possible migrants at origin looking for employment abroad. Most of the time, we found that employers might prefer to employ migrant(s) who has/have been recommended by someone whom they have employed previously. Likewise, employees might prefer to be employed by employers known by the pioneer migrant/s. This sort of personal intermediation plays a crucial role in order to avoid paying further fees to private commercial intermediary agents. Both *direct* and *indirect* intermediation aims at the employment of individuals in a particular activity at a particular place for a specified period of time by mutually and directly obtaining information (Prothero 1990). However, this mediation has also been causing a contradictory development in migratory process. It will be the subject of next title.

As the network relations reach their peaks for each type and institutionalize further, migratory process works independently from the so called rational individual due to the pressure of network of networks. Following part will focus on the repressive functions of Network of Networks.

3 Rethinking Networks: Understanding the Network of Networks

It is widely accepted that migration as a process is a sum of social relations. However, this is also intermingled process other than single isolated relations at different temporal and spatial frameworks. In other words, the networked relations in any migratory process are not limited among the certain people bounded with the limited social relations. For instances, commercial and institutional relations in a larger framework have been gradually developing over time in

¹¹⁰ Recruiting agencies for domestic service workers in Middle Eastern and Asian countries are an example to legal regulation of demand and supply (Arnold and Shah 1986).

addition to the social relations in single networks. Therefore, I suggest establishing a multi-level network approach in order to understand the totality of relationships within communalized, institutionalized and commercialized framework: the network of networks.

The reason I come up with the multi-level networking approach is the fact that the relationship among different networks that are established in different time and space is mutual and inclusive. This also reminds us the clandestine dynamics of the functions of networks within the multi-relational aspects. Therefore, here I see the networks as the social organizations based on kinship; commercial parts based on monetary benefits and institutional bodies based on the political interests at different time and space.

The substance of the argument here is that the various repressive functions of the network of networks might be at work to some extent in accordance to the networks' primary purposes. The networks as they are established in response to specific purposes during the migratory process might well be transformed into the mechanism that is coercing the migrants to behave into certain way. At the age of global era, migration networks work as part of the migration industry between supply and demand. Therefore, they turned out to be part of the process as influential agents.

Due to well organized networks of social relations and their commercial interests, migrants have faced with strictly predefined course throughout their migration process. At the certain level of migratory process, i.e., transportation, finding jobs, housing, and all other services, assumed to be eased by networks, the services have only been provided as a package in exchange of money. In other words, migrants, if they do want to migrate and work so, have to buy the services from the intermediaries as packed services. Therefore, bestowing these packed services to migrants in turn requires them to pay back their debts caused by the pre-migration services given by networks. These coercive exchange relations might be seen as identical with trafficking women for sex at first glance. However, resembling relations can be seen in domestic services as well. Here, women migrants have to sell their labour in exchange of the work in order to repay their debt paid them in advance.

I will exemplify the repressive functions under three major categories. One is the Demand-Side Networks (DSN) consisting of those formed in order to manipulate the demand in mostly favour of Gagauz women for domestic services in Turkey. The second is the Supply-Side Networks (SSN), very much initiated with the social relations at origin. These consist of private commercial networks and migrant traffickers. In addition to these, I found other leading Single Intermediaries (SI) manipulating the social relations as part of the set of networks. These intermediaries consist of single "*middle-woman*", doorkeepers in Istanbul, and individuals (sometimes includes ex-security officers) in Laleli Moldovan Labour Market

located in Istanbul. They also include friendship and family networks since they work as single intermediary. They employ flexible strategies and act as both supply and demand sides as they needed. In many examples they moderate the flows of migrants between the supply-side and demand-side networks.

Each of these might be seen as independent and isolated category in time and space at first glance since it is assumed that each has different functions to accomplish. However, as we approach the process in a holistic framework, we see the set of networks, the network of networks, in which each of these networks undertakes certain responsibilities of the process for the ultimate end that is the division of labour.

3.1 Demand Side Networks¹¹¹

Due to the increasing demand for Gagauz women for core IHSs, the DSNs have headed towards specific Gagauz women other than women from different nationalities (Unal 2004). Here, one of the significant repressive aspects of network is not to give any chance to other migrant women entering to the specific IHSs, or to Gagauz women doing other works neither in household nor in commercial environment. In many interviews, I found out that the Gagauz women had an opportunity to find out a job only in core domestic works i.e., heavy cleaning, child-care, patient and elderly care and so on albeit their will to work in some other works such as picking up, villa-care, and translator. The opportunities working in other works except the core-domestic and care services have likely been blocked out by DSNs. Gagauz women are introduced as rustic and unkempt thus a modern slave within the house and care business.

Like Gagauz women, we witnessed that the network barriers work against the employment of Azerbaijani, Bulgarian and Armenian women in IHSs as well. They except Armenians were implicitly allowed to work only in cooking and garden related jobs due to negative public images about them. The negative public perception is about the *distrust* to *deceitful* Azerbaijani domestic workers. For Bulgarian, we found that the most of the Bulgarian women are likely not able to work in any part of domestic works due to negative images as well. They are more likely employed in heavy construction- cleaning and core-cleaning at home. Certain historical perceptions of Armenian women in Turkish public sphere are transferred into ethnic discrimination within the house-related business. It is found that the most of the Armenian women in Turkey can find jobs especially in the Armenian households of Istanbul and they are excluded from the In-House Services Labour market. Last but not least, the similar but the worst prejudice is relevant for Uzbek women in Istanbul. The DSNs

¹¹¹ Demand Side Networks at Istanbul example are those networked relations collecting the demand and to some extent organizing the supply in order to respond the specific demand under the chapter of Social and Personal Counseling Agents.

have always spread out the gossip about Uzbek women as they was prostitute since the many of the DSNs have no contact with Uzbek women at all. If they can find a work as domestic worker, their work contracts always force them to work in a partnership form [In-House Partnership Services (IHPSs)¹¹²]. It is because that most of the DSNs have attempted to persuade the households on that Uzbek women were for sexual interactions other than the domestic work. Following this negative images, most of the Uzbek women have to work in IHPSs other than in other forms of domestic works.

According to the DSNs, there are certain people of nationality to do specific works in domestic sector. They witnessed and decided that the Ukrainian and Russian originated women have always looking for the works involving the love/sex. Therefore, the DSNs have always offered the work including sexual affairs to these women of nationalities. The DSNs believed that these women are happy only if they work in that kind of works and other women of nationalities cannot handle the partnership as much as these women can do. Thus, DSNs assign these women specifically for these kinds of work in order to “*get rid of failing*” in their business. Furthermore, in order to keep the profitable dominance at only house-related field, DSNs have always been offering Gagauz domestic workers and manipulating the demand towards working with themselves.

These sorts of efforts have been soon echoed in the public images about all ethnic group of domestic workers in relation to the work they were assigned. Furthermore, age and the physical appearance become other influential sources of this constructed images. This statement has been supported by the very specific notes taken by the DSNs during the interviews with domestic workers. These notes are helpful in directing the specific women towards specific works in relevance of the age and physical appearance. Once the demand asks for sexual affairs under the cover of domestic work, DSNs have strictly given direction to the women accordingly in an unwritten contract. Even the contract is written, it is clearly made without getting the migrant women worker’s opinion. Thus, the power of DSNs dictating the terms and conditions of work to migrants are highly visible and to some degree is inevitably causing the over work and performance. IHSWs have no chance to refuse this partial agreement at any time.

¹¹² IHPSs is a special field of in-house services including the light work such as tidying up, and dusting. The major parts of it are the partnership services such as going out, eating out and sharing the bedroom for sexual affairs. In these services, the woman turns to be lady of the house where is gives IHPSs and other services including heavy cleaning, laundering, and so on have been bought from other women.

3.2 Supply Side Networks (SSNs)

These obligations are transferred from the previous chain of migration industry so called Supply Side Networks (SSNs). In other words, the IHSWs have been brought by SSNs according to the DSNs' order and have been turned over as commodity to the DSNs. The demand side networks encourage the SSNs to obtain such workers through accumulating the demands. Supply and Demand side networks as two sides of the coin, set up the specific migrant female worker's arrivals to Istanbul for working at specific IHSs.

The SSNs simply define themselves that they are private agents helping the poor migrants to immigrate and find their first jobs. However, in immigration mechanism, these networks might also be repressive on the migrants in many cases. It is because that the supply networks are always in association with demand networks, meaning that the services for single migrants are set up in a single package.

Let's take one of the financing SSNs as an example. This kind reaches to the women at origin willing to work In Istanbul by way of press, advertisements or recommendations and finance migrants' visa, travel, customs and accommodation payments. Later on, this network indebts the migrants for certain amount of money including its own profits. As networks spend more money on behalf of migrants, in every step of the migration process, it is obvious that those migrants are indebted more and more to the SSNs.

Although the personal or friendship networks are likely less repressive for the single migrants, the single efforts gradually become dysfunctional due to the expected strategies of the households towards minimizing risks and maximizing total income. However, these SSNs are very much limited in their migratory patterns, especially in illegal cases such as residential and visa issues. It is seen that the individual efforts during the visa application and border-cross are getting both dangerous and inefficient. For instance, at the customs, SSNs' bribing on behalf of migrants provides minimum risky environment for both bribe taker and giver. This mechanism reduces the risk by preventing individual actions and their repetition. So, at this point the individual bribing does not work and is not encouraged. This does not mean that bribing mechanism does not work. On the contrary, it is further institutionalized in order to decreasing the risk factor. This reluctance also causes to increase the amount of bribe to be paid per person at single individual cases. With the institutionalization tendency, individual efforts encounter to obstruction and deceleration due to legal or illegal objections perpetually. Especially, just prior to migrants' return back to their country after long time illegal residency in Turkey, the dependency to SSNs is getting more and more obvious.

The institutionalization forces potential migrants to work with SSNs and therefore the SSNs along with DSNs become the only authorities on setting the work and regulation

environment for migrants at the time of arrival or departure. From the beginning of the immigration process, the migrants being got into debt cannot be independent since they owe the networks for arranging their arrivals and departure or the demand side networks for hiring them.

3.3 Single Intermediary Networks (SINs)

Another network where the repressive functions are seen based on ethnic and physical characteristics is the Single Intermediary Networks (SINs). These are usually single ethnic women working individually in a friendship or communal form and doorkeepers of high-rise residential buildings in Istanbul. These networks which are in different ethnic and gender structure also play partly an active role in association with the already established public perception. These invisible networks do not permit any single efforts to become successful without their confirmation.

Among these networks especially doorkeepers can take an active part in this “image making” process within the residential-housing complex which they are responsible for and within other housing complexes in their neighbourhood. They are the significant agents of direct mediation through their personal relations especially after they establish themselves within a pattern of confidence. The trust for the demand side is threshold in hiring the lived-in domestic worker and must be established by third party. Thus, SINs become the third chain of controlling the demand’s preferences in order to force single migrants to follow up the networks’ rules.

On the supply side, repressive functions can be seen in friendship or communal networks. These SINs are highly in a good position in trust-making at the demand side and in member-controlling at supply side. It is always easy for the families or friends to place their relatives or friends as domestic workers in the house where they worked previously. This is one of the most efficient methods in hiring or placing the domestic workers.

However, these functions once again come with the packaged services, meaning with responsibilities. For instance, we found that many of the migrant women can only work in the field identified by their community albeit there are some other opportunities such as secretary and translator in other sectors. The negative image of working as secretary and translator in Turkey impedes the newcomers from working in any other work except those accepted by the community¹¹³. The community decides which member to be sent and which work to be done in order to earn money and for how long. In that communal relation, the member has to follow

¹¹³ In the mind of community living in Moldova, working in Turkey as secretary or translator means being involved in prostitution.

up the certain rule as when, where, and how she can work. Many of Moldovan women working in Turkey declared their un-will towards working in domestic sector. What makes these women working in that sector is the repressive function of the communal or household networks.

Conclusion

The network of networks poses predefined certain course for the migrants in order to migrate and find a job. Therefore, I argue that the set of networks after certain points has nothing to do with lowering all costs or risks or increasing the expected net returns to migrants. After certain level of institutionalization, the network system fixes all costs and risks from the point of monetary profit. The process turns out to be “as is” for potential migrants willing to move. This institutionalization imposes on migrants to be part of it. Outside the set of networks moving for work turns out to be more dangerous and expensive for single migrants.

In a process led by the set of networks migrants are caught up a trap of depth. The depth causes the bonded nature of relationships among migrants, network’ agents, and demand side and in turn, that gives the agents or demand side a right of possession on migrants’ labour. These bonded relationships point out the presence of trafficking of migrant women for domestic services similarly to sex-related works. In that, they have to work where they are placed by their intermediaries until they pay their depth back to them. This process without any contract acquires the nature of bonded labour relations until the migrants get their passport back. By means of set of networks, so called *free* and *rational* migrant women labour turns out to be bonded migrant labour to be sold out in return to pre-invested expenditures along with its interests. The Moldovan case evidently highlights this conclusion.

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**PART III: BETWEEN SCYLLA AND
CHARIBDIS**

MIGRATION POLICIES FOR A ROMANIA WITHIN THE EUROPEAN UNION: NAVIGATING BETWEEN SCYLLA AND CHARYBDIS¹¹⁴

Martin Baldwin-Edwards^{*)}

Romanian policy on migration is mainly shaped by adaptation to the EU *acquis communautaire* whilst neglecting other, less pressing, policy issues. Contemporary Romanian migrations are classified into six types (of which circular migration within Schengen is the most important) and existing research and data are summarized. Next, theoretical positions on emigration and skill levels are examined - the "brain drain" debate - and empirical evidence is adduced to show that, to date, Romania has achieved a "brain gain" through greater educational participation. The poor data on immigration into Romania are examined, with the tentative conclusion that low levels are increasing and may well be higher than recorded. Finally, the dangers of non-policy [Charybdis] are identified as being within the policy domains of labour market management, potential youth brain-drain, and relations with the Republic of Moldova.

Keywords: migration, immigration, Romania, government policy, labour market, EU *acquis*

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Introduction

In the run-up to EU membership, Romania like other CEE countries has had to make massive adjustments to modernise, reform and adapt to the *acquis communautaire*. In the area of migration, this has affected three areas of policy in particular – border controls, political asylum laws and practices, and human rights protection of minority groups (Peers, 2005). In general terms, the EU has little or nothing to say on emigration issues (a fundamental right to leave one's country), on return migration (again, a fundamental individual right) or on who is legally admitted to the territory for employment purposes. The *acquis* does contain stringent requirements on the handling of illegal immigrants without EU/EFTA nationality, on country

¹¹⁴ In Greek mythology, Scylla was a sea monster who lived underneath a dangerous rock at one side of the Strait of Messina, opposite the whirlpool Charybdis. She threatened passing ships and in the *Odyssey* ate six of Odysseus's companions.

of first asylum and avoiding multiple applications within the EU (Dublin Convention II), and moderately strong recent legislation on the rights of long-term legal residents (>5 years' residence). There is also weak legislation on family reunification measures (the latter currently challenged by the European Parliament in the European Court of Justice).

However, the EU rules give no prescription for handling the matter of immigration policy and the labour market – deliberately so, as there exists a wide range of approaches across Europe. Nor does EU policy give any direction whatsoever for the promotion of economic development – despite clear warnings in recent years about the demographic shift and future labour market problems with both pensions and old-age dependency ratios. Indeed, the policy suggestion from the UN Population Division (UN 2000; UN 2004) is that Europe will need massive unprecedented immigration to survive these demographic changes.

Romania is currently under great pressure to conform to the *acquis* requirements in order to be admitted into the EU (Spendzharova, 2003; Mitsilegas, 2002)¹¹⁵. My proposition in this paper is that in recognising the *Scylla* of a difficult adjustment to EU membership, Romania would do well to keep in sight the dangers of non-policy [*Charybdis*] for her national interests in the spheres of economy, polity and society. If my thesis is correct, the specificities of the Romanian case need to be ascertained and emphasised, and firm policy control maintained by the Romanian authorities. This is particularly important since the Romanian migration situation looks already complex and seems set to become more so; furthermore, many structural factors suggest strong similarity with previous and current patterns of both emigration and immigration concerning Greece.

In this paper, first I outline Romania's recent emigration history, followed by a more detailed analysis of its contemporary characteristics. Next, I focus on what may prove to be a problem in the future – brain-drain and skill losses, along with their ameliorative counterpart of migrants' remittances. The issue of immigration into Romania is then addressed, which closely fits the *Scylla* and *Charybdis* analysis as border controls are largely EU-directed, whereas future labour market needs for immigration may seem too far in the future to worry about. Finally, I conclude with a section on policy issues: here, I try to identify what seem likely to arise as the most demanding structural issues in the management of immigration, emigration and economic development of Romania.

¹¹⁵ See CEC (2005) for the latest information on this point.

1 A short history of Romanian migrations

Twentieth century migration flows were dominated by ethnic emigration, in particular of Germans and Jews, although a central reason for emigrating during the communist period was the oppression of the regime (Ethnobarometer 2004: II.1). After the fall of the regime in 1989, migration changed completely for Romania. It is possible to identify several phases in this short history of post-1990 emigrations, as shown below:

1990-1993: mass permanent emigration of ethnic minorities [German, Hungarian] plus Romanians fleeing political turmoil and poverty. The latter tended to apply for political asylum in the West, peaking at 116.000 applications in 1992 (Ethnobarometer 2004: II.2).

1994-1996: low levels of Romanian economic migration to western Europe [mainly for seasonal or illegal work], along with continued very low levels of ethnic migrations and asylum-seeking

1996-2001: the development of several parallel trends and increases in emigration, making this a complex phenomenon to analyse:

(a) Permanent migration increasingly to the USA and Canada, rather than legal migration to European countries (OECD 2001: 232)

(b) the emergence, especially since 1999, of illegal “incomplete” or circular migration to European countries, for illegal work (Sandu *et al.* 2004: 6)

(c) growth of trafficking in migrants, a phenomenon overlapping illegal migration but distinguished by violence and abuse by traffickers/employers. This type of migration is thought to be predominantly of females for sexual exploitation, and increasingly of minors [see below].

(d) from 1999, a small usage of labour recruitment agreements with various European countries [Germany, Spain, Portugal, Italy] (Diminescu 2004; Barbin 2004)

(e) some return migration of Romanians, notably from Moldova (OECD 2004: 259), as well as a developing circular migration of Romanians between Germany and Romania (see OECD 2005: 260).

Over this period, the age structure and educational level of (permanent) migrants also changed, making emigration a potential issue of brain-drain [see below].

2002-to date: elimination of the Schengen visa requirement promoted a rapid growth in circular migration, even to the extent that Romanians who had previously been “stranded” in Schengen countries were able to return to Romania to enter the circular migratory system (Ethnobarometer 2004: II.3). With the possibility of 3 months’ legal tourist stay, a sophisticated circular migration system developed, focused primarily on Italy and Spain (IOM 2005). This new strategy succeeded in evading European labour market controls by migrants’ working illegally for 3 months – essentially, job-sharing with other Romanians in a carefully-choreographed “pass the job” dance.

Along with emigration, a new phenomenon of *immigration* emerged after 1989. This had various forms, including illegal transit migrants trying to reach other European countries; the arrival of small but increasing numbers of asylum-seekers since Romania signed the Geneva Convention and Bellagio Protocol in 1991 (OECD SOPEMI 2003: 244); and a slowly increasing stock of foreigners with temporary permits – 66.500 in 2002 (OECD SOPEMI 2005: 260).

Although the statistical service for Romania (*Institutul Național de Statistică*) has produced data on emigration, these seem to relate only to permanent declared emigration and hardly reflect the real extent of the migration phenomenon for Romanians. Kaczmarczyk and Okolski (2005: 5) cite a recent study on quality of emigration and immigration data for a

wider Europe: in the study, Romania is ranked as the very worst for quality of emigration data, although comparable with much of central Eastern Europe for immigration data.

From the census data of 1992 and 2002, one can see a decline in the recorded population of Romania of about 1.13 million persons. Only 330.000 of this decline is accounted for by natural population increase, leaving a residual of net migration at about 800.000 persons.¹¹⁶ There are recorded inflows of about 70.000 for this period (Constantin *et al.* 2004: 39), so the actual emigration should be at least some 900.000 persons, or 4,2% of the 2002 population. However, these data are misleading, because circular illegal migrations are unlikely to be captured by a census, or indeed any other usual statistical measure. Thus, the real extent of Romanian participation in migration has to be evaluated by other means.

2 Characteristics of contemporary Romanian emigration

As noted above, the contemporary migration patterns of Romanians are extremely complex, including the following types in rough order of magnitude:

- *Circular migration [as false tourists] with illegal employment in the Schengen area*
- *Temporary legal migration through bilateral or other arrangements*
- *Permanent emigration to OECD countries [mainly non-EU]*
- *Circular migration between Germany and Romania, legal transit and employment*
- *Trafficked migrants for prostitution or labour services*
- *Romanian asylum-seekers in EU and North America*

(a) Circular migration within Schengen

This type of incomplete migration (Okolski 2001) is extremely difficult to identify and estimate the extent of it. Recent survey research in Romania throws some light on the phenomenon, as do the latest data on Romanian presence in Spain and Italy.

An IOM 2005 field survey of 1.348 households suggests that 15% of the Romanian adult population has worked abroad since 1990, while up to 10% is still abroad [depending on the season]. 9% of surveyed households reported at least one member abroad – about 850.000 persons (IOM 2005: 6). The evolution of temporary emigration is shown to have increased markedly since 2000, with a doubling of respondents with work experiences abroad every 24 months. IOM believes that circular migration has now stabilised, as survey results for migration intention show a reduction since 2002 (when 15-17% of the adult population expressed a desire to travel for work) and some dampening of enthusiasm for labour

¹¹⁶ Own calculations from Census data and annual births/deaths, published in Constantin *et al.* (2004: Table 3)

migration in 2005 (around 12%). This decline may be related to the reduced remittance levels per household, dropping from €265 in 2003 to €200 in early 2005, although total remittances to Romania have been increasing continuously.

Of those working abroad, only 53% declared that they had a legal contract. The favoured destinations (as in 2003) are still Italy and Spain, but with Italy slightly less attractive at 31% and Spain more attractive since 2003 at 20%. The changed perception may well be linked to the latest immigrant regularization in Spain, which legalized some 110.000 Romanians in 2005 (Arango and Jachimowicz, 2005). The 2003 Italian regularization had 143.000 Romanian applicants, making it the leading foreign nationality in the legalization programme. Thus, by 2005 Spain had recorded 175.000 Romanians with residence permits (OPI 2005: Table 2) and Italy 249.000 (CENSIS). Portugal does not seem to have been so attractive for Romanians, with only 11.000 recorded there, along with 29.000 Romanians with residence permits in Greece in 2003-4 (Baldwin-Edwards 2004a).

Thus, across southern Europe alone there seem to be at least 500.000 Romanian migrant workers, most of whom have recently received legal status. Although there are doubtless more Romanians illegally working in southern Europe, some of the estimations of numbers are incredible. Simina (2005: 13) reports figures (from the Romanian authorities) of 1,4 m in Spain and Italy, or 1m in Italy; and from Italian authorities, estimates of 1,5-2,5m Romanians on Italian soil. These figures are not obviously consistent with survey data from Romania, but can actually be more easily explained as the result of circular migration. It is possible that Italian records can show over one million different Romanians who have worked in Italy in the last two years – or even one year; however, this does not mean that at any one point in time there is anything approaching that number of Romanians in Italy. This flawed interpretation of information arises from imposing a traditional view of migration on the complex and ever-changing realities of the well-choreographed circular migration patterns of many central-east European countries (Kaczmarczyk and Okolski 2005: 18-20).

Recent research has started to expose the complexity and dynamics of circular migration of Romanians, linking it explicitly with rural-urban migration and the return to rural areas by internal migrants, as well as more limited ‘human capital’ attributes of the rural migrants (Sandu 2005b: 570). Another aspect of the limited human capital analysis, as opposed to ‘relational capital’¹¹⁷, is that it impedes the conversion from temporary into definitive migration (Sandu 2005b: 572). Using multiple data sources in an econometric model of temporary migration, Sandu (2005a) tries to identify linkages between levels of human capital, type of migration (work or tourism), place of origin and reasons for migration.

¹¹⁷ rather than the personal attributes of the individual, this refers to his/her connections and networking

He finds that higher education and high life satisfaction are associated with tourism migration; temporary labour migration is associated with rural areas, return migration from cities and lack of commuting employment, large communes (>6500), high unemployment, gymnasium educational level, a high proportion of youth, and large presence of religious minorities. The most important single predictor of work emigration is living in Moldova. The most important predictor of non-migration is poverty, i.e. the poorest regions of Romania do not migrate for employment: this is predominantly the strategy of middle income rural areas. Ethnicity is also irrelevant, with the exception of some linkage between ethnic German migration networks and the Roma, as it is predominantly ethnic Romanians who participate in circular migration.

A very crude estimate of the numbers involved would be that (according to season) it is probably in the range 600.000-1.000.000 for this category, at any one time. However, as explained above, the total number of Romanians participating in this circular migration is considerably higher.

(b) Temporary legal migration through bilateral arrangements

Two broad clusters of institutions in Romania which are concerned with migration can be identified: these consist of formal institutions (state, NGO and private sector) and informal institutions (Sandu *et al.* 2004: 10-11). The informal institutions are of diverse types, therefore difficult to enumerate, and involved with the facilitation of migration both legal and illegal. These institutions exist largely because of the incapacity of the state, and are associated with social and other networks, bribery, corruption, institutional failure *inter alii*. Such informal institutions have been identified with illegal immigration into southern Europe (Baldwin-Edwards, 1999: 2): the Romanian story is the other side of the coin, concerning emigration mechanisms.

Romania's formal institutions are mostly state managed, and these apparently did not exist until 2001 (Diminescu 2004: 65) with the creation of the Office for Labour Migration, *Oficiul pentru Migrația Forței de Muncă (OMFM)*. The functions of this office are to implement international labour migration treaties with Romania, to recruit and place labour in foreign countries with which Romania does not have treaty arrangements, to provide work permits to foreigners in Romania, and to co-operate with other labour institutions in Romania, the EU and elsewhere (Sandu *et al.* 2004). Diminescu (2004) considers the establishment of the OMFM, along with changes in visa requirements, to be part of the continuous Romanian adjustment to the EU *acquis*; Sandu *et al.* (2004: 10) are more inclined to see it as “an alternative to private recruitment agencies”.

Romania has bilateral labour recruitment treaties with Germany (1990, 1993, 1999), Spain (2002), Portugal (2001) and less importantly with Switzerland (1999), Hungary (2000) and Luxembourg (2001) (Diminescu 2004: 66-67; OECD 2004, Annex 1.A). There remain substantial gaps in coverage, such as no agreements with Italy or Israel – the latter with estimated 60-90,000 illegal Romanian workers in 2002 (Diminescu 2004: 70). According to Constantin *et al.* (2004: 81), the OMF M figure for recruitment by bilateral agreement in 2003 was 43,189 persons, an increase from 2002. More recent data up until August 2004 show that 97,500 people were placed by OMF M (Sandu *et al.* 2004: 10): presumably this latter figure is a cumulative total.

Table 1 Romanians granted work visas abroad, 2002 and 2003

Country	Work visa type	2002		2003
		N contract types	N visas	N visas
Belgium	Long sejour work visas		58	164
Greece	Work visas		119	
Germany	Total		23,656	27,799
	Seasonal work	19,350		
	Contracts of contingency 18 month contracts	4,172 134		
Italy	Total		11,974	19,947
	Self-employed Employees	37 11,937		
Finland	Work permits		34	
France	Work visas		456	
Luxembourg			4	
Spain	Total		2,395	15,319
	Seasonal workers Employees	1,888 507		
Sweden	Total		1,820	912
	Business visas	1,541		
	Seasonal work permits	127		
	Work visas Self-employed work visas	22 130		
TOTAL			40,516	68,649

SOURCE: Constantin *et al.* (2004), Table 17

However, much recruitment continues to be done by private agencies, particularly for those countries without bilateral treaty (Diminescu 2004: 68). Data for such recruitments is not centralised or properly collated, and is available only from foreign embassies in Bucharest. Constantin *et al.* (2004:81-85) conducted such research: Table 1 above shows the award of work visas for 2002 and 2003. As can be seen, the total figure for 2003 is over 50% higher than the OMF M recruitment figure – presumably through the inclusion of data for Italy, some 30,000 persons in 2003. However, Germany has been since 1991, and still remains, the primary locus of legal labour migration for Romanians: one calculation is that since the 1991

treaty, Germany has recruited over 155.000 Romanian workers on the basis of group contracts (Constantin *et al.* 2004: 83).

Despite this limited degree of success, the numbers even since 2002 are rather small in comparison with the numbers of Romanian applicants for legalisation in Italy and Spain, and also in comparison with the IOM survey data of Romanians abroad. Thus, legal recruitment takes a clear second place to illegal work and/or illegal migration to southern Europe and elsewhere.

After much criticism that the Romanian state had not adequately protected the rights of Romanians abroad in terms of level of pay, working conditions and social insurance, in 2004 the Government established yet another state institution for the management of emigration (Sandu *et al.* 2004: 11). The Department for Labour Abroad is, like the OMF, part of the Ministry of Labour; its functions include improving the protection of Romanians working abroad, building a network of embassies, Romanian communities and observers abroad, and securing a permanent relationship between migrants and Romanian institutions. It is also involved with NGOs such as the IOM, in trying to publicise the dangers of illegal migration. Presumably, it is this new institution which instigated the 2005 decree-law resulting in the confiscation of passports from some 3.000 Romanian overstayers in the Schengen area, when they returned to Romania (Amariel 2005).

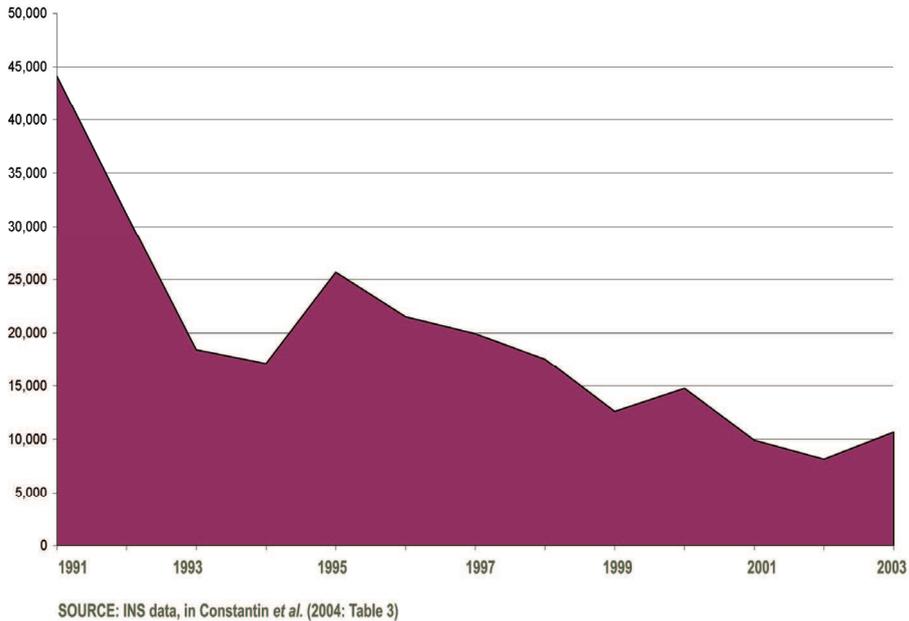
(c) Permanent emigration to OECD countries

Data on notified permanent change of country are the only data on emigration available from the Romanian statistical service. As previously noted, the first modern phase of emigration (1990-93) consisted principally of minority ethnic groups and was sizeable. After 1993, the numbers dropped from the initial high of 44.000 in 1990, and have now apparently stabilised at around 10.000 per year. Figure 1 [below] shows the annual data for permanent emigration over the period 1991-2003.

Looking in more detail at the characteristics of these migrations, the *Appendix* gives some breakdowns by gender, age group, ethnicity, destination and educational level. Several trends can be discerned from these data.

First, the proportion of women emigrating seems to predict the trends in total magnitude, with 1-2 years' lag: there is no obvious migration explanation for this, although doubtless a sociological one.

Figure 1 Permanent emigration from Romania, 1991-2003



Secondly, the initial importance of ethnic German migration 1990-94 was rapidly diminishing after 1995 (although that year's higher total emigration figure automatically reduces the proportion). Thirdly, we can see the changing destination countries, starting with Germany predominant in the first half of the 1990s, and increasingly focusing on the USA, Canada and "others" (Italy in the latter category). Fourthly, age groups seem to fluctuate wildly, but with a clear increase in persons under 18 since 1998 at 37% of the total. Finally, looking at educational level, we can see some clear patterns: the early migrations (1990-93) had a very high proportion of people with only primary school education – 50% in 1990, 38% for 1991-94. Over the period 1990-99, the proportion of those with secondary education increased slowly (stabilising at 25-30%) while those with university education increased continuously from 6% in 1990 to 19% in 1999. More recent data (see below, section 3) show that the proportion of university graduates continued rising, reaching 28% in 2001 (Pănescu 2005: Figure 3.2).

However, the current magnitude of permanent emigrations is fluctuating around 10,000 per year, which is a very low emigration rate in comparison with many countries. Although the total number of permanent emigrants over the period 1990-2003 is just over 250,000 (Constantin *et al.* 2004: Table 3), the data do not take account of return migrations, which partly offset the original emigrations. Return migration over the period 1996-2002 is recorded as totalling 66,500 persons (OECD SOPEMI, various years). The peak returns seem

to have been in 2000 and 2001: in 2001 some 11.000 Romanians with their residence abroad returned to live in Romania, of which 9.000 were returning from Moldova (OECD SOPEMI 2004: 259). In 2002, the total returns were lower, at 6.600 (OECD SOPEMI 2005: 259).

(d) Circular migration between Germany and Romania

Although there are not high quality data on the continuous flows of Romanians between Germany and Romania, Table 2 gives some indicative measures. Ethnic German migration flows have more or less ceased, therefore most migration to Germany is now the result of bilateral agreements (as discussed above) and apparently increasing continuously. The gender ratio is more or less even, with most work in agriculture (77%) or hotels and catering (16%); there are also several thousand Romanians employed by Romanian contractors in Germany, mainly in construction, food processing and mining (OECD SOPEMI 2005: 259). The return flows do not apparently match the inflows into Germany, even with lag: this may indicate a data problem, or continued residence of Romanians in Germany.

The recorded stock of Romanians in Germany, declining according to Table 2, is actually increasing markedly. This is because of the award of German nationality to *Aussiedler*: some 6-10.000 Romanians a year received German citizenship until 1999, when Germany stopped recording the data¹¹⁸. However, even with the incomplete German data, it is clear that stocks of Romanians have been increasing on an annual basis since 1996.

Table 2 Migration flows between Germany and Romania, stocks in Germany (000s)

	1996	1997	1998	1999	2000	2001	2002
Outflow of ethnic Germans from Romania	4.3	1.8	1.0	0.9	0.5	0.4	0.3
Inflows of Romanian nationals	17.1	14.2	17.0	18.8	24.2	20.3	24.0
Outflows of Romanian nationals	16.6	13.6	13.5	14.7	16.8	18.6	17.6
Stock of Romanian nationals in Germany	100.7	95.2	89.8	87.5	90.1	88.1	88.7

SOURCE: OECD SOPEMI (2001; 2005), Romania country chapters

(e) Trafficked migrants for prostitution or labour services

For some time now, European policy-makers, practitioners and academics have identified a “Balkan route” for trafficking and/or smuggling¹¹⁹ of migrants (e.g. Salt and Stein, 1997: 475-7), with clear links made between older drug trafficking routes, their interruption by war and organised criminal gangs branching out into people-smuggling and trafficking (Lindstrom, 2004). In the case of the Balkans, some of the most detailed investigation of any region in the

¹¹⁸ Dietz states that 90% of *Aussiedler* are given German nationality almost immediately, and that Romanian *Aussiedler* in particular were strongly socialised in German customs (Dietz, 2002: 35)

¹¹⁹ For the distinction, which increasingly is being questioned, see the UN protocols on trafficking and smuggling.

world has been made since 2000, with research undertaken or financed by the IOM, the Stability Pact for South Eastern Europe, the ILO, UNICEF and the OSCE, amongst others. One of the most authoritative recent reports identified 6,256 victims between January 2000 and December 2004, with the primary countries of origin as Albania, Moldova and Romania (and to a lesser extent, Bulgaria and Kosovo) and the primary countries of destination or transit as being Croatia, Bosnia, Macedonia and Serbia and Montenegro (Surtees, 2005:12-17). Table 3 (below) reproduces their summary data.

Over the period 2000-2004, 90% of victims were from only 5 countries (28% from Albania, 26% from Moldova, 17% from Romania, 10% from Bulgaria and 9% from Kosovo). There is also a significant number from the Ukraine (6%), but from other countries the numbers identified and assisted are very small indeed.

Table 3 Number of identified and assisted trafficking victims 2000-2004, Stability Pact

Country of origin of victim	2000	2001	2002	2003	2004	Total
Albania	219	445	375	345	366	1750
Moldova	319	382	329	313	300	1643
Romania	163	261	243	194	193	1054
Bulgaria	46	96	164	172	143	621
Kosovo, Province of	54	67	165	192	90	568
BiH	0	0	8	17	39	54
Serbia	0	1	10	13	21	45
Croatia	0	0	1	1	6	8
Montenegro	0	0	2	3	5	10
fyRo Macedonia	0	0	0	14	12	26
SEE countries subtotal	801	1252	1297	1264	1165	5779
Ukraine	68	97	104	47	41	357
Russia	7	22	21	5	4	59
Belarus	8	9	1	2	1	21
Georgia	0	3	2	0	2	7
Other	3	0	5	11	14	33
Other countries subtotal	86	131	133	65	62	477
Total numbers of victims trafficked into, via or from South Eastern Europe	887	1383	1430	1329	1227	6256

SOURCE: Surtees (2005: 31-32)

The Stability Pact Report states that in the case of Romania, for 2003 and 2004 the vast majority (85%) of identified victims were trafficked for sexual exploitation and around 10% for labour in domestic work, agriculture, industry *inter alia*. Around 4% were trafficked for begging and petty crime (Surtees 2005: 438). All victims of trafficking for sexual exploitation were female, although the report notes the existence of trafficking in minor males for this purpose. In 2003 and 2004, victims were predominantly [around 70%] aged 18-25, but there were also 16% and 27% trafficked as minors in those two years (Surtees 2005: 440). 40-50% of victims were from Moldova, and educational levels were slightly below average for

Romania. Data on ethnicity are not collected, but there is a note that Roma are over-represented in trafficking for labour or begging (Surtees 2005: 463). Countries of destination were numerous (22), although 42% went to EU countries in 2003, and 56% in 2004. This increase is associated with the Schengen visa removal. The two primary destinations in 2004 were Italy (30%) and Spain (15%); in 2003, Macedonia was the primary destination at 38%.

A 2003 ILO study (Ghinărașu and Linden 2004) of forced labour from Romania, sampling returned migrants in Romania who had previously migrated, tried to distinguish between the characteristics of trafficked and non-trafficked forced labour migrants. They found women to be over-represented in the trafficking category, especially minors. Educational level proved to be a clear indicator, with successful migrants having the most formal education, followed by non-trafficked forced labour, and with trafficked migrants having the least. There was no indication of ethnicity as an issue for trafficking or forced labour.

Specifically focused on children, another ILO study (IPEC 2004, 2005) drew somewhat different conclusions, although with very small sample size. Around 33% had been involved in prostitution, around 20% in dancing or massage and another 20% in begging (IPEC 2004: 1-2). However, those data include “internal trafficking”: when restricted to cases of trafficking to another country, the 42 cases [some 75% of the total] consisted of 30 victims of trafficking for sexual exploitation [70%]. These latter data are consistent with the Stability Pact data. THE IPEC Report concludes that the children identified tended to be 14-17 years old, with little education or were school drop-outs, and came from families with economic problems. They also suggested that street children and Roma are extremely vulnerable to trafficking.

All of these studies, as elsewhere in the world, have been unable to estimate the real extent of trafficking and also to distinguish it clearly from voluntary illegal migrations and forced labour. The ILO study perhaps comes closest to doing the latter, but no indicative numbers are available. In the absence of clear data, it is impossible to identify trafficking as the major problem claimed in some quarters. Nevertheless, even if the numbers involved are miniscule in comparison with the hundreds of thousands of Romanian migrants, the lives of children and those in need of protection appear as a major public policy issue.

(f) Romanian asylum-seekers

The original massive numbers of asylum-seekers from Romania were in the early 1990s, peaking at 116,000 in 1992, but by 1996 were below 10,000 (Ethnobarometer 2004: II.2). Of these early 1990s asylum-seekers, most went to Germany and more than half were Roma. For

example, in 1992 Germany received 104,000 Romanian asylum-seekers, of which 63,000 were Roma (Ethnobarometer 2004: VII.3). However, most of them were probably rejected or remained as illegal immigrants (Dietz, 2002).

Despite massive improvements in both political stability and economy, in 2004 there were still 4,218 Romanian asylum-seekers for that year (UNHCR 2005: Table 7), along with some 2,000 outstanding applications prior to that. It is not clear whether the asylum-seekers are ethnic Romanians or Roma, as UNHCR does not record such data. The average recognition rate for 2004 was 10.6% -- one of the lowest rates for any nationality. The main country of application for 2004 was Italy (with 1,015 cases) and a very low recognition rate of 2.9%; the second country of choice was France, with 852 applications (UNHCR 2005: Table 8).

It is unclear whether these continued asylum applications are of a genuine nature, or simply a mechanism to effect migration for labour. Along with similar patterns and numbers for Bulgarians, they remain a curiosity item within the wider Europe.

3 The controversial issues of brain-drain and skill losses

The concept of “brain-drain” or flight of human capital was developed in the 1950s explicitly looking at the emigration of leading scientists to the United States from the UK, Canada and USSR. By the 1970s it was being used in a more general sense to refer to the emigration of those with tertiary education (Rapoport, 2004: 90). A consensus developed that the emigration of skilled professionals is harmful to the country of origin¹²⁰ since valuable human capital is lost, and impedes economic development which might otherwise have occurred. Against this loss of human capital should be placed the receipt of workers’ remittances, which frequently constitute a critical resource for economic stability. However, in the longer term, the return of skilled emigrants was seen as desirable; a modern alternative is the notion of “brain circulation”, encouraging the mobility of skilled personnel between different countries.

Recent scholarship has advanced an alternative approach to skilled emigration, with more sophisticated dynamic models producing more optimistic and less clear-cut results (Commander et al. 2004: 41). In such models, although there is still the same negative effect of skill losses (a “drain” effect), there is another beneficial effect encouraging human capital formation (“brain gain”) (Commander et al. 2004: 34). If skilled emigration is seen as a desirable option by the remaining population, there will be a tendency for increased participation in tertiary education in order that people might have the chance of future

¹²⁰ In economic jargon, it constitutes a “negative externality”

emigration. A crucial next stage concerns the uncertainty of individuals' future migration, such that considerably less than 100% of those who received higher education will actually emigrate. (Various reasons and mechanisms are posited for this asymmetry.) However, some other authors dispute the potential size of this positive effect, claiming that it cannot counter the predominantly negative effects arising from skilled emigration, so the net effect is likely to be either zero or negative (e.g. Schiff 2006: 203-4).

In the Balkan region, discussion of skilled emigration is inclined toward the pessimistic view of predominantly brain drain (e.g. Horvat, 2004; Bagatelas and Sergi, 2003; Henry *et al.*, 2003). However, there is some reason to think that Romania might not be a typical case, and it is necessary to examine the available data. Below, I look at empirical data on skill levels of emigrants, followed by some survey data on intention to migrate. Next is a brief examination of changes in educational provision and participation, and their possible links with emigration patterns. Finally, I conclude with a 'balance-sheet' approach¹²¹ to the costs and benefits of Romanian migration, and a prognosis for the immediate future.

(a) Sources of data on Romanian emigration and skill or educational levels

As previously noted, the low quality or even existence of data on Romanian emigration is a serious problem. Data on educational levels, age etc. are available only for registered permanent emigrants [see Appendix]; there appear to be no published data on the characteristics of Romanians granted work visas and/or contracts abroad, although the nature of their employment might be usable as a proxy¹²². A second source of potential data lies in the records of host countries: OECD has recently started to collate these, but the data are incomplete especially as Romania is not an OECD member¹²³. A third source of data is from detailed surveys; Pănescu (2005) analyses one such survey of Romanians in Germany, which has a high quality methodology and allows clear comparisons to be made. Another study is that made by Radu (2003), which also reaches strong conclusions.

Insofar as mass circular migration is concerned, it is inevitable through its illegality that little or no official data are available. We are completely dependent upon survey data, for information on skill levels of the temporary labour migrants. Fortunately, there is a reasonable quantity of such surveys (IOM 2005; Sandu 2005a, 2004; Lăzăroiu 2003a) allowing some qualified conclusions to be drawn.

¹²¹ This is comprehensively developed in Wickramasekara (2002)

¹²² Simina (2005: 20) reports that in 2004, 71% of contracts requested were for the agricultural sector and 10% for industry and construction work.

¹²³ In particular, no data are available from Italy or Romania (OECD-SOPEMI 2005: 149)

(i) Permanent Emigrants' Characteristics

The Appendix shows the trends in permanent emigration from Romania over the period 1990-99.¹²⁴ Bearing in mind the initial mass exodus in 1991, rapidly declining and eventually stabilising since 1999 [see Figure 1, above], there is a clear trend for permanent migrants to be higher education graduates (reaching 28% in 2001), under the age of 18, and increasingly migrating to the USA and Canada, rather than to Germany. Detailed destination country data up until 2003 (Sandu *et al.* 2004: Table A.2) reveal that, in absolute terms, emigration has diversified since 2002. In particular, migration to Germany has picked up again (circa 2.000 a year), has stabilised at just under 1.000 to Hungary, and has been at high levels to Italy since 1994 (1.300-2.200). The USA and Canada are still attractive, but neither has exceeded 2.000 since the year 2000. There remain clear declines since 1997 in the numbers going to Austria, France, Sweden, Greece, Israel and Australia.

Given the selectivity shown by the immigration policies of the USA and Canada, we might expect the Romanian emigrants going there to be highly qualified: there is some evidence supporting that conclusion (Radu 2003: 30). Equally, the upsurge of migrants to Germany may be linked with Romania's impending EU membership, and the perception of greater life chances in an EU country. The close cultural links between Romania and Italy are well-known, and suffice as an explanation for the popularity of that destination since 1994. It is unclear from the data where very young (<18) migrants are going: it seems likely that they form a large part of the renewed migration to Germany, as well as to Italy.

The OECD data collection on skilled migration, although omitting Italian data sources, concludes that there are 613.000 Romanians in OECD countries, of which 26.3% are highly skilled (OECD-SOPEMI 2005: Table II.A2.6). These data do not include Spain or Italy, although the vast majority of Romanians there are thought to be temporary labour migrants. The ratio of 26% is not unusual in international comparison, and in fact is a lot lower than many countries at a similar level of economic development.

Pănescu (2005) utilises the survey conducted by Straubhaar and Wohlberg of East European migration into Germany, 1992-94. This was a period of fairly high Romanian migration to Germany: 63,000 in their survey, or 34,000 from the Romanian data (Sandu *et al.* 2004: Table A.2).¹²⁵ The survey's results show high skill levels in the Romanian **stock** of migrants [0.21%, one of the highest from CEE, compared with 0.13% for the German population], but the lowest ratio of skills in migration **flows** [0.1%, *cf.* 0.39% for Bulgarians] over that period. Pănescu offers no explanation for this, but the aggregation of migration types

¹²⁴ Pănescu (2005) provides data for the period 1995-2001, i.e. the same data, but including two more recent years.

¹²⁵ From this discrepancy, we might conclude that they were a mix of permanent ethnic German migrants, asylum-seekers, and labour migrants.

is clearly the reason. The early emigration flows to Germany were predominantly of ethnic Germans, whereas 1992-94 was a period of mass asylum-seeking, of which over 50% were Roma. Presumably, the ethnic Germans were of far higher educational level than the asylum-seekers; there were few labour contracts awarded before 1994, so that category also is largely irrelevant.¹²⁶ We might conclude, therefore, that the main loss of Romanian skills was through ethnic German migration, which has largely discontinued.

Radu (2003) uses data from two waves of the *Romanian Integrated Household Survey*, provided by the *Luxembourg Income Study* (LIS) and matches them with data from the German social insurance system (IABS). He concludes that Romanian migrants in Germany are positively selected in both observable and unobservable characteristics, thus implying skill losses or non-utilisation in Romania. The data extend to the late 1990s, and show an upward drift in the average educational level of migrants, constituted by a stable ratio of low education migrants and an increasing ratio of highly educated migrants (Radu 2003: 30). Thus, there is a clear polarisation of skills in permanent emigrants to Germany; Radu notes also that more high-skilled migrants chose non-EU destinations over this timeframe.

(ii) Temporary Migrants' Characteristics

There are two subcategories of such migration, and we know relatively little about either! Temporary legal labour migration – the smaller of the two – has already been discussed above [see section 2.b]. There were circa 70,000 work visas granted in 2003 [see Table 1, above], but there appear to be no data on the characteristics of the Romanian workers. In 2003, out of the three main receiving countries (Germany, Italy, Spain), most of the known contract types were for seasonal work: in Germany, 23,243 out of 27,799, in Spain, 14,808 out of 15,319, and unknown work contracts for the 19,947 Romanians in Italy (Constantin *et al.* 2004: 81). Presumably, therefore, the great majority of the legal temporary workers are with low/medium skills.

The second category – considerably larger – is that of illegal circular migrants [see section 2.a]. For information on such migrants we are dependent upon survey data: here, I use the latest IOM survey (IOM 2005), the recent work of Dumitru Sandu (Sandu 2005a) and a 2003 survey conducted by CURS (Lăzăroiu 2003: 23). There is a concordance of results from the surveys, namely that the majority of these migrants are male [unlike permanent migrants who are an equal balance of gender], tend to be graduates of gymnasium and vocational schools but **not** of higher education, and are aged 15-44. Sandu characterises the typical

¹²⁶ The datasource used was the EU Labour Force Survey, which is very weak on establishing distinctions between types of immigrant.

circular work migrants as “young ethnic Romanians of medium level education, who worked or travelled abroad, are dissatisfied with their living conditions, and live in high unemployment localities of more developed counties in the region of Moldova” (Sandu 2005a: 19). Similarly, IOM concludes that the migrants are of medium level education, performing non-manual semi-skilled or skilled work (IOM 2005: 15). In more detail, the 2003 CURS survey showed that 71% of migrants were male, 57% with vocational qualifications or gymnasium graduates, and 52% from urban areas. They note also a greater representation of unemployed persons (14%) and ethnic Hungarians (14%) – roughly double the national proportions.

Thus, in both categories of temporary labour migration there seem to be few migrants with high-level skills: they are predominantly with medium level education or vocational training. It is doubtful that such migration, even if permanent, would constitute a brain-drain, and temporary forms definitely do not.

(b) Survey data on intention to migrate

The most detailed data on Romanian intentions to migrate are from a survey conducted in 2002 by the European Commission’s *Eurobarometer* (Krieger 2004). As these are now out of date, they need to be read in conjunction with more recent surveys, for which I use the IOM 2005 data.

In comparison with the other candidate countries (excluding Turkey) Romanians and Bulgarians showed the greatest intentions of migration: 5% with a ‘general intention’, 3.2% with a ‘basic intention’ and 2% with a ‘firm intention’. These compare with averages for the 10 acceding countries [AC (10)] of 3.1%, 1.3% and 0.8% respectively.

With the category¹²⁷ of ‘general intention’, this shows the highest level of 19.1% for Romanian respondents aged 15-24 with this intention, compared with 10% for AC (10). Romania also showed the highest proportion of women wishing to migrate, at 4.2% compared with AC (10) of 2.7%. By educational level, Romania (along with Bulgaria) showed extreme differentiation with the other candidate countries. For all educational levels, Romanians were more inclined to migrate: however, unusually high ratios of people with only primary or secondary education were interested in emigration. The other remarkable figure concerns students: 18.6% were interested in migrating, a figure above even that for Turkey. Table 4 below shows the data.

¹²⁷ Despite the standard country sample size of 1,000, as well as clustering the results into similar groupings, only the category of ‘general intention’ has enough respondents to be statistically significant for detailed breakdowns.

For most other analytical subcategories, Romania does not look exceptional, other than some 50% naming financial problems as their motivation for emigration.¹²⁸ What seems fairly clear from the 2002 survey is that along with a greater tendency for, or intention of, migration, Romania is distinguished by a polarisation of emigrants' human capital (Radu 2003: 29), emphasising the upper and lower ends of the scale – i.e. highly skilled and unskilled. However, Romania also shows a youth emigration tendency, with young people much more inclined to migrate than in most other EU candidate countries. This is particularly visible in the case of current students in Romania, who have twice or more the rate of intended migration found in most AC (10) countries.

Table 4 Persons in 2002 with general inclination to migrate, by educational level (%)

	Primary ≤15 yrs	Secondary 16-19 yrs	Tertiary	Still studying
Poland	0,6	2,5	2,7	13,3
Bulgaria, Romania	4,0	4,6	3,7	18,6
Cyprus, Malta, Slovenia	0,2	1,0	3,2	7,6
Turkey	3,6	7,4	15,1	11,6
Hungary, Czech Rep, Slovakia	0,7	1,6	2,7	9,1
Estonia, Latvia, Lithuania	1,3	2,6	3,0	8,9
AC 10 average	0,7	2,1	2,8	11,3
ACC 13 average	2,7	3,5	4,8	12,7

SOURCE: Eurobarometer data, 2002, cited in Krieger (2004: Table 13)

The survey data of IOM are apparently not comparable with the Eurobarometer survey, in that the CURS 2003 survey reported that 18% of the adult population wished to migrate for employment [cf. 5% in the EU survey], with 3% desiring permanent emigration. The latest 2005 survey found 12% of adults interested in labour migration *within the next year*, and 4% desiring permanent emigration (IOM 2005: 9). It is therefore not possible to evaluate whether the Eurobarometer 2002 survey results still hold, although intuitively one might think that they do, as the IOM data neither correlate with nor obviously contradict them.

(c) Changing educational provision in Romania

During the 1980s, Romania exhibited a major structural discrepancy of high enrolment rates at the pre-tertiary level and very low rates at the tertiary level; after 1990, a mirror pattern occurred, with increasing tertiary levels of both enrolment rate and absolute numbers allied with declining pre-tertiary rates (OECD 2003: 278, 322). Also, in comparison with other CEE

¹²⁸ The survey also allows the answer 'job reasons' and it is difficult to see how this distinction can be anything other than arbitrary.

countries, Romania's tertiary enrolment rates were exceptionally low in the early 1990s. Table 5 shows the trend across the CEE region, 1990-2001.

Table 5 Enrolment in tertiary education, as % of age cohort

	1990	1992	1994	1996	1998	2000	2001
Bulgaria	31,1	31,4	35,4	41,2	43,5	40,8	37,7
Czech Rep.	16,0	14,6	20,8	---	26,1	29,8	33,7
Hungary	---	15,1	20,9	23,5	33,4	40,0	44,1
Poland	21,7	23,4	26,1	---	45,7	55,5	58,5
Romania	9,7	16,1	19,7	22,5	21,3	27,3	30,4
Slovakia	---	16,1	18,7	22,1	26,5	30,3	32,1
Slovenia	24,5	28,2	31,5	36,1	52,8	60,6	66,0

SOURCES: Pănescu (2005: Table 3.6); UNESCO (2004: Statistical Annex, Table 9)

The increase in Romania's tertiary enrolment rate is remarkable, taking it from under 10% in 1990 – comparable with Albania or Macedonia (UNESCO 2004) – up to a lavish but acceptable level of 30% in 2001. Although data are not available for the years after 2001, the projected numbers are even higher because after 2002 the age cohort increased (OECD 2003: 322), with private tertiary education expanding to accommodate the increased numbers. Looking at labour force outcomes, Pănescu (2005: Table 3.8) shows an increase of over 60% of the labour force with tertiary education over the period 1994-97, again taking Romania up from the bottom of the CEE countries to a more respectable level of 12,4% of the labour force.

Although it is difficult to disaggregate the various causal factors for increased participation in tertiary education in Romania, the trend even contradicts the 1996-99 recession – which could have caused limited access because of budgetary constraints (Pănescu 2005: 128). Other analysts too comment on the extraordinary rise of tertiary education in Romania (Tascu 2002: 213; Mihăilescu 2004: 354). Thus, it is difficult not to conclude that Romania in particular, but also the other CEE countries, experienced precisely the education-migration linkage which is predicted by the “brain gain” theorists. In the only study focused on this, the author reaches the clear conclusion that this is indeed the case, and Romania has benefited from a gain in human capital as a consequence (Pănescu 2005: 128).

(d) Constructing a balance-sheet of the effects of Romanian migrations

The older debate on ‘brain drain’ massively oversimplified the issues, since it is necessary to take an overall view of changes in human capital. To this end, Williams and Baláz (2005: 441-2) posit a range of possible positions associated with skilled labour migration; these are:

- **Brain exchange** [(temporary) flows between core economies, with efficient use of human capital]
- **Brain drain** [(permanent) transfer of human capital from less to more developed economies]
- **Brain overflow** [(permanent) transfer of human capital through underutilization in countries of origin]
- **Brain waste** [ineffective utilization in the transferred human capital]
- **Brain training** [human capital enhancement through mobility in education]
- **Brain circulation** [human capital enhancement through temporary mobility, which is used more effectively upon return]

Of these, we can identify *brain drain* and possibly *brain waste* as having occurred in the early phase of emigration from Romania – primarily with ethnic German migration. Throughout the 1990s and beyond, there was an increasing proportion of graduates amongst those who permanently migrated: this is presumably *brain overflow* leading to *brain drain*, but in rather small numbers up until the present. There is no evidence at this time of brain training (such as Romanians undertaking postgraduate education in EU countries)¹²⁹, of *brain circulation* or of *brain exchange*: these should be viewed as policy objectives, which require serious consideration by the Romanian state. A final category of *brain drain* has not obviously appeared, but warrants further investigation: this is *youth brain drain* (Baláz et al. 2004: 5). Given that the emigration intentions of Romanian students [see Table 4, above] are quite high, it matters greatly whether their future emigration falls into the category of simple loss of human capital or one of the other more positive types.

What of the mass circular migrations shown by Romanians in the last decade, particularly those going to Italy and Spain? All available evidence (see section 3.a.ii) suggests that few graduates participate in such migrations, and skill losses are minimal. Generally, emigration of low-skilled workers is likely to be beneficial for developing economies (World Bank 2006: 64) by reducing unemployment; it can also reduce underemployment and help to raise labour force participation. In the case of Romania, this appears to have occurred, given that unemployment rates are fairly low. Along with internal migration, which Sandu has shown is linked with external migration propensity, circular migration has also helped with poverty reduction in Romania. This is primarily through remittances, and has benefited a large swathe of Romanian society – with the notable exception of the poorest regions.

The actual level of recorded remittances has been increasing in aggregate – reaching some €2 billion in 2004 (EUBusiness, 04/08/2005) – whilst the level of individual remittances has declined (IOM 2005). This might suggest an increased participation in circular illegal

¹²⁹ There is some limited academic mobility, but small numbers (300 per year), cited in Lăzăroiu (2003a), Appendix 7

migrations over the last few years, as a stable number of participants would presumably remit less in aggregate. However, there appear to be no data on source countries of remittances. Limited data from Italy for 2003 show only €6.9 million sent to Romania for that year (ISMU 2005): two explanations can be offered for the low figure. First, these are only formally recorded remittances, which frequently constitute a fraction of informal transfers, especially by illegal workers and between countries with geographical proximity; secondly, higher remittances may originate from the USA and Germany, where recent skilled emigrants have gone. It is likely that both explanations pertain, with very different patterns of remitting behaviour of temporary and permanent migrants.

Overall, the fears of brain drain are overshadowed by the positive effects on educational participation, remittances, and the apparently small number of university graduates who have actually emigrated. Bilateral recruitment agreements have also been important (see section 2.b) although such agreements seem to have been largely for semi-skilled and unskilled workers: however, they have potential for opening up temporary employment abroad for university graduates, in place of permanent emigration. Thus, the problem is more for the future – utilising the increased human capital which has been created – as well as actively encouraging brain training and brain circulation (Ackers, 2005). These are important aspects of government policy, which will be addressed in the concluding section.

4 Immigration into Romania

(a) Data on immigration into Romania

Since 1991 – no records were kept before that date – immigration into Romania has slowly but surely followed an upward trend. Figure 2 below shows the recorded data, along with a fitted trendline. The extrapolation suggests an inflow of 16,000 per year by 2007 – the probable date of Romania's EU accession: although this level of immigration may seem unlikely at this time, membership of the EU does constitute a pole of attraction for both legal and illegal immigration. Another projection, using net migration, has been made by Kaczmarczyk and Okólski (2005: Table 4). They suggest an annual yearly increase of 4.2% increase in net migration, such that by 2022 another 1.8% of the Romanian labour force would be immigrants. This level is the lowest projected for any CEE country in their forecasts, however.

Figure 2 Immigration dynamics in Romania



SOURCE: Constantin *et al.* (2004: Chart 12)

From 1997 onward, the bulk of immigrants have come from the Republic of Moldova, although the first half of the 1990s had seen predominantly EU immigration into Romania – Germans, French and Austrians (Constantin *et al.* 2004: 52). The 2002 Census recorded significant numbers of Italians, Turks and Chinese, after Moldavians as the leading immigrant group. Table 6 below gives the principal immigrant nationalities found in the 2002 Census.

Table 6 Principal immigrant groups in Romania, Census 2002

Country of origin	N	%
Rep. of Moldova	3.576	12,8
Italy	2.378	8,5
Turkey	2.344	8,4
China	1.943	7,0
Germany	1.767	6,3
Greece	1.681	6,0
Syria	1.180	4,2
USA	1.129	4,0
TOTAL	27.910	100,0

SOURCE: Constantin *et al.* (2004: 63)

However, it seems that the Census considerably under-recorded the presence of foreign nationals, who number 28.000 – only 0.13% of the total recorded population in 2002. Evidence to support this claim can even be found in official data, since the legally present immigrants in 2002 numbered 1.400 with permanent residence status, 50.100 with temporary residence permits and another 16.400 registered for education or training (OECD-SOPEMI 2005: 260). Table 7 below gives a breakdown of principal nationalities with temporary residence permits. Although Moldavians are still the most numerous at 8.100 (more than double the Census figure), there are also very large numbers of Chinese and Turkish nationals, along with Italians, Greeks and Syrians. On average, 51% of the 66.500 came for business, with Chinese at 96% (OECD SOPEMI 2005: 261). Another source states that in 2002 about 30.000 legal immigrants (45%) were partners in mixed capital or foreign companies, 7.000 were experts or technical support staff, and 17.000 involved in education (Ethnobarometer 2004: II.4).

Table 7 Stock of foreign nationals with temporary residence permits, 1999-2002

Country of origin	1999	2000	2001	2002
Rep. of Moldova	6.900	8.200	7.600	8.100
China	6.700	7.100	7.500	7.600
Turkey	5.200	7.000	5.300	5.300
Italy	4.600	5.300	4.700	4.600
Greece	5.100	5.000	4.500	3.700
Syria	3.400	3.300	3.700	3.600
Others	14.100	16.000	16.600	16.500
subtotal	44.100	49.600	49.800	50.100
<i>Study reasons</i>	<i>17.800</i>	<i>19.800</i>	<i>16.600</i>	<i>16.400</i>
TOTAL	61.900	69.400	66.400	66.500

SOURCE: OECD-SOPEMI (2005: 260)

Yet another official source of data on immigrants – the *Authority for Aliens* [Autoritatea pentru Străini (ApS)], within the Ministry of Administration and Interior – calculated the immigrant presence in Romania at 72.859 for 2002. However, its figures over the period 2000-2003 chart a precipitous decline, shown in Table 8, below. Reconciling these different data sources is next to impossible, since the methods of data collection and processing are unknown. In particular, the spectacular decline shown in Table 8 is not easy to explain. Constantin *et al.* (2004: 64) suggest that it is directly linked with more effective policing of the borders, citing total refusals of entry in 2001 of 62.000, in 2002 of 81.000, and in 2003 of 80.000. If their suggestion is correct, then the tighter border controls can be seen as impacting mainly on illegal short-term or circular migrants – probably petty traders. The principal

nationalities of those refused entry were Hungarians (33%), Moldavians (25%), Serbs (18%), Ukrainians (7%), Bulgarians (6%) and Turks (3%). The principal reason for refusal of entry was lack of a means of subsistence – some 57%, in 2003.

Table 8 Number of aliens registered by the Authority for Aliens (ApS)

	2000	2001	2002	2003
Non-EU	74.354	61.737	53.521	32.479
EU (15)	28.328	23.609	17.336	10.278
TOTAL	102.682	85.346	70.857	42.757

SOURCE: Constantin *et al.* (2004: Chart 10)

Asylum seeking, although still at low levels in Romania, showed a clear upward trend up until 2001, after which it dropped to half the level of that year. The principal nationalities of spontaneous asylum applicants are Iraqi, Somali, Indian and (only recently) Chinese. As of beginning 2004, Romania hosted some 2.000 refugees (UNHCR 2004). It should be noted that the number of asylum applicants in Romania is but a small fraction of Romanians applying for political asylum elsewhere in Europe (see section 2.f): this constitutes a rather strange case for a country about to accede to the EU. Table 9 below shows the trend in asylum applications, 1994-2003.

Table 9 Asylum applications, 1994-2003

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
647	634	588	1.425	1.236	1.670	1.366	2.431	1.151	1.077

SOURCE: UNHCR (2004)

(b) Policy issues

Other than the 1991 legislative changes on refugees and asylum-seekers, almost all policy initiatives concerning immigration, emigration and border controls have been undertaken since 2000.¹³⁰ Arguably, all have been dictated by the EU *acquis*, as a precondition for Romania's accession to the EU (Simina, 2005) and have made a considerable change in the management of migration and borders. In particular, Government Ruling no. 802/2001 strengthened the border with the Republic of Moldova which now requires passports for its crossing (Lăzăroiu, 2003a: 82). This is reported as having led to serious tensions with the Republic of Moldova (Skvortova, 2004) along with allegations from Moldavians that it is

¹³⁰ See Lăzăroiu (2003a: Appendix 2) and Constantin *et al.* (2004: 28 + Appendix) for details

both an encouragement of illegal migration and an incitement to acquire Romanian passports (Gheorghiu, 2004).

On the question of how many Moldavians actually hold Romanian passports, there seems to be little and contradictory information. Jandl (2003) estimates some 3.000 persons with dual citizenship, but emphasises the historical connections between the two countries and former ease of acquisition of Romanian nationality. Others, e.g. Simina (2002) note the phenomenon of forged Romanian passports being used by Moldavians. Clearly, the whole issue of nationality, identity and international borders between Romania and the Republic of Moldova is set to become problematic, even though at this time Romania allows visa-free entry of citizens of the Rep. of Moldova.

The use of Romania as a country of transit migration has been a focal point of adjustment to the EU *acquis*. Expert assessment tends to concur that most of the problems have either been solved, or are well on the way to a solution (Simina, 2002; Futo *et al.* 2005). Migration apprehension statistics for the 17 CEE countries show reductions of 20% in both 2002 and 2003, which can be interpreted as an indicator of success in limiting illegal frontier crossings (Futo *et al.* 2003: 40, 51). In the case of Romania, the drop has been even more dramatic – from 32.000 apprehensions in 2001, to 3.000 in 2002. However, most of this relates to Romanian citizens, who benefited from the visa-free Schengen movements from 2002. There do remain, therefore, questions about the extent of transit migration and illegal immigration into Romania, as forged documents and other modes of entry are increasingly being used.

Insofar as the number of immigrants on Romanian territory is concerned, we should be sceptical about the very low (and contradictory) figures available from state agencies. Romania has a flourishing black economy, an intimate historical-cultural link with Moldova, and probably employs rather more illegal immigrant labour than Romanian state authorities currently admit to. In the absence of detailed empirical studies of the informal labour market, it is not possible to say much more on this point. However, it is very likely that the real extent of immigrant presence in Romania is considerably higher than current estimates. This is relevant for future inflows, most particularly upon EU accession, as they are likely to be extremely high. Such inflows, taking the examples of other new EU countries, will consist of all forms of migration – asylum-seeking, illegal entry, forged documentation, visa-overstayers, *inter alia*. Thus, Romania will need to be ready for hitherto unknown levels of immigration pressures.

5 Policy directions – Scylla and Charybdis

As outlined in the Introduction, Romania has been highly aware of the imperatives of adjustment to the EU *acquis*, and has made significant progress in so doing since about 2000. These changes include the establishment of border controls (both entering and exiting Romania), asylum law, immigration law, and from 2006 Romania plans to implement fully the EU visa regime (Constantin *et al.* 2004: Appendix 2). Visa restrictions *vis-à-vis* Turkey and the Ukraine have been implemented since 2003. It is also noteworthy that Romania has made some attempts to control the exit of Romanians to the Schengen zone, with a large number of exit refusals since 2001 and more recently the confiscation of passports from those who broke the Schengen 3-month tourism duration (see section 2.b, above).

Whilst most – if not all – of these actions were a necessary burden for EU accession, they also have costs attached to them. The circular migration of Romanians, as we have shown, is economically beneficial, both in terms of remittances and the Romanian labour market. The implementation of asylum mechanisms is costly, with no obvious economic benefit; and the visa restrictions imposed on regional neighbours is an impediment to cross-border economic activity as well as damaging to Romania's foreign relations. The introduction of a labour immigration mechanism may well prove useful in the near future, but at this time looks suspiciously like a bureaucratic formality.

The nature of Charybdis

While Scylla has been highly visible, Charybdis is merely lurking unseen in deeper waters. There are several aspects of these unseen dangers – labour market management and economic development; demographic shift and its implications; and regional economic and foreign relations. Taking first, the labour market issues. So far, Romania has survived with a non-policy of labour market management; the result has been limited skilled emigration, mass circular migration, and a functioning but uncompetitive labour market. Without the introduction of strong policy, the *status quo* is unlikely to continue: there is the danger that youth skilled emigration will escalate out of control, that returning migrants are excluded from the labour market, and that the gain in human capital over the 1990s turns into a clear *brain drain*. The policy direction needed is one that simultaneously opens up the labour market to real competition whilst conceding that there will probably be significant *brain overflow* through lack of high skilled employment opportunities. Therefore, a complementary policy is needed – an internationalization – of promoting educational mobility, job mobility and scientific exchanges across borders [*brain training, brain circulation and brain exchange*]. Concrete policy proposals in this area are not easy to achieve, and will require real

political determination: without this, Romania is unlikely to make significant economic progress.

The demographic shift has not gone unnoticed (e.g. SAR, 2003), but the usual solutions proposed are not generally effective. For example, how does a state promote fertility rates? Or a reduced dependency ratio? Whereas many EU countries have serious structural problems with demographic shift, in the case of Romania the solution lies more obviously in economic development. With higher participation rates, raised worker productivity levels, reduced circular migration, there should not be great problems with ageing of the population. However, without the reforms outlined above, it is probable that the demographic shift will actually exacerbate any economic failings.

The third main attribute of Charybdis's character consists of the potential damaged regional relations, with non-EU countries. These are already evident with the Republic of Moldova, and presumably will deteriorate further when the EU visa regime is implemented by Romania. Cross-border economic activity is particularly important between North Eastern Romania and Moldova, and seems to have been impeded. Suitcase trading and small business activity, particularly involving Turks, appears to have been disrupted by visa and immigration controls; whilst EU asylum rules have started to attract people from more distant regions, who have little to offer economically. Both regional trade and investment are likely to be important for Romania, although FDI and trading from the EU are obviously important opportunities.

Some general conclusions

Thus, whilst EU accession is important for Romania, and does provide a sense of direction for economic progress, there are no specific guides to assist Romania in what will doubtless turn out to be an idiosyncratic journey. However, some conclusions might be drawn. First, the key to emigration and immigration in Romania lies in skill levels: both Romanian emigrants and immigrants in Romania exhibit highly polarized skills, with few in the middle range. This contradiction is somewhat unusual, and suggests serious dysfunction in the labour market. Labour market reform looks essential.

Secondly, the experiences of Greece look relevant. Greece experienced massive emigration in the 1960s [some skilled, mainly unskilled] and in the 1970s return migration. Many of the returnees found that their skills were not usable, because of employment mechanisms which favoured connections over skills. In fact, generally the low-skilled in Greece found it easier to get highly paid employment, through political favours. Greece also experienced in the 1980s low unskilled/semiskilled immigration alongside highskilled EU immigration, all co-existing in a highly segmented labour market. With the mass immigration

of Albanians in the 1990s, Greece suddenly acquired an immigrant population of nearly 10%. Although creating their own jobs, and filling unfilled vacancies, the Albanian immigrants may have inadvertently impeded economic development. Greek workers moved to higher positions, little capital investment was made and productivity gains were the result of cheap labour rather than economic progress. Now, Greece is unable to compete with other EU production systems, and is both quality and price uncompetitive. The analogy is with the Republic of Moldova – whose nationals constitute the main potential source of immigration into Romania.

Finally, it is almost inevitable that membership of the privileged economic club of the EU will make Romania a gateway for illegal migrants, asylum-seekers, false tourists, and every other type of migration imaginable. The cost of administering controls will be high, and the social shock of adjusting to mass immigration could also be high. It is vital that this negative aspect of EU membership is counterbalanced by economic development and improvements in quality of life for the Romanian people.

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Appendix

Demographic characteristics of permanent emigrants,¹ 1990-1999, Romania
Percentages



1. Estimates by the Ministry of the Interior. Persons having reported their intention to settle abroad.
2. Romanian nationals with no other declared ethnic affiliation.
Source: Ministry of the Interior.

SOURCE: OECD SOPEMI (2002)

ROMANIA, PART OF THE EUROPEAN AREA OF FREEDOM, SECURITY AND JUSTICE. LEGAL ASPECTS*

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“Everyone has the right to leave any country, including his own, and to return to his country”, said the Universal Declaration of Human Rights. But the states keep the right to refuse the access of certain migrants, the right to select those who wish to enter or live within the national territory. International law only covers the right to leave a country and the right to return, which are guaranteed: granting a would-be migrant the right of entry to another country’s territory is part of that country’s sovereignty, and it could not be imposed through international treaties. The road to establish a genuine Area of Freedom, Security and Justice is still a long one. The right balance between Freedom, Security and Justice needs to be ensured. Security and law-enforcement policies need to be developed with ‘freedom’ as point of departure. Immigration and asylum are the main issues in the Hague agenda alongside the prevention of terrorism.

Romania shall contribute to fulfilling these objectives starting with 01.01.2007, when becoming a European Union Member State. Therefore, Romania, as an accession country, is decided to define its policy in the field of Freedom, Security and Justice and to plan its further activities according to the priorities established in the Hague Programme. By the date of Romania’s accession to the EU, Romania shall have defined its priorities, shall have amended its legislation and procedures, in accordance with the objectives and the measures adopted by the EU Member States in implementing the Hague Programme. After this date, Romania shall participate in the EU decision-making process, with a view to establishing and implementing the priorities of The Hague Programme.

Keywords: The Hague Programme, Justice and Home Affairs, Romania, migration

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Europe appears caught up in its own dilemma: *Europe needs migrants, Europe fears migration*

Despite the disproportionate attention that has been given in the scientific debate to immigration pressures on the United States, there have been other major migration streams around the world. These too have been driven by a combination of demographic and economic trends as well as by political upheavals. As Europe entered the 1990s, profound political and economic changes were transforming it. In Eastern Europe, the collapse of the Soviet regime and the fall of the Iron Curtain led to large westward flows in the early 90s from

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countries like Romania, Bulgaria, Poland or Russia and other former Soviet countries. These flows came in addition to a rapidly rising number of asylum seekers. Starting with the 90's, Europe faced a new era of migration: migration as an asset and a challenge.

After 1990, European migration was mainly driven by economic purposes. In accordance with the international law, an *international migrant* is a person who lives temporarily in a country of which he is not national. As the term *migrant* refers to cases where the decision to migrate has been taken freely by the individual concerned (without the intervention of external compelling factors), migrants are differentiated from refugees and asylum seekers. According to the Convention on Migrants' Rights, the term *migrant worker* refers to a person who is to engage, is engaged or has been engaged in a remunerated activity in a state of which he/she is not a national. This definition therefore encompasses both documented and undocumented migrants.

“Everyone has the right **to leave** any country, including his own, and **to return** to his country”, says the Universal Declaration of Human Rights in Article 13(2). As one of the innate rights of a human being, *the right to migration* has been articulated both in the international law, especially in the Common Declaration of Human Rights, the International Pacts of Civil and Political Rights, the 1951 Geneva Convention and the 1967 New York Protocol concerning the status of refugees, the Charter of Fundamental Rights of the European Union (articles 18, 45.2) and in the national law¹³¹. Even the Holy See proclaims itself in the widely understood right to migrate: the Vatican is of the opinion that legal protection of the right to migrate should also comprise all forms of voluntary migration. “Personal human rights comprise also the fact that any individual can migrate to this country where he hopes to provide for needs of his and his family in the easiest possible way. And that is why it is a duty of these being in national authority in the state to receive the in-coming foreigners and to comply with the migrants” said the Pope John XXII in his encyclical *Pacem in Terris*. Pope John Paul II said in his *Laborem exercens* that any human being has the right to leave the country of his origin in search for opportunities of living in another country, too.

At present, cross-border movement is a top priority issue on the government agendas and during the intergovernmental discussions. Over the past 15 years, the number of people crossing borders in search of a better life has been rising steadily. In the beginning of the 21st century, one in every 35 people is an international migrant. If they all lived in the same place, it would have been the world's fifth-largest country. In Europe, as elsewhere, international migration has become a topical issue in public, political and academic debates. Most

¹³¹ We consider that the international law only covers the right *to leave* a country and the right *to return*, which are guaranteed: the granting a would-be migrant the right of entry to another country's territory is part of that country's sovereignty, and it could not be imposed by international treaties.

European countries are experiencing increased flows of immigration. Already millions of immigrants have come to stay, first in north-western Europe but increasingly also in the southern regions, and the odds are that many more immigrants will follow in the coming decades. The immigration flows have been triggered by several causes, including family reunification, political persecution, ecological disasters, or disparities in economic opportunity, and so forth. These flows show a tremendous variation in size and spatial distribution. Whatever the causes of international migration or the criteria of migrants' selection at the borders are, old and new immigrations have obviously produced all sorts of social, cultural, political and economic changes, and had an impact on general trends in various specific ways. In response to these developments, the governments initiated a series of legislative reforms. These covered all areas related to immigration, including entry, residence, employment and asylum.

All countries, even those where large proportions of population are themselves descendants of immigrants, tensions have occurred between new arrivals and parts of the native population. Such tensions are partly invoked by the perception of unchecked flows of new immigrants as well as anti-immigrant political parties. Opponents of migration fear adverse impacts on the labour market, public finances, on social conditions and on the distribution of income. Proponents of migrations note the positive economic role that immigrants can play, for instance in term of addressing specific labour shortages and the problems linked to ageing populations.

“One of the biggest tests for an enlarged European Union, in the years and decades to come, will be how it manages the challenge of immigration. If European societies rise to this challenge, immigration will enrich and strengthen them. If they fail to do so, the result may be declining live standards and social division”
(part of the UN Secretary-General Kofi Annan's speech, delivered to the European Parliament on 29 January 2004).

The road to establish a genuine Area of Freedom, Security and Justice is still a long one. The right balance between Freedom, Security and Justice needs to be ensured. Security and law enforcement policies need to be developed with 'freedom' as point of departure (Apap and Carrera 2003). Freedom of movement is one of the fundamental principles upon which the European Union was once founded. The recent and unprecedented EU enlargement was, however, accompanied by a chain reaction of restrictions introduced by the EU-15 to curb prospective migration from the new Member States. The enlargement of the European Union on the 1st of May 2004, gave the nationals of the 10 new Member States the right to move relatively freely around the whole EU territory. The potential consequences of this new

freedom have fuelled the debate in the 15 EU states (the so-called EU-15), where many feared that migrants from the new members will swamp their labour markets and strain their welfare systems. When dealing with the old new comers, from countries where there were fears of mass migration, workers had to wait at least seven years before they could seek jobs in other countries on an equal basis with natives. Under the enlargement treaties, the EU-15 nations restricted the right of accession nationals to their labour markets for up to seven years. During the negotiations with Turkey, there is likely to be a debate over whether there should be a longer-than-seven-year wait for Turks, whether the EU should allow freedom of movement when certain indicators are met, or whether individual EU Member States should have discretion in when to allow the freedom of movement.

Restrictions take place despite a widespread recognition that Europe needs to import foreign labour in the view of the gloomy demographic forecasts, in the face of ageing populations and low birth-rates, as well as the prospects of a collapsing social security system. The EU-25 has 455 million residents, compared to 295 million in the US. There can be no doubt that the European societies need migration. Europeans are living longer and have fewer children. By 2050, if current demographic trends continue, without immigration, the population of EU-25 will drop to under 400 million residents (Annan 2004), but the US will have 420 million. With low fertility rates, net migration already accounts for a significant proportion of population change in the EU. For example, without migration, Germany, Greece and Italy would have experienced a loss of population and Sweden would barely have grown. Italy, for example, has a dubious distinction of having both the oldest population and the lowest birth-rate in the world. Without immigrants, its population will shrink from 57 million today to 41 million in 2050. In Germany, the EU's largest nation, the number of senior citizens is projected to increase by 50% over the next three decades. A UN study from 2000 acknowledges that during the first half of the 21st century, the population of most developed countries shall become smaller and older, as a result of a below-replacement fertility and an increased longevity (Visco 2000). In the absence of migration, the declines in the population size will be even greater than those projected and the population ageing will be more rapid. The numbers of migrants needed to offset these declines in the working-age population are significant larger than those needed to offset total population decline. If retirement ages remain as essentially as it is today, increasing the size of the working-age population through international migration is the only option in the short to medium term to reduce declines in the potential support ratio: if Germany do not accept 500,000 immigrants a year, it would have had to rise its retirement age to 77 in order to have enough workers to finance pensions for the

elderly. In other words, Europe will have to double its intake in migrants over the next 50 years just to maintain its population level.

Anti-immigration sentiment has risen in Europe over the past few years, and many governments are under subsequent pressure to curb the growing problem. The EU estimates there were at least a million of irregular migrants in the EU-15 Member States in 2004¹³². IOM counted the number of irregular foreigners in Western Europe at three million in 2000, and ILO noted that, if 15 percent of the 22 million foreigners were irregular, their number would be of 3.3 million¹³³. With an average net legal immigration of nearly 1 million persons per year, the inflows in the 1990s were the largest since the year 1945. This number does not reflect the extent of illegal immigration. The types of migrants and countries of origin have also diversified, with a dramatic increase in the number of immigrant women, as well as unprecedented peaks in the number of asylum-seekers. All Member States are concerned. Spain, Italy, the UK and Germany together account for 70 per cent of the net inflow of immigrants. Former countries of emigration, such as the southern Member States and Ireland, also became countries of immigration over the last decade. On the other hand, illegal immigration is one of the most sensitive issues in Europe: a growing trend of illegal entry has been observed across the EU over the last decade. Spain intercepted an average of 1,000 migrants a month trying to slip into Southern Spain or the Canary Islands in 2004.

Creation of the Area of Freedom, Security and Justice: the Hague Programme

The goal of constructing an 'Area of Freedom, Security and Justice' across the European Union was agreed at the Tampere EU Summit of 1999 (Finland). The *Tampere Programme* was a five-year agenda that came to an end in 2004. The evolution at the European Union level regarding the establishing of an Area of Freedom, Security and Justice for all is presented in the *Appendix no.2*.

In June 2004, the Commission presented a Communication¹³⁴ taking stock of the implementation of the *Tampere Agenda* and setting future guidelines for a new Justice and Home Affairs agenda for the years to come. The *Tampere Programme* was followed by the *Hague Programme*, which is a five-year programme for closer co-operation in justice and home affairs at EU level from 2005 to 2010. The programme's main focus is on setting up a

¹³² COM(2004) 412 final, 04/06/2004, Brussels, http://europa.eu.int/eur-lex/en/com/cnc/2004/com2004_0412en01.pdf

¹³³ A group that maintains links to such estimates is the Platform for International Cooperation on Undocumented Migrants (www.picum.org).

¹³⁴ Communication from the Commission to the Council and the European Parliament on *Area of Freedom, Security and Justice: Assessment of the Tampere Programme and Future Orientations*, COM(2004) 401 final, Brussels, 2.6.2004

common immigration and asylum policy for the European Union member states. Following the Council discussions in July and October 2004, the Dutch Presidency produced a new programme for justice and home affairs (now referred to as 'freedom, security and justice') for the years 2005-2010, to be known as the *Hague Programme*. On 10 May 2005 the Commission produced a roadmap implementing the Hague Programme which identifies ten specific priority areas for 2005-2010¹³⁵.

Immigration and asylum are the main issues in the Hague agenda alongside the prevention of terrorism. EU leaders agreed to use qualified majority decision-making and co-decision in the fields of asylum, immigration and border control issues. Legal immigration remains subject to unanimity. In the field of asylum, immigration and border control, the Hague programme contains the following key measures:

- a common European asylum system with a common procedure and a uniform status for those who are granted asylum or protection by 2009;
- measures for foreigners to legally work in the EU in accordance with labour market requirements;
- a European framework to guarantee the successful integration of migrants into host societies;
- partnerships with third countries to improve their asylum systems, better tackle illegal immigration and implement resettlement programmes;
- a policy to expel and return illegal immigrants to their countries of origin;
- a fund for the management of external borders.
- *Schengen Information System (SIS II)* - a database of people who have been issued with arrest warrants and of stolen objects to be operational in 2007
- common visa rules (common application centres, introduction of biometrics in the visa information system)

In the fields of justice and security, the Hague programme highlights the following key measures:

- police information to be available between all EU countries (threats to the security of another EU state must be communicated immediately);
- address the factors that contribute to fundamentalism and to the involvement of individuals in terrorist activities;
- make greater use of Europol, the EU's police office, and Eurojust, EU's judicial co-operation body;
- ensuring greater civil and criminal justice co-operation across borders and the full application of the principle of mutual recognition.

The *roadmap* for 2005-2010¹³⁶ lists ten key areas for priority action:

¹³⁵ Communication from the Commission to the Council and the European Parliament on The Hague Programme: Ten priorities for the next five years. The Partnership for European renewal in the field of Freedom, Security and Justice, COM(2005) 184 final, Brussels, 10.5.2005

¹³⁶ Council and Commission Action Plan implementing the Hague Programme on strengthening freedom, security and justice in the European Union, Official Journal C 198, 12.08.2005

- fundamental rights and citizenship: development of policies enhancing citizenship, monitoring and promoting respect for fundamental rights;
- the fight against terrorism: prevention, preparedness and response;
- migration management: developing a common EU immigration policy and countering illegal migration;
- internal and external borders, visas: further develop an integrated management of external borders and a common visa policy, while ensuring the free movement of persons;
- a common asylum area;
- integration: maximising the positive impact of migration on society and economy;
- privacy and security in sharing information: balancing the need to share information among law enforcement and judicial authorities with privacy and data protection rights;
- fight against organised crime;
- civil and criminal justice: effective access to justice for all and the enforcement of judgements;
- freedom, security and justice: reviewing the effectiveness of policies and financial instrument in meeting the objectives of freedom, security and justice.

Romania shall contribute to fulfilling these objectives starting with 01.01.2007, when becoming a European Union Member State. Therefore, Romania, as an accession country, is decided to define its policy in the field of Freedom, Security and Justice and to plan its further activities according to the priorities established in the Hague Programme.

By the date of Romania's accession to the EU, Romania shall have defined its priorities, shall have amended its legislation and procedures, in accordance with the objectives and the measures adopted by the EU Member States in implementing the *Hague Programme*. After this date, Romania shall participate in the EU decision-making process, with a view to establishing and implementing the priorities of *The Hague Programme*:

(1) Fundamental rights and citizenship: creating fully-fledged policies

Romanian authorities pay a great importance to the fundamental rights of its citizens. Considering these fundamental rights, stated in the European Constitution, we appreciate that the measures of the Action Plan of the Hague Programme will enable a uniform implementation of the EU acquis in all the Member States and, implicitly, the possibility to amend its provisions, according to the real situations at a given moment.

(2) The fight against terrorism: working toward a global response

All Romanian authorities with prerogatives in the migration field are cooperating with the national security bodies, in order to prevent and fight against terrorism. They are exchanging information regarding the suspected aliens of committing terrorism acts.

(3) A common asylum area: establish an effective harmonized procedure in accordance with the Union' values and humanitarian tradition

The Romanian asylum system is harmonized with the EU Acquis and the international standards in the field. The Romanian authorities have taken the appropriate measures for strengthening the inter-institutional cooperation framework. At present, at the level of the National Refugee Office of Romania, a complete training programme for the national services in the asylum field is on-going. At the same time, the relevant Romanian authorities are cooperating with the international bodies (e.g. UNHCR, IOM) and national NGOs, in order to develop joint programmes concerning the asylum issues. The Romanian authorities are under-preparations in order to develop actions for making use of the European Refugee Fund by 2007.

As regards the resettlement policy, Romania welcomes the development of the EU Regional Protection Programmes and Resettlement Schemes, as well as the establishment of the common return procedures, agreed by all Member States. The Romanian authorities consider that, beside the currently allocated funds, the establishment of a Return Fund at the European level will constitute a positive element for the implementation of the return policies.

(4) Migration management; defining a balanced approach

Romania pays a great importance to a balanced approach to migration management. Romania has defined its policy in this field in a National Migration Strategy. In the initiative of aligning the national policy to the EU objectives, set out by this strategic document, a crucial role is given to the process of drafting annual action plans for implementing the National Migration Strategy and to the institutions represented in the Co-ordination Group, created on this purpose. All the national bodies with prerogatives in the migration field are involved in drafting and carrying out the activities in the Action Plan.

Also, in this respect, Romania pays a great importance to the development of the research, analysis and statistical component, as well as to the contribution to the annual reports on migration and asylum statistics produced at the EU level.

Romania welcomes the adoption of the EU Framework Regulation on the collection of migration and asylum statistics and of the Commission Decision establishing a secure web-based information network for Member States migration services, which will enable the exchange of information in the field, at the European level.

As regards the development of the policy on legal migration, particularly the economic migration, the Romanian authorities will participate at the public consultation on the Green Paper on economic migration.

(5) *Integration: maximising the positive impact of migration on our society and economy*
Romanian authorities pay a great importance to the development of an efficient integration policy of the persons granted with an international form of protection, in order to prevent isolation and social exclusion, by carrying out individual integration programmes and granting them access to education, labour market, social protection and housing.

Romania in the age of international migration: the year 2002

Starting with 1990, many Romanians chosen to leave Romania (both legally and illegally) for living or working in another country, most of them definitively: Romania is considered as a source country for the European and international migration (Simina 2002). For Romania's migration, the year 2002 was very important: it was the year when the European Union had lifted visa for Romanians travelling within the Schengen Area. That year is now considered as *turning point* in the migration phenomenon.

As regards Romania's illegal migration, the migration studies mention three migration mechanisms: the transit migration, the Romanians' emigration to European Union and the circulatory migration of workers.

Illegal transit migration is the mechanism through which third country nationals immigrate to countries in the Central and Eastern Europe, including to Romania, so that they could further emigrate to the European Union (EU-15). Transit migration through Central and Eastern Europe (and thus through Romania, as well) consists in a growing number of illegal emigrants, some of them meeting the criteria for which they apply for asylum, but who prefer not to do so in Central and Eastern Europe for different reasons, so that they could transit to the European Union. This is a relatively new phenomena and it has been found out that its main characteristics are illegality and the involvement of criminal networks in human trafficking (Constantin *et al.* 2004).

Illegal migration of Romanians means that Romanian nationals leave legally Romania and enter legally EU Member States, but stay illegally in an EU country after the legal stay period expires (3 months within the following 6 month after the first departure in a certain period of time, after 2002, or overstaying the compulsory visa, in the time before the year 2002), or they leave as tourists or students but, reaching the country of destination they perform lucrative activities on the black market, or they are entering and illegally stay on the territory of an EU Member State (generally after illegally crossing the Romanian border) (Constantin *et al.* 2004: 25-26; Simina 2002).

Starting with the year 2002, the "national trend" was the *circulatory migration* (Lăzăroiu 2004). Circulatory migration by means of migratory networks (legal or illegal)

refers to the alternative movement between the country of origin and one or more of the countries of destination. Migrants leave and work abroad for a period of time (sometimes, not for overstay the visa-free period of three months/90 days), return in Romania and stay for a period of time (generally no more than three months), then leave again for working abroad. During the period of their staying back to Romania, other emigrants replace them at the work. That means that one migrant worker works for three months and then comes back to Romania: a friend or a relative replaces him/her for the next 3 months and so on. Through the migratory networks, those who want to temporarily migrate abroad receive help and support from the previous migrants. This intention to migrate abroad seeking a job is more likely among people living within communities with a high circulatory migration rate. In areas where others have left before, more will leave, in places where other migrants have succeeded and where the signs of success are apparent, migration will be higher (Constantin *et al.* 2004). It is very difficult to produce an estimation of the documented and undocumented migrants. But it is well known that most of Romanian migrant workers left Romania and entered the European Union Member States as tourists. They were already having arrangements for work in the *black market*. As legal measures against irregular migrants were taken by the Romanians authorities, starting from the interdiction to leave Romania up to 6 years, overstaying the visa period (three months as tourist) becomes problematic. So a new way to secure the long-term job was “invented” by Romanians: two or three persons were “sharing” the same job position each three-month period of time as to avoid overstaying (Lăzăroiu 2004: 27).

In the European migration framework, Romania had to manage an unstable equilibrium: to secure the borders against the illegal migration (and sometimes... even against its own citizens!), to assure the observance of human rights (the freedom of movement is recognised to all Romanian citizens, as one of the fundamental rights) and to protect people in need of the international protection (refugees and asylum seekers).

Romania is not only a country that made important efforts to join the European family, by introducing the necessary legal provisions in the national legislation, but it is already part of one, whole Europe, ruled by law. To have a competitive economy and an equitable welfare system means to have good laws and to firmly implement those laws. Regarding migration and asylum, Romania implemented the major European legislation. *Appendix no.1* presents the concordance between the latest European Union *acquis* and the Romanian legislation in this regard.

The creation of an Area of Freedom, Security and Justice, through the implementation of European Union *acquis* in the Romanian legislation, leads the Romanian Government to reform the police and border guard system.

Starting with the year 2003, the new Ministry of Administration and Interior (MAI – it was created as the result of a merging process between the former Ministry of Interior and the former Ministry of Public Administration), through its specialized structures, ensures the upholding of the Romanian state border regime, the regime for aliens in Romania, manages the records of the aliens who were granted the right of stay in Romania (the *National System of Aliens' Registration*), implements Romania's policies intended for refugees, organizes and coordinates the issuance and the general registration of identity and travel documents. Within the Ministry of Administration and Interior, the institutions having attributes in the field of migration are: the Romanian Border Police, the Authority for Aliens, the Department for Passports and the National Office for Refugees. The main institution, with competences in securing the borders and fighting against the illegal international migration targeting Romania as transit country, and on the other hand in controlling the border (the present and the future external border of the European Union), is the General Inspectorate of Border Police (*Inspectoratul General al Poliției de Frontieră – IGPF*), within the Ministry of Administration and Interior. Together with the Authority for Aliens (*Autoritatea pentru Străini – ApS*) and the National Refuges Office (*Oficiul Național pentru Refugiați – ONR*), IGPF was one of the major institution that hardly struggled to finalize the negotiation process on the 24 Chapter – Justice and Home Affairs (the last Chapter concluded just before the December 2004 European Council, that agreed on concluding the process and inviting Romania to sign the *Treaty of Accession of Bulgaria and Romania to the European Union* on 25th of April 2005, in Luxembourg).

In July 1999, the Border and Immigration Police (PCTF) and the Border Guards (*Grănicerii*) merged as “the new” *Romanian Border Police* (nowadays, the Border Police is organised as a general inspectorate: *Inspectoratul General al Poliției de Frontieră – IGPF*). Some police officers from the Border Police were sent to guard the so-called “green border” (as border guards, even if they were untrained for this new mission, mostly linked at that time to a military service, than to a police job), and contrariwise lot of former border guards (military trained officers, without studies or training in the field of documents' control and immigration police activity; some periods before the 90's, the border guards were part of the Army, being trained in such way) were put to control the passports in the border checking points and to assist the customs bodies during their specific activities related to the transportation of goods across the border. In this way, the new management of the border tried

to oblige both former border and immigration policemen and former border guards to learn the *new job*: a European-style border police, where the police officers are involved as professionals both in the fight against immigration and trans-national crimes and in the border management activities, with large competences within the border area.

At the beginning of 2001, the Romanian Border Police took the first important (and real) measures to strengthen the border control and to secure the border. Until 2001, with the exception of the commissioned and under-commissioned officers (generally with military training and studies), all the border guards were young men (conscripts, sometimes without specific skills) enrolled in the one-year compulsory military service. They had to learn to be professional guards in less than one year, and after the end of the military service (when they eventually learned the rules to secure the border) they were sent home definitively. The main part of the former Border Guards was busy with the training of those young guards: there was the same problem each year, with each new generation (contingent) of conscripts (unfortunately, as the military service as a border guard was never seen as a nice job – far away from cities and often in isolated areas – mostly conscripts with unfinished studies or with low skills were attracted in this service). Only the former border policemen were trained as police officers, being graduates from the Police Schools or even from the Police Academy (Law bachelors). Starting with 2001, professional guards were enrolled in Border Police and the service at the *green border* was specialised. The new Romanian Border Police was born and a new legislation on border regime and on border policing was adopted in 2001. Nowadays, there are no more conscripts at the borders – all the police border officers are professionals. With the support of EU funds from the pre-accession programmes, the Border Police endowment was modernized and new techniques were acquired, in accordance with the European standards.

Romanian authorities had taken some other *legislative measures* and *police measures*. Here are some of the most important pieces of legislation that entered into force during that period of intense legislative transformations:

- The republished Romanian Constitution (2003) guaranties the right of free movement, each Romanian citizen benefiting the right to emigrate and to return to the country.
- The new Laws of the Romanian *border regime* and of the Romanian Border Police were put in force in 2001.
- Since 2002, all border police forces (like the whole police system in Romania) were demilitarised.
- After the announcement of entering the Schengen area for *tourism purposes* without a visa (as starting with January 1st, 2002), the Government issued an Government emergency ordinance OUG no.144/2001, which established compulsory rules, conditions and formalities for Romanians to cross the national border: health insurance for the whole journey, car insurance for the EU area or a return ticket (if travelling with other means of transport than own car), proof of the travel purpose

- (Romanians were not allowed to work during the self-declared *tourism journey*), proof of funds for the whole journey, a limited period of travel (90 days) per each semester, not having been returned by the EU Member States, and so on.
- The Government Ordinance OG no.84/2004 modified the *regime of passport* in Romania and introduced the possibility for the passports to be retained and the right to use a passport to be suspended up to five years, in case that Romanians do not comply with the European Union migration requirements, or have been convicted as criminal offenders abroad. At the same time, the Border Police was allowed to interrupt the journey of Romanians who were not fulfilling all the conditions requested by the national law in order to travel abroad.
 - As the migration issues became more important for the Romanian administration, the Government approved the decision HG no.577/2003 (modified and completed by HG no.280/2004 and HG no.855/2006) setting up *Autoritatea pentru Străini – ApS* (the Authority for Aliens) as an autonomous institution, subordinated directly to the Ministry of Administration and Interior, with legal personality, that carries out the tasks assigned to its competence it by law, regarding the status of aliens in Romania, combating illegal stay, as well as regarding the management of the records of aliens who were granted the right of stay in Romania.
 - The basic law that regulates the *circulation of foreign persons in Romania* (Law regarding the aliens' regime in Romania) entered into force as the Government Emergency Ordinance OUG no.194/2002, approved with amendments by Law no.357/2003. This piece of law contains provisions for regulating the admission on the Romanian territory, the conditions for temporary or permanent stay and the necessary measures which have to be taken by the Romanian authorities when the aliens are in illegal situations on the national territory. In drafting that law, the ApS specialists benefited from the experience of the experts from the EU Member States within a Twinning Covenant (Swedish Migration Board and Danish Immigration Service). When it was adopted, the law transposed the EU Acquis in the field of migration by the end of 2001. Taking into account the tasks assumed by Romania within the negotiation process, and because everything can be improved, the ApS specialists drafted new legal documents modify to and to complete the 2002 Aliens' Act. At the moment, the European acquis in the migration field is fully transposed up to 2004.
 - In order to fully transpose the European acquis (Directive 38/2004/EC) the Romanian authorities adopted the Government Emergency Ordinance no.102/2005 on the *free movement of citizens of the Member States of the European Union and the European Economic Area on the Romanian territory*, with further modifications and completions. The new legislation establishes accelerated procedures for registering the residence and for granting the right of permanent residence on Romanian territory. It also provides the procedures for restricting the right of free movement on the Romanian territory of the European Union citizens and their family members on grounds of public order, national security or public health.
 - Granting of rights and obligations to the *foreign citizens who benefit of a form of protection* in Romania, in equal conditions to those applicable in the case of the Romanian citizens, was regulated by the Government Ordinance no.44/2004 regarding the social integration of the foreigners that acquired a protection form in Romania. The *National Refugee Office* deals with protection of refugees.
 - The Law no.678/2001 on *combating the trafficking in human beings* regulates the prevention and the fighting against the traffic in human beings as well as the protection and the assistance granted to the victims of such traffic.
 - The Government Decision no.616/2004 approved the *Romanian National Strategy on Migration*.

Romania adopted an active and flexible policy in the area of controlled immigration, adapted to the national, regional and international conditions, including by closely monitoring the admission and stay of aliens. A special status was granted to citizens of the European Union Member States and of the European Economical Area. For aliens coming from countries with a high migratory potential are elaborated specific procedures, which includes conclusion of international agreements and conventions. With a view upon a durable economic development, in accordance with Romania's national interest, the policy in the field of controlled immigration also pursued the attraction and access of foreign investors. Consequently, the policy with the purpose of carrying out commercial activities was addressed with priority to investors with a high economic potential and implemented by the competent governmental institutions in co-operation with organisations relevant in the field. The policy on admission for working purposes offers the possibility of access of aliens on the Romanian labour market, taking into consideration both the need to protect the internal labour market as well as Romania's economic interests, i.e. using a utilitarian approach.

National Migration Strategy¹³⁷

In order to establish a unitary conception on immigration management at national level, the Government approved in 2004 the National Migration Strategy and an inter-institutional mechanism for its implementation, fact which led to the gathering of all institutions with competences on migration at the same discussions table. The strategy was implemented through annual action plans which ensured the achievement of important objectives through a coordinate effort of the involved institutions in the field of regular migration, preventing and combating illegal migration, asylum, social integration and return/voluntary repatriation of the aliens with illegal stay.

The National Migration Strategy was approved by the Romanian Government through HG no.616/2004. It stipulates the general principles and guidelines in establishing the Romanian policies on admission, stay, and leaving the territory by aliens, labour force immigration, granting the international protection forms, preventing and combating the illegal immigration and stay. For its implementation an inter-institutional mechanism was set-up and approved through HG no.1708/2004 having the role of coordinating the activity of all institutions with competences in this field. This mechanism is formed by an *Inter-ministerial Coordination Group* and a *Technical Secretariat*.

¹³⁷ The authors wish to express their gratitude to Mr. Dorin Țepușă, *Autoritatea pentru Străini*, for his support in preparing the data related to the Authority of Aliens (*Autoritatea pentru Străini*), within the Ministry of Administration and Interior.

The Inter-ministerial Coordination Group is composed from decision-making representatives of the member institutions (Ministry of Administration and Interior, Ministry of Foreign Affairs, Ministry of Labour, Social Solidarity and Family, Ministry of Education and Research, Ministry of Health, National Institute for Statistics, and Romanian Agency for Foreign Investments). The Group is chaired by the Head of Order and Public Security Department within Ministry of Administration and Interior, helped by 2 vice-presidents (the Heads of *Autoritatea pentru Străini* and *Oficiul Național pentru Refugiați*). The main task of the Group is to monitor the implementation of the objectives of the Strategy through the action plans and the accomplishment of the obligations and commitments assumed by Romania in this field. The Group meets quarterly, or whenever necessary. On the agenda of the reunions of the Co-ordination Group are subjects of common interest for the member institutions in order to take the necessary decisions for a better management of migration, analysis of the implementation stage of the actions included in the Action Plan, identification of the problems encountered in accomplishing some activities, as well as discussing the proposals for solving them, drafting of future Action Plans.

The Technical Secretariat is composed by the appointed staff from *Autoritatea pentru Străini* and *Oficiul Național pentru Refugiați* and its main attributions are to maintain contacts with the member institutions of the Group and with other bodies in migration field, to draft the necessary documents for carrying out the Group activities, to organize of the meetings of the Group. Up to now, two yearly action plans were implemented in 2005 and 2006.

The *2006 National Migration Strategy Action Plan* had the following objectives:

- Developing the legislative framework in the migration and asylum field and its harmonisation with the European Acquis;
- Intensifying the activities for preventing and combating of illegal stay and illegal work;
- Increasing the level of coordination of the institutions with competences in the field of social integration of aliens;
- Developing the logistical and human resources capacity of the institutions with competences in managing the migration and asylum;
- Increasing the level of professional skills of the staff within the institutions with tasks in the field of migration and asylum.

Taking into account the new status of Romania, as a Member State of the European Union, the inter-institutional Group drafted a new strategy, which aims at setting-up the guidelines for Romanian policies in the immigration field, according to the national interests and in correlation with the policies and programmatic documents adopted at the European Union level, as well as guarantying the migrants' rights.

This strategy on immigration envisages a four-years period (2007-2010) and represents the next step made by Romania in its efforts for modernising the process of managing immigration on national territory. It is desired to establish in a simple and direct manner the objectives to be taken into account at national level for a better approach of the phenomenon for the Romanian society. Along this period, Romanian authorities will establish and coordinate concrete measures and actions in the field of immigration, which should be framed by the guidelines established by the current Strategy.

The first result of the institutional transformation and the implementation of the “new legislation”: the rate of immigrants succeeding in crossing illegally the border decreased continuously (Simina 2002: 14). The most important result of all transformation within the Ministry of Administration and Interior, and the Ministry of Justice competences (and within the Romanian society as a whole, not only in the regard of migration, asylum, justice, and human rights): Romania will join the European Union by January 1st, 2007!

Negotiation of Romania to join the Area of Freedom, Security and Justice – Chapter 24 Justice and Home Affairs

The negotiation process for Romania’s accession to European Union represented a sustained and continuous effort made by the governmental institutions in order to reach a compatibility level with Member States in the legislative and institutional framework. In this context, the Romanian Government paid a great attention in tackling the immigration issues, as an important part of the justice and home affairs field, the more so as, from the accession date, our country becomes a Member State at the Eastern external borders of European Union.

The legislative reform meant the adoption of a package of normative acts in order to ensure the line up to the communitarian legislation and to other international legal instruments, which the Romanian state is a part to. The enforcement of a modern legislative framework imposed the reform of the institutions with competences in this field, the necessary instruments for implementing an efficient management of immigration and asylum phenomena on the Romanian territory being achieved in this way.

The European Union accession negotiations

The Ministry of Administration and Interior was the key-institution for the negotiations on Chapter 24 Justice and Home Affairs (see *Box no.1*, below), a chapter which comprises a range of complex issues on border control, migration, visa policy, aliens’ regime, asylum, police and customs cooperation, judicial cooperation on criminal and civil matters.

On 30 November 2001, the Romanian Government sent to the EU-Romanian Accession Conference *the Position Paper on Chapter 24 – Justice and Home Affairs*, which had an annex on *the Schengen Action Plan*. The document was drafted by the negotiation delegation on Chapter 24 JHA, under the coordination of the Ministry of Administration and Interior and of the Ministry of European Integration, according to the procedure set out in the HG no.273/2001. Besides the Position Paper sent by Romania, the European Commission asked for several clarifications during a special meeting organized in Brussels on 8 February 2002. The answers to these questions were drafted in a new document, which was approved by the Romanian Government and sent to Brussels, during the Accession Conference on 22 February 2002.

Box no.1

Chapter 24 - Justice and Home Affairs:

Schengen Action Plan
Reform of Justice
Personal Data Protection
Visa Policy
External Borders
Migration
Asylum
Police Cooperation and Fight against Organized Crime
Fight against Fraud and Corruption
Fight against Terrorism
Fight against Drugs
Customs Cooperation
Judicial Cooperation in Civil and Criminal Matters

Romania opened the negotiations on Chapter 24 JHA on 19 April 2002, making a rapid progress in several fields, which were extremely sensitive for some of the member states. Based on the experience of the other candidate countries, Chapter 24 JHA proved itself to be a tough one during the accession negotiations. This chapter was one of the most complex and sensitive files, and the negotiation process took sometimes six or more years of hard work to be closed. After opening of the negotiations, the Ministry of Administration and Interior started an intense monitoring process, together with the other institutions involved in the negotiation delegation, in order to fulfil all the engagements assumed by Romania to meet the accession criteria.

The *Complementary Position Paper on Chapter 24 – Justice and Home Affairs*, amended and completed in accordance with the Common Position of the Member States, was approved by the Government and sent to the EU Commission on 3 February 2003. In order to speed up the negotiation process and to make credible the information sent in the previous Position Papers, the Romanian authorities decided to present on 24 September 2003 a new

Additional Information Document. This document included progress registered by Romania both in Justice and in Home Affairs fields, since the last Complementary Position Paper.

The European Commission sent Romania a Common Position of the Member States on 29 January 2004. This was the starting point for the Romanian authorities to draft the *2nd Complementary Position Paper* as well as to *revise the Schengen Action Plan*. The purpose of drafting these documents was to reflect the latest progress achieved by Romania and to highlight the general conception and the action plans for implementing the European Union Acquis, as well as to prove the technical and administrative effectiveness of the Romanian authorities, together with the great will of the Romanian Government to fulfil all the engagements assumed during the negotiation process. The *2nd Complementary Position Paper* and the *revised Schengen Action Plan* were drafted and sent to the Ministry of European Integration on 28 June 2004. Both documents were approved during the Government meeting on 8 July 2004.

On 8 December 2004, the Council of the Permanent Representatives of the Member States agreed on the draft Common Position of the European Union on the status of negotiations on Chapter 24 JHA, as drafted by the European Commission, and concluded that, technically speaking, **the negotiations on Chapter 24 JHA were closed**. On 17 December 2004, the European Council agreed, in Brussels, upon the closure of Romania's accession negotiations to the EU and established the day of signing the Accession Treaty of Romania and Bulgaria in April 2005, after having obtained ascent of the European Parliament. On 13 April 2005, Romania received the ascent of the European Parliament and the Accession Treaty to the EU was signed on 25 April 2005. According to the calendar set for European Union accession, Romania will join the European Union on 01.01.2007.

The status of an observatory country to the European Union

Closing the negotiations meant the ending of a process and the beginning of another, a much more comprehensive and difficult one. This meant for Romania to speed up the rhythm of achieving all the assumed engagements during the accession period, to increase the quality of the European Union Acquis implementation process and to ensure a strict monitoring of all the activities.

The most important phase of closing the negotiations for Romania was the mentioning of the two safeguard clauses, one of which was on Chapter 24 – Justice and Home Affairs. This special safeguard clause could only be activated after the qualified majority vote of the Member States in the Council of European Union, if Romania would have not fulfilled any of

the following requirements. The activation of the safeguard clause means that Romania's European Union accession date may be postponed by one year.

The seven requirements on Chapter 24 were the following:

- The implementation without further delay of the Schengen Action Plan.
- Obtaining a high level of control and surveillance at the future external borders of the EU.
- The development and the implementation of an updated and integrated Action Plan and Strategy for the reform of the judiciary.
- The considerable acceleration of the fight against corruption and specifically against the high-level corruption by ensuring the strict application of the anti-corruption legislation and of the effective independence of the National Anti-Corruption Prosecutor's Office.
- The conduct of an independent audit of the results and impact of the current National Anti-Corruption Strategy as well as the revision of the protracted criminal procedure by the end of 2005.
- The adoption by March 2005 of a clear legal framework for the respective tasks of, and cooperation between, the gendarmerie and police.
- The development and implementation of a coherent multi-annual strategy to fight organized crime.

Both in the pre-accession period and after signing the Accession Treaty, several peer review missions took place in Romania for monitoring the progress in the field of Justice and Home Affairs. The European Union evaluating experts analysed the implementation of the EU Acquis, the capacity building and the training of the personnel in the law enforcement bodies. As mentioned in the reports drafted by these evaluators, Romania has a coherent Justice and Home Affairs system. The measures taken and the rhythm of their implementation are guarantees for Romania's progress in this field.

On January 1st 2007, Romania will change its status one more time: from *observatory country to the European Union* will become *Member State of the European Union*, with full rights and full obligations.

Conclusions

During the 20th century, Europeans were no strangers to social, economic and political change, but their major challenges focused mainly on the intra-European construction of a stable, prosperous and capitalist democracy. Nowadays, one of the major challenges is the flows across borders. Immigration consistently occupies the headlines. Connected to the demographic change, economic growth and state reform, immigration is often presented by politicians as having mostly negative effects. It is usually connected to undeveloped or slowing economies, high unemployment, loss of nationals' jobs and anti-immigration sentiments, crime and terrorism.. Both academic researchers and European media are

wondering whether Europe will further concentrate its efforts on how to admit and integrate the new immigrants, especially the non-Europeans. “*Due to restrictions on the free access to employment for nationals of the new Member States, the founding idea of the European Communities i.e. to unite people and not only economies seems to be only half-achieved.*” (ECAS 2005: 30)

A “frontier-free” Europe cannot be attained by a mere ‘deregulation’, but it should host a networking of other controls. Typically, of course, border controls are simply checking the movement of persons from one place to another, perhaps in the form of more regular and random internal checks of forms of identity, or requirements to register a domicile (Shaw 2000: 380). Fears and scepticism in the West and hopefulness and optimism in the East are some of the factors which have prompted research done on the potential outcomes of a liberalised migration. Two of the most relevant indicators for determining the quantity of migrants are the implementation of the Schengen Acquis and the economic support for a higher growth. The new EU legislation would inevitably cause conflicts with previous bilateral agreements between the accession and non-accession countries. Moreover, the differences between GDPs of old and of new EU Member States are a strong argument in favour of migration.

Anyway, Europe should not become a continent of reinforced borders and police persecution of immigrants. “*We have to be a Europe of integration. We must ask ourselves: does Europe have to be a fortress? Yes, it does. It has to be a fortress of values*”, argued Anna Diamantopoulou, former European Commissioner for Employment and Social Affairs¹³⁸.

The ability of the Union to succeed in substantially managing larger migratory inflows in the future will influence its overall capacity to master the economic transformation and social change.

“All countries have the right to decide whether to admit voluntary migrants (as opposed to bona fide refugees, who have a right under international law). But Europeans would be unwise to close their doors. That would not only harm their long-term economic and social prospects. It would also drive more and more people to try and come in through the back door – by asking for political asylum (thus overloading a system designed to protect refugees who have fled in fear persecution), or by seeking the help of smugglers, often risking death or injury in clandestine acts of desperation on boats, trucks, trains and planes. Illegal immigration is a real problem, and States need to cooperate in their efforts to stop it – especially in cracking down on smugglers and traffickers whose organized crime networks exploit the vulnerability and subvert the rule of law. But combating illegal immigration should be part of a much broaden strategy. Countries should

¹³⁸ As quoted by the un-official record of the “*The Economic and Social Implications of Migration*” panel discussion held at The European Policy Centre and the King Baudouin Foundation, Brussels, June 17, 2003.

provide real channels for legal immigration, and seek to harness its benefits, while safeguarding the basic human rights of migrants”. (Annan, 2004)

We do hope that our above mentioned arguments have successfully contributed to the scientific debates related the creation of an Area of Freedom, Security and Justice within the European Union, and Romania could be seen as it is: a Partner, an important part of this Area, which fully deserves the rights obtained with hard efforts. Among them, the right to join the European family on January 1st, 2007.

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EUROPEAN UNION ACQUIS	ACQUIS IMPLEMENTATION IN ROMANIA	ROMANIAN LEGISLATION
nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted		
Migration		
Council Regulation (EC) No 415/2003 of 27 February 2003 on the issue of visas at the border, including the issue of such visas to seamen in transit	Aligned	Law no. 306/2005 for the approval of GO no. 113/2005 on the amendment and completion of GEO no. 194/2002 on the regime of aliens in Romania
Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities	Aligned	Law no. 306/2005 for the approval of GO no. 113/2005 on the amendment and completion of GEO no. 194/2002 on the regime of aliens in Romania
Council Decision 2004/573/EC of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders	Aligned	Law no. 306/2005 for the approval of GO no. 113/2005 on the amendment and completion of GEO no. 194/2002 on the regime of aliens in Romania
Decision of the Executive Committee (SCH/Com-ex (98)18 rev) of 23 June 1998 on measures to be taken in respect of countries posing problems with regard to the issue of documents required for expulsion from the Schengen territory	Aligned	Law no. 306/2005 for the approval of GO no. 113/2005 on the amendment and completion of GEO no. 194/2002 on the regime of aliens in Romania
Commission Decision of 8 June 1988 setting up a prior communication and consultation procedure on migration policies in relation to non-member countries	Aligned	Law no. 306/2005 for the approval of GO no. 113/2005 on the amendment and completion of GEO no. 194/2002 on the regime of aliens in Romania
Art. 22 of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at the common borders, Schengen, 19 June 1990	Aligned	Law no. 306/2005 for the approval of GO no. 113/2005 on the amendment and completion of GEO no. 194/2002 on the regime of aliens in Romania
Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data	Aligned	Law no. 452/2006 for the approval of GO no.34/2006 on the obligation of carriers to communicate passenger data
Council Decision 2004/14/EC amending the third subparagraph (basic criteria for examining applications) of Part V of the Common Consular Instructions		Law no. 482/2004 on the amendment and completion of GEO no. 194/2002 on the regime of aliens in Romania
Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents		Law no. 482/2004 on the amendment and completion of GEO no. 194/2002 on the regime of aliens in Romania
Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air		Law no. 482/2004 on the amendment and completion of GEO no. 194/2002 on the regime of aliens in Romania
Council Decision 2004/15/EC of 22 December 2003 amending point 1.2 of Part II of the Common Consular Instructions and		
	Objectives: - Representation procedures were set up	Task: - To amend GEO 194/2002, by including special provisions

EUROPEAN UNION ACQUIS

drawing up a new Annex thereto

Council Decision 2004/17/EC amending point 1.4 of Part V and point 4.1.2 of Part I of the Common Consular Instructions (requires visa applicants to have travel insurance in most cases)

Council Regulation 2004/377/EC of 19 February 2004 on the creation of an immigration liaison officers network
Regulation (EC) No 491/2004 of the European Parliament and of the Council of 10 March 2004 establishing a programme for financial and technical assistance to third countries in the areas of migration and asylum (AENEAS)

ACQUIS IMPLEMENTATION IN ROMANIA

- Introduces a new annex to the ICC, including a table with the existing representation formulas.

Objectives:

- Health/travel insurance is mandatory, when applying for a visa.
- Health/travel insurance should cover any repatriation costs because of medical reasons, emergency health assistance and/or emergency care in a hospital.
- This insurance should cover all Schengen countries.
- It provides the minimum costs covered by this insurance.
- It provides the exemptions on this rule.

Council Regulation is a binding EU legislation and it shall apply directly, upon accession

Council Regulation is a binding EU legislation and it shall apply directly, upon accession

ROMANIAN LEGISLATION

of a visa to be issued for/by Romania by/for another Schengen country, as well as its application mechanisms – upon our accession to the Schengen Area.

Drafting Deadline: 2008

Task:

- To amend GEO 194/2002 – upon our accession to the Schengen Area.

Drafting Deadline: 2008

The programme set up by this Regulation shall be in force during 1 January 2004 to 31 December 2008.

Source: Selection of EU and Romanian pieces of legislation, as collected by Anca Pristavu (mid 2006).

An Area of Freedom, Security and Justice: Chronological Development*

- 2006 **Treaty of Prüm (2005)** enters into force on September 23rd, as being ratified by Austria, Germany and Spain. The rest of signatory partners follow the procedures of ratification; Italy, Portugal, Slovenia, Finland, Sweden and Romania have formally notified their wish to join the treaty, while Czech Republic, Ireland, Poland and the UK have expressed qualified interest. During the Germany Presidency (2007), it will be submitted a proposal for a Council Decision that would integrate parts of Prüm Treaty into the EU's Third Pillar.
Labour market: European Commission revised the situation of transitional arrangements regarding labour mobility; on May 1st expired the first period (two year) of restrictions for labour mobility within the enlarged EU. Each Member State notified maintaining the restrictions or not. By 2009, none of the EU15 Member States should apply any limitations to their labour markets.
 In the second part of the year, even if some academic studies showed that the new members of the EU benefit to the UK economy and the threat of labour workers' invasion is not real, the UK and Ireland expressed fears against a possible large flow of labour migrants from Romania and Bulgaria, as following the accession of January 1st, 2007. Some states, even some of those who joined European Union in 2004, expressed intentions to limit the accession of Romanian and Bulgarian workers for a limited period of time.
- 2005 **Schengen implementation** in full by all 25 Members States was postponed until late 2008.
Luxembourg Presidency, April 25: Romania and Bulgaria signed the Accession Treaty to the EU, accepting the full Schengen Acquis starting with the first day of their accession, as scheduled for January 1st, 2007.
The French and Netherland referenda put the EU Enlargement and the ratification of the Constitutional Treaty in trouble, as the population chose "NO", by voting against the Constitution provisions and rejecting it. The debate on the form and the opportunity of such a Constitution is still fuelling the politic discourse and the public opinion along European Union.
Treaty of Prüm: on May 25th, seven EU Member States signed the Treaty of Prüm (Austria, France, Germany, Luxembourg, The Netherlands and Spain) to promote cross-border cooperation, combating terrorism, cross-border crime and illegal migration.
- 2004 **The Hague Multi-annual Programme.** On 4-5 November, five years after Tampere, the European Council adopted a new programme known as "The Hague Programme", to strengthen the European Union (EU) as an area of freedom, security and justice over the next five years. This programme reflects the ambitions of the constitutional treaty.
Constitutional Treaty. In October, the heads of state and government signed a treaty establishing a constitution for the EU in Rome. The Charter of Fundamental Rights is incorporated into the text of the treaty. The co-decision procedure between the European Parliament and the Council of Ministers for the adoption of European laws or framework laws becomes the rule (even if there are still several exceptions), including in the field of justice, freedom and security. This treaty must be ratified by the parliaments or the people of all the member states before it comes into effect.
Switzerland joined Schengen Area, by signing the Schengen Convention on October 16 (ratified by referendum on June 5, 2005). The Schengen Convention and Dublin Convention provisions are to be implementation in full by 2008.
Free movement of workers from A8 States (the 8 new EU Member States from Central and Eastern Europe) was restricted by the EU15 Member States (only United Kingdom, Ireland and Sweden accepted workers without restrictions). The transitional arrangements included in the Accession Treaty (2003) of the new 10 Member States established the scheme of '2+3+2' to be use in order to progressively permit free labour mobility within EU25. The first period of two years expires on May 1st, 2006, when the EU15 Member States should communicate further measures to protect their national labour markets or to permit free access to all nationals of the EU25. Derogations only apply to the free movement of workers and not to the freedom of establishment or neither to carry out of self-employed economic activities; nor it apply to students, pensioners, tourist and other persons.
Enlargement. The accession of 10 new countries became effective on May 1st. These countries must apply the community legislation relating to justice and home affairs. Full implementation of Schengen acquis should end in October 2007.
- 2003 **Eurodac.** On 15 January, the European data base Eurodac became operational. It enables a member state to compare fingerprints of asylum seekers or foreign citizens who are legally on its territory, in order to verify whether they have submitted an asylum application in another member state.
Eurojust. Eurojust was set up on 28 February, and its offices are in The Hague. Eurojust consists of high level judges and prosecutors from all member States. Its mission is, in liaison with Europol, to co-ordinate investigations and prosecutions in the field of cross border organised crime.
Family reunification. On 23 September, the Council approved the first directive on legal immigration, aiming to facilitate family reunification for nationals of non member countries residing legally in the territory of one of the member states.

The UK introduces its 'Vision Paper' for processing asylum claims in 'transit' centres outside the EU, and returning asylum seekers to those centres or to reception centres in countries neighbouring their own in their regions of origin. The plan has been effectively dropped.

Thessaloniki Conclusions (Greek Presidency) ask the European Commission to look at new ideas such as an EU-wide resettlement programme, and pilot programmes for building capacity to protect more refugees in a better way in their regions of origin. It also put the policy and political spotlight squarely on issues of immigrant integration.

2002 **Seville Council** (Spanish Presidency) makes a decision to try to speed up the implementation of the Tampere Programme.

European arrest warrant. On 13 June, the Council adopted a framework decision for the implementation of the European arrest warrant. This system provides for faster and more efficient procedures. The European arrest warrant is now in effect in all member States, except Italy and the Czech Republic.

The Danish Presidency draws up a "Road Map" of the work ahead on border control, immigration, asylum and cooperation with third countries, in an attempt to reinforce the need for decisions and action.

2001 **Asylum.** On 20 July, the Council adopted the first decision on a common asylum policy. It related to the granting of temporary protection in the event of massive influx of displaced persons.

Terrorism. After the terrorist attacks in New York (11 September), on 20 September the Council approved a European action plan to fight terrorism, which would be revised after the Madrid terrorist attacks in 2004. In 2002, the Council approved a framework decision to combat terrorism, which gave a common definition of terrorist acts and set a minimum level for penal sanctions for this type of crime.

Laeken Conclusions (Belgian Presidency) notes the slow progress of building a common European asylum system. In the light of 9-11, the focus in Laeken in December 2001 was inevitably on security issues. Some governments pointed to the Commission as the cause of the slow progress on the asylum agenda items, although proposals were on the table and discussions within the Council were under way.

2000 **Fundamental Rights.** The Council, the European Parliament and the European Commission, meeting in Nice (France) in December, proclaimed the Charter of Fundamental Rights of the EU.

1999 **Tampere.** At the special summit at Tampere (Finland), EU leaders agreed to make the EU "a unique area of freedom, security and justice". In the wake of Tampere, the Council adopted an Action Plan (1999-2004), which included a strategic framework and a five year programme.

The Amsterdam Treaty (1997) enters into force. A timetable is set out for moving to full community activity on asylum by 2004. An "Area of Freedom, Security and Justice" is to be created for EU Member States, with free movement for citizens and a common asylum system. Five directives (binding agreements) should be made on asylum. Several immigration policy decisions should also be made. A five-year deadline is set for the first set of agreements.

Schengen is incorporated into the European Union's basic laws as part of the Amsterdam Treaty, with special provisions for Denmark, and an opt-out for the UK and Ireland. All other EU Member States have adopted Schengen, and Norway and Iceland also participate.

Tampere Summit meeting sets out a clear agenda for developing the Area of Freedom, Security and Justice. The elements on this agenda are a common asylum system, managed migration and partnership with countries in regions of origin. This agenda is set out as "Milestones for progress on the Area of Freedom, Security and Justice": promoting the project of developing an area of free movement, in which citizens would feel assured of an environment of security and justice.

1998 **Austrian Presidency proposals** question the continued relevance of the 1951 Convention relating to the Status of Refugees.

Vienna Council Conclusions set out a technical path for future European discussion of asylum issues contained in an action plan drafted by the Commission, and endorsed by the Council, which set out a path of priorities for pursuing the various aims of the Treaty of Amsterdam.

1997 **Amsterdam:** Adoption of the Treaty of Amsterdam in October. This treaty "Communitised" part of the field of "justice and home affairs" (visas, asylum, immigration, movement of persons, etc.), moving asylum and immigration into 'semi-community' activity, with unanimous voting required, and a shared right of initiative for the European Commission, while decisions are taken by the Council of Ministers (of Justice and Home Affairs) of the EU. Agreements would be binding, and should be the basis for a Common Policy. The UK and Ireland are allowed to 'opt-in' on each agreement. Denmark has a full opt out. Amsterdam led to the establishment in 1999 of a Directorate-General for "Justice and Home Affairs" within the European Commission.

The Dublin Convention (1990) enters into force.

1995 **The Schengen Agreement (1985) and Schengen Convention (1990) come into effect,** removing borders between the Schengen Members (the original five plus Spain and Portugal).

1994 **Europol.** An EU police co-ordination bureau was set up, charged with collecting and analysing information connected with ongoing investigations. The convention which formally established Europol was signed on 26 July 1995. After ratification it came into effect on 1 January 1999. Its headquarters are in The Hague.

1993 **The Treaty on European Union (1992) enters into force.** The Treaty attempted to convert the 'common-market citizenship' into a broader idea of 'Union citizenship'. If free movement was firstly understood as an economic phenomenon (the individuals hold economic freedoms), the Treaty of European Union offers a political and social

- view; the rights of exit, entry and residence was extended to all nationals of the Member States without any discrimination on ground of nationality.
- 1992 **Maastricht Treaty on European Union signed.** The new EU Treaty recognised the subject areas of “justice and home affairs” as coming under European responsibility. These subjects form a “third pillar” where the decision-making occurs through inter-governmental co-operation. Informal cooperation on asylum and migration issues was converted to formal cooperation among governments. They set out to discuss issues like the definition of a refugee, intending to make inter-governmental agreements, which would be non-binding. The treaty also recognises EU citizenship.
- 1990 **Schengen Convention signed,** preparing for implementation of the 1985 Agreement, and putting practical matters in place for uniform visas, for example. The Schengen Implementing Agreement introduced various measures meant to compensate the apparent security deficit resulting from the abolition of internal border control. One of these key security tools was the establishment of the Schengen Information System (SIS), developed later on to enable the authorities designated by each Member State to have access by automated search procedure to alert on persons and property for the purpose of border checks and other police and customs checks.
Signing of the Inter-governmental Dublin Convention determining which Member State is responsible for assessing an asylum claim.
- 1986 **The Single European Act:** Provided for the creation of a single market which guarantees free movement of goods, capital, services and persons.
Establishment of the Ad Hoc Working Group on Immigration and Asylum. This was the first, informal arena for discussion of immigration and asylum issues in the European Communities of 12 Member States.
- 1985 **Schengen Agreement negotiated and signed.** Frustrated by the absence of movement on bringing down internal frontiers for the movement of people, which was hampering intra-EC movement of goods, a sub-group of 5 European Community Member States (Belgium, Netherlands, Germany, France and Luxembourg) signed on June 14 an agreement for the free movement of persons within their territory through the gradual abolition of checks at their mutual frontiers. The Schengen agreement would subsequently be incorporated into the Amsterdam Treaty signed in 1997 and implemented in 1999. The provisions about free movement of persons have been applied by 13 of the EU-15 Member States. The United Kingdom and Ireland chose not to apply these arrangements, while the 10 new member States who joined in 2004 still have to put into place measures enabling them to join the Schengen area by October 2007.

Sources: European Commission, "Information and Communication" Unit, Directorate-General Justice, Freedom and Security, Brussels, November 2004
See also Carrera (2004), van Selm and Tzolakis (2004), Simina (2005a): Appendix no.1, and Balzacq et al. (2006).

♣ The authors acknowledge the support offered by Ovidiu Simina, who compiled data and information regarding the most important events regarding the creation of an Area of Freedom, Security and Justice.

LABOUR MARKET DISTORTIONS AS NEW CHALLENGES BEYOND THE EU ENLARGEMENT: THE ROMANIAN CASE^{*}

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Ovidiu Laurian Simina^{2)‡}

The paper is a contribution at the scientific debate of migration and mobility issues in the context of an enlarged European Union (EU-27). We consider that Romania, a country with a labour market that faces distortions, will benefit from migration on short term, but will need to import labour force in order to maintain the development trend. Remittances, as result of Romanians emigration after 2002, helped the economic development of the country in the last years (remittances' inflow doubled the FDI). As a response to the media debate regarding Romania's emigration, we consider that the fear of mass migration from Romania following the year 2007 is not justified. While the European (and mostly British) media cries on the threat of Bulgarians and Romanians' emigration, as following to the 2007 accession, the scientific reports say that the A8 countries' migration benefits to economy of the EU15 countries. In the same time, the Romanian media and the Romanian entrepreneurs announce the 'Chinese invasion' and the lack of labour in construction, industry and even agriculture. We see *labour as goods*: the economic theory say that goods are moving with the prices, the highest price attracts (more) goods. Romania is not only a gateway for the East-West international migration (like Portugal, Spain, Italy and Greece for the South-North direction), but a labour market in need of workers. While a big part of the labour force is already migrated, mostly to the SE Europe (some 2.5m workers are cited to be abroad, with both legal and illegal/irregular status), the Romanian companies could not find local workers to use them in order to benefit from the money inflow targeting Romania in the light of its new membership to the European Union (foreign investments and European post accession funds). Instead of increasing the salaries, the local employers rather prefer to 'import' workers from poorer countries (Moldavians, Chinese, Ukrainians, who still accept a lower wage as compared to the medium wage in Romania, but bigger enough as compared to those from their countries of origin).

Keywords: labour migration, labour market distortions, South-Eastern Europe Syndrome, network effect, decision making, motivation, need for esteem

JEL classification: F22, F24, J61, J70, O15, O52, R23

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Introduction

When the ten new EU Member States celebrated the accession with the sound of car horns, toasts and the symbolic removal of border barriers between "the East" and "the West" on May 1st 2004, it was a historical moment for the Central and Eastern Europe (CEE). But the

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removal of barriers remained symbolic since then, because the old Member States [the so-called EU15/old or core Member States], have imposed restrictions (transition period) on the free movement of citizens from A8 states as according to the rule “2 + 3 + 2” (the term “A8” is used to describe the workers of the new Member States [EU10], with the exception of Cyprus and Malta). The free movement of labour allows a worker from one Member State to look for employment in another Member State on same basis as a national, without any restrictions or discrimination. These restrictions were put in place as some EU Member States feared a substantial influx of immigrants from the CEE countries, due to their economies’ characteristics.

On the other hand, huge celebrations are planned in Bucharest, marking a historic New Year for this country at the beginning of the year 2007, when it will be Romania's turn to celebrate the entry into the European Union [and to face labour movement restrictions for its citizens for at least 2 years]. While most EU nations have already placed restrictions on workers from both new member states, it is expected that free trade and movement will help Romania rise to higher levels of prosperity, as exemplified by the Eastern European countries that joined the EU in 2004. The year 2007 could be seen as a turning point both for the European Union and for Romania, one of the newest Member States which join the European family just before its 50th anniversary. With 27 members, the European Union faces with a new stage of development and needs new institutions and new rules.

We believe that our paper bring an important contribution at the debates on European migration, having in mind the issues we propose. We chose Romania as case study because we consider it as the best example for proving that the *history is cycling* and *we do not need to reinvent the wheel*¹: we could analyse the migration phenomena at a small scale and to extend the previsions to the European Union as a whole. Romania could be seen as an experimental country and a laboratory for analysing the policies and links between migration and development. Even if the population decreased year after year in the last decade², Romania is a big country from the demographical point of view, the second large country in the Central and Eastern Europe after Poland. In this way is an important source for economical migration. Being a borderline country for European Union, is a transit space for migration flows too. From an important source for European migration in the last decade, Romania tends to become a target for labour migration from non-EU countries. Taking in account the fact that

¹ To understand the reasons why it is no need to discover what was already happened, was said or even wrote in the field of migration, see van Krieken (2004).

² According to the 2002 Population and Housing Census data, Romania had 21.6 million inhabitants, being the ninth among the European countries (21,680,974 inhabitants as of March 18, 2002, while the 1992 Census registered 22,810,035 inhabitants, a decrease of 1.1 million people during a period of ten years, an average decline of -0.5% per annum, due to the lower birth rate and negative balance of emigration). Source: Census of Population and Dwellings, March 18-27, 2002, Romanian National Institute of Statistics (INS); available at: http://www.insse.ro/cms/files/RPL2002INS/index_eng.htm

45% of the Romanian population [still] lives in rural areas³, where the rural workers could hardly find jobs nowadays (the males are agriculture workers, while the females are home-keepers), Romania acts as a major actor both on the seasonal agricultural market and on the illegal prostitution market within the European Union. People from rural areas or with an agricultural background have a higher propensity to migrate (they may accept easily the so-called 'dirty' or 'degrading' activities and hard jobs). Analyzing the dynamics and structural mutations in Romania for the period 1977-2002, at the level of the major groups of occupations, the officials of the Ministry of Labour, Social Solidarity and Family mention that,

'in the context of the general decline in the employment population, there was a substantial decrease in the size of the groups; "skilled workers in agriculture, forestry and fishery" (of 1559.4 thousand persons) and "skilled workers" (a group which includes generically, according to the 2002 classification both "craftsmen and skilled workers in handicrafts, in setting and maintaining machines and equipment" and "machine and equipment operators and machine, equipments and other products fitters" which decreased by 1553.9 thousand persons). The size of the group of "unskilled workers" also decreased (by 403.1 thousand persons) and so did the group of 'technicians and related workers' (by 106.7 thousand persons)' (MMSSF 2006).

In the same time, Romania is changing the status of *accession country* which still implements the *European acquis*; nowadays Romania tries to build proper post-accession strategies in order to benefit from the experiences of the previous waves of enlargement, to apply the implemented pieces of legislation and to continue to reform the economy. *After the 2007 accession, Romania will be a member state, and the present movement of workers from Romania to the other member states will become 'mobility within the European Union', will be no more 'European migration'.*

Our study focuses on the enlargement consequences beyond the celebration moment. Romania is not only a source of emigrants and a gateway for East-West international migration (in the same way likes Portugal, Spain, Italy and Greece for the South-North direction), but a labour market in need of workers. Romania faces new challenges as soon as our country joins the European club. With a labour market already confronted with distortions, Romania is twice more tempting for migrant workers' flows. As result of Romanians emigration after 2002, remittances have sustained the economic development of the country in the last years (remittances' inflow have doubled the FDI last years;

³ Almost half of the Romanian population lives in rural areas: 45.1% on July 2005 (according to the *Statistical Yearbook 2006, Chapter 2. 'Population'*, Graph. 2.G2), as compared to 47.3% in 2002 and 45.7% in 1992 (*Census of Population and Dwellings 2002, Vol.5, Population, Households and Dwellings, Structure of population by areas*, Graph. 3), Source: National Institute of Statistics

unfortunately, the remittances are mostly seen as compensatory measures for helping the family for bad economy or bad luck, not generally acting as source of capital for economic development). We consider that Romania benefits from migration on short term, but needs to 'import' labour force in order to maintain the present development trend.

We did comparative analysis and a wide, complex approach of the problem in discussion. We studied the experience of countries that accessed to the European Union in the previous waves of accession, to compare the evolution of migration phenomena from that period with the migration of the CEE countries within the last decade. Some studies carried out before the 2004 accession expressed the aware of the mass migration from the eight CEE countries (so-called A8 countries) to the EU15 Member States as following the date of May 1st, 2004. The situation is quite different that it was forecasted some years ago. With the exception of the case of Great Britain (one of the three states which allowed free movement of labours from the A8 states), the number of migrants is much less significant than has been portrayed in much of the media. The experience of previous enlargements of the European Union shows that initial scepticism and fear of being "flooded" by migrants from the new members, with resulting attempts to restrict migration, have been unfounded. At the present, after less than three years of membership with the EU, the figures shows that Poland was the major "threat" for the EU labour market and the welfare system at a whole, in the condition that UK was a country which directly attracted the Polish workers⁴.

Due to the lack of data and of scientific research as regarding the effects (both financial and non financial) of migration and of remittances on the Romanian economy, the scientists and decision makers could hardly design economic policies to manage the migration issues: there are no migration trends available, as resulted from generally certified data⁵, nor predictions beyond the Romania's accession to the European Union⁶. According to our observations, we consider that Romanian labour market faces specifics phenomena, distortions, and some problems and difficulties occur as following the 2007 accession to the EU. In our research we use the theory of distortions of the labour market and *the 'new'*

⁴ For detailed comments or figures regarding the Polish migration to the UK and *the myth of Polish Plumbers*, see Reichlová (2004: Ch.7 and 8), CNTR (2006: Ch.6), Saleheen and Shadforth (2006: 378, Table A), Portes and French (2005), *ipp* (2006a and 2005), Gilpin *et al* (2006) and Salt (2006: 22-25).

⁵ Due to the fact the governmental institution do not use standard criteria when collecting data regarding the migration from/to Romania, the national statistics could hardly be recognised/certified by the researchers from abroad.

⁶ The migration studies are rather new on the Romanian 'scientific market': mostly with sociological background, the Romanian authors would hardly join their efforts to promote the launching of a dedicated migration centre and/or to prepare a comprehensive scientific publication, covering all areas of research. The studies of the scientists from abroad uses the few data available at the local level, maybe revealed during international academic conferences or meetings, and those communicated to the international institution by governmental bodies. Romania seems to be the sole state within the EU25+2 without a specialised institution to prepare/deliver specialised scientific research/education/training/publications on mobility and migration. In the framework of the Jean Monnet European Centre or Excellence within the West University of Timisoara, the authors propose the including of the *migration and mobility studies* [legal, economical and sociological approach] into the academic curricula at the national level and the creating of a *migration centre* and a dedicated *web-based e-library on Romanian migration* [www.migratie.ro].

economy of migration. The migration decision is taken after the would-be migrant analyse for himself the costs and benefits of migration (regardless of its form, legal or illegal). We used microeconomic analysis on the basis of functions of utility (maximisation of utility of migration), costs (minimisation of costs incurred, from the point of economic and social costs, and maximisation of benefits; the cost of opportunity). For data processing, we used synthesis (international press survey and synthesis of the major theories regarding the international migration, benefits, remittances and development), classification, static and dynamic comparative analysis, induction and deduction.

Romania, a country in need of workers? The bitter taste of “*Strawberry Jam*”

Especially after the biggest wave of European Union enlargement, we noted that the economic literature, both at the global/European level and in Romania, widely targets the migration issue. The 2004 enlargement of the EU with 10 new Member States has opened up the societal and policy debate in many EU countries, debates being centred on whether or not borders should be opened to allow the free movement of workers, and also on the effects of this core freedom of the European Union. Migrants’ quota, financial flows/remittances, development and fear of Eastern immigrants were preferred subjects for media. More and more events deal with migration and mobility matters. The European Commission celebrates the *European Year of Workers’ Mobility 2006*, in order to raise the awareness on mobility consequences at European level, to promote the exchange of good practices, and to inform about the benefits and costs of both geographical mobility and job or labour market mobility, the realities of working in another country and the rights of the migrant workers. The current EU labour market policy agenda encourages more mobility of the European workforce, specifically across [internal] borders. The academic research debates the way the remittances [money resulted from migration] are used, in order to increase the economic development, both at local/national scale in the origin and destination countries, and at the European level.

During the 20th century, Europeans were no strangers to social, economic, and political change, but their major challenges focused mainly on the intra-European construction of stable, prosperous and capitalist democracies. Nowadays, one of the major challenges is flows of people across borders. Immigration consistently occupies the headlines. Connected to demographic change, economic growth and welfare state reform, immigration – usually connected to slowing economies, high unemployment, loss of nationals’ jobs, anti-immigration sentiments, crime, and terrorism – is often presented by politicians as having

mostly negative effects. Both academic researchers and the European media are wondering that Europe's future will largely turn on how to admit and integrate the new immigrants, especially the non-Europeans.

Starting with the year 2005, and most pregnant after the first semester of the year 2006, when the European Commission requested the official positions from the Member States as regarding the free access to the labour market for the new members, the European media chose migration as a core issue for the public debate. Massive immigration has long troubled the Western Europeans who tend to blame the rise of crime and drugs in their cities on illegal immigrants – accusations not entirely without justification, but at the same time accusations that have frequently been exaggerated.

An especially frightening aspect is a surge in official and public associations of migrants and migration with criminality. These include frequent news reports that attribute both particular incidences and rising general crime rates to foreigners or immigrants, putting immigration control in the same category as crime, arms and drug control, and the generalized use of the terminology of illegal migrant or illegal alien. [...] It is now commonly said that xenophobia and racism against migrants are caused by immigration, or sometimes more specifically, by irregular "illegal" migration. By extension of demagogic logic, the victims are the cause, and by removing or stopping these causes, the problem can be resolved. Draconian measures, and violence against foreigners, can only be encouraged by the combination of language of illegality, the terminology of combating illegal migration – as if it were an enemy in military confrontation – and the banal association of irregular migration with crime, arms, drug trafficking and terrorism.

(Taran and Geronimi 2003:10)

The European Union single market implies the existence of *the four freedoms*, and in this way the freedom of movement of peoples [workers] is the core of the European Union project. ‘*Wir riefen Arbeitskräfte und es kamen Menschen*’⁷, said Swiss writer Max Frisch (1965): people in movement mean fundamental human rights to protect. ‘*Everyone has the right to leave any country, including his own, and to return to his country*’, is wrote in the Article 13(2) of the Universal Declaration of Human Rights. But no legal document offers the migrant the right **to enter** any country!

One can see scary news into printed media all over the Europe (and especially in the UK). We noted that, suddenly, they ‘chose’ Romanians [all Romanians were seen as would-be emigrants] as being the ‘*public enemy*’ for the European Union welfare and its social protection system, as soon as Romania joins the European Union in 2007. The EU citizens were warned of a flood of benefit-hungry Romanian immigrants. Nobody knows how many Romanians are living in the Great Britain (we believe that the majority of British hardly know

⁷ We asked for manpower and we got human beings / We called for labour, and human beings came.

where Romania is on the map!), but we consider that most who want to work in the UK have already been there for years (mostly with illegal/irregular status)⁸. Of course, after accession, Romanians already on the British territory will prefer to stay there and maybe some relatives/friends will join them. As Reichlová (2004) reveals, *'barriers to labour mobility may discourage workers already resident in the EU from their return to home country, because they would typically lose residence and employment rights in the destination state'* (Reichlová 2004: 51). The Romanians will chose to move to places where they feel welcomed and where migration networks are already well established. Deliberate or not, application of restrictive policies corresponds to increasing vilification of migrants [foreigners] in press, political discourse or public sentiments (Taran and Geronimi 2003: 1). *'Unfortunately, the debate is often hijacked by negative, populist slogans, which can inhibit the formulation of sound and balanced migration policies'* (Ghosh 2005: 163). On the other had, *'due to restrictions on the free access to employment for nationals of the new Member States, the founding idea of the European Communities i.e. to unite people and not only economies seems to be only half-achieved'* (ECAS 2005: 30).

A very interesting portrait of the British environment regarding the pressure created by the media as regarding the migration phenomena could be seen at Berkeley, Khan and Ambikaipaker (2006): the fifth chapter of their study analyses the frequency of immigration reportages, presenting excerpts from the headlines that contributed to the 'moral panics in the media' between the late 1960s and the year 2004 (see Table 1). The general tone of the surveyed reportages were merely negative and *'contributed to a receiving social context where constructive debate is difficult'*, while the positive stories are generally infrequent, and the reaction from the counterpart journals is often represented by attacks on the credibility of such positive approaches (Berkeley, Khan and Ambikaipaker 2006: 24-30).

Table 1 UK press coverage comparison on immigration and asylum seekers (year 2004)

News	Times	Telegraph	Independent	Guardian	Mail
Immigration	340	144	243	226	234
Asylum seekers	195	83	161	173	117
					No. of reportages

Source: Berkeley, Khan and Ambikaipaker (2006: 24, Table 6)

Immigration and asylum are key topic in the British media which maintain in the public perception the idea of a perpetual crisis about immigration, while opinion polls express the

⁸ Krieger (2005: 9) reports that 40 to 45% of newly registered migrants from the new Member States in the second half of 2004 lived already in the UK before the 1 May 2004. As Romanians do not have strong Diaspora in UK, is hardly to imagine that the figures will show bigger amount of immigrants soon after Romania's accession to the EU on 1 January 2007.

increasing concern on such subjects (immigration is seen up to 40 per cent most important issue facing Britain) and *evidence that newspapers have a great impact* on these sentiments (Berkeley, Khan and Ambikaipaker 2006: 33, Table 8). Within the last 30 years, the UK media coverage's attention was changed from "nonwhite" Commonwealth issues to the anxiety over asylum seekers and migration from the new Member States of the European Union and elsewhere (Table 2). If the subjects of immigration debates changed, the negative tone of the articles/discussion never changed, increasing panic about mass influxes of hungry workers, criminal behaviour, welfare state crisis and cultural differences (Berkeley, Khan and Ambikaipaker 2006: 25).

Table 2 Historical perspective on moral panics in the media

Moral panic	Period 1968–72	2004
Folk devils	'Bogus' dependants 'Sham' marriages 'Bogus' students TB carriers	'Bogus' asylum seekers Welfare 'cheats' HIV carriers
Mass influx	Kenyan Asians Ugandan Asians High birth rates of 'coloured' immigrants	Eastern European Gypsies EU economic migrants and students Asylum seekers in 'Middle England'
Cultural pathology and illiberal differences	Under-aged marriages – <i>Sikhs, Muslims</i> Polygamy – <i>Sikhs, Muslims</i> Turbans – <i>Sikhs</i> Sexual promiscuity – <i>West Indians</i>	Gang masters – <i>Chinese</i> Terrorism and flag burning – <i>Muslims</i> Hijab – <i>Muslims</i> Sexual promiscuity – <i>Africans</i> Indolence – <i>Gypsies</i>
Welfare state crisis	Housing, hospitals and schools	Housing, hospitals and legal aid
<i>Desirable immigrants</i>	<i>White Old Commonwealth with 'kith and kin' rights</i>	<i>White Zimbabweans with 'kith and kin' rights</i>

Source: Berkeley, Khan and Ambikaipaker (2006: 29, Table 7)

Anti-immigration sentiment has risen in Europe over the past few years, and many governments are under subsequent pressure to curb the growing problem. Aware of the general interest on anti-immigration headlines and stories, the political parties joined this media debate regarding immigration pressure, by proposing a sort of measures to increase their popularity among the sensitive British electors: immigration tribunal, immigration laws, detention camps, abolition of judicial review, annual quotas or even withdrawal from the 1951 convention on refugee and the European Convention on Human Rights (Berkeley, Khan and Ambikaipaker 2006: 25). Zaiceva (2006) mentions that the intensive political pressure, mostly created by the media, was the reason for imposing the transition periods for the free movement of labour like those requested by the UK in the framework of the new accession waves to the European Union: '*Experiences with previous European integration suggests that migration flows do not increase after opening up the borders. [...] In spite of income differentials, however, the flows of immigrants from these new members were small*' (Zaiceva

2006: 2-3). Strielkowski and O'Donoghue (2004) underline the fact that the EU accession doesn't mean uncontrolled immigration into the core EU Member States:

The main factors leading to the international migration are economic, not the EU accession, or any other accession [...] the accession is in no way leading the increase/decrease in the flow of labour – there are other factors that explain this process (if occurs at all) and accession is not among them. The increase in labour migration which presupposed by the demographic and labour market factors will happen anyway, regardless to the accession process and tendencies. (Strielkowski and O'Donoghue 2004:12)

On the other hand, what the European media missed in the public debate is the fact that, as starting with January 1st, 2007, the workers from Romania could not 'migrate' anymore, but become 'mobile'. International migrant is a person who temporarily lives in a country of which he/she is not national. As the term 'migrant' refers to cases where the decision to migrate has been taken freely by the individual concerned (without the intervention of external compelling factors), migrants are differentiated from refugee and asylum seekers. According to the Convention on Migrants' Rights, the term 'migrant worker' refers to a person who is to engaged, is engaged or has been engaged in a remunerated activity in a state of which he/she is not a national. This definition therefore encompasses both documented and undocumented migrants⁹.

Adding the European Union and the single labour market elements, we should understand the 'migrant' from any of the Member States of EU25+2 as a 'mobile worker' looking for better opportunities. In this way, the 'illegal' issue shifts to 'irregular' in the case the employment of a national of a new Member State faces restrictions within the period of transitional closing of the labour market (depending of the case). The external migration (across the external borders of the EU) is transformed in the Romania's case in an internal migration (Romania itself becomes an external border). As citizens of a Member State with full rights within the European Union, Romanians will be part of the common European labour market, and their movement for labour opportunities abroad will be considered as inter-European migration or rather *EU mobility*.

'The political context in both sending and receiving countries is crucial to the existence of irregular migration. While political instability in sending countries can also be a prime driver of irregular migration, it is the policies of receiving countries that create irregularity. In short, a migrant only becomes 'irregular' if they have been defined as such by immigration laws and regulations in receiving countries.

⁹ Salt (2006: 32) reports that 'the geographical distribution of flows has become more complex as irregular migrants and their facilitators develop new routes in response to governmental measures against them [...] Formerly the largest group were from Romania and former Yugoslavia, but numbers of these have fallen'.

Migration fuelled both the print and electronic media in the last years

Press articles excerpts from the international media survey on migration

Between January and September 2006, Italian border patrols have intercepted **16,000 illegal immigrants** (*Le Monde*, December 19, 2006)

Nearly 30,000 undocumented immigrants from Africa landed on Spain's Canary Islands during 2006, more than four times as many as during 2005 (*Workpermit.com*)

EU talks on immigration reform after **nearly 30,000 undocumented immigrants from Africa** have landed on Spain's Canary Islands this year, more than four times as many as during all of 2005 (*The Raw Story*).

New immigration plans top agenda of EU ministers meeting

European Union justice and interior ministers opened day-long talks in Brussels today [12.05.2006] which are expected to focus on new immigration plans and efforts **to step up controls of the bloc's southern borders**. Plans include the creation of European job placement agencies in African nations, where well-educated locals workers can apply to obtain temporary work in an EU country for a restricted period of time and would return home with newly-acquired skills.

[http://rawstory.com/news/2006/New immigration plans top agenda of 12052006.html](http://rawstory.com/news/2006/New_immigration_plans_top_agenda_of_12052006.html)

Against the popular belief, the majority of undocumented migrants to Italy do not arrive by sea but by land, overstaying their visas (*Financial Times*, Oct 2006) According to the FT, only 15% of the undocumented migrants arrive by sea. The agricultural sector provides numerous jobs for these migrants who unfortunately found themselves compelled to work in extremely poor working conditions.

<http://www.ft.com/cms/s/67a718cc-261d-11db-afa1-0000779e2340.html>

According to the National Institute for Statistics [from Spain], **1,010,404 foreigners live undocumented in Spain**. The two main countries of origin are Romania and Bolivia (*El Pais*, August 2006)

According to the Interior Ministry, **there would be between 200 and 400.000 undocumented immigrants in France** (*Liberation*, August 22, 2006)

UK – Immigration from Eastern European countries 40 times more than expected in 2006

In 2006, the UK has received 400,000 asylum and citizenship applications from citizens of Eastern European countries, while the government had predicted 13,000. (*Daily Mail*, UK – May 24, 2006)

In 2005, more than \$230 billion was sent home by migrants worldwide

Money sent home by migrants worldwide increased from \$102 billion in 1995 to an estimated \$232 billion in 2005. The share of global remittances going to developing countries has also increased from 57% in 1995 (\$58 billion) to 72% in 2005 (\$167 billion). (*United Nations General Assembly*, May 2006)

In 2005, **34% of the world migrant population lived in Europe**, 28% in Asia & 23% in Northern America (*United Nations General Assembly*, May 2006)

In 2005, there were 190 million migrants in the world

According to the UN, in 2005, 190.6 million people are considered to be migrants (154.8m in 1990). 115.6m of them settled in developed countries (82.4m in 1990) while 75.2m resettled in developing ones (72.5m in 1990) and 10.2m are now living in less-advanced regions (11m in 1990). (*United Nations General Assembly*, May 2006)

Therefore, there is an intimate relationship between immigration regulation and irregular migration (ippr 2006b: 8). Table 3 shows the differences between the terms used in relation with [let's say] non regular migration: *illegal, irregular, undocumented and unauthorised* migration.

We noted that more and more press articles analyse the Romanian accession vs. the European Union and Romanian labour market: Romania seems to need workers and in the following period may even 'import' foreign workforce. The Romanian media and the Romanian entrepreneurs announce the 'Chinese invasion' and the lack of labour in construction and industry.

Table 3 Terminology in migration debate: Irregular vs. Illegal

Term	Where it is used	Comments
Irregular	<ul style="list-style-type: none"> International Labour Organisation International Organisation for Migration Organisation for Security and Cooperation in Europe Global Commission for International Migration 	<ul style="list-style-type: none"> Irregular migration is a very complex concept that needs to be used in an informed way rather than as simply a euphemism/synonym for illegal migration. The term is not commonly used in media and public debate.
Illegal	<ul style="list-style-type: none"> UK Government European Union Much of the UK press 	<p>The term 'illegal' has associations with criminality, which is viewed as objectionable for the following reasons:</p> <ul style="list-style-type: none"> Being liable to deportation is usually an administrative rather than criminal offence. Defining someone as 'illegal' may undermine the protection of their human rights, some of which may be in jeopardy. Defining those seeking asylum as 'illegal' on entry may jeopardise their claim.
Undocumented	<ul style="list-style-type: none"> Non-governmental organisations (e.g. PICUM) 	<ul style="list-style-type: none"> The term 'undocumented' is ambiguous. Undocumented has been used to describe both migrants who have not been recorded and those without documents. This is not an accurate description of all migrants liable for deportation.
Unauthorised	<ul style="list-style-type: none"> Home Office UK 	<ul style="list-style-type: none"> Not all migrants liable for deportation are unauthorised.

Source: ippr (2006b: 6, Table 1 Terminology)

We rather have problem with finding available workers on the Romanian labour market. While a big part of the labour force is already migrated, mostly to the SW Europe (more than 2.5 m workers are believed to be abroad, with both legal and irregular status), the Romanian companies could not find local workers to use them in order to benefit from the money inflow targeting Romania in the light of its new membership to the European Union (foreign investments and European post accession funds).

The idea of this research rose from an empirical survey of the [economic] media, looking for information related to migration subjects¹⁰. We considered the following supposition: a *Romanian constructor* has migrated to an EU Member State some time ago¹¹. As we know, since the visa lifting dated back to 2002, Romanians travel freely within the European Union, for the purpose of tourism. Our constructor could emigrate as a tourist who forgot to come back after the passing of the 90 days of ‘*tourism*’ period, or could be the beneficiary of a labour contract based on the intergovernmental agreement on workers’ exchange [contingent workers]. As results of his hard work abroad, he/she earns money to send it home: most of the emigrants send money home, to support their families, wife and kids remained home. He would intend to invest his money too. In his opinion, building a house is a good investment, so he decides to build a house in his back home village. As the Romanian constructor [or farm-worker, house-keeper, or even student, researcher, engineer] is visiting Romania usually twice a year, generally for short vacations during Christmas and/or Eastern, he is not able to build this house by himself (even if building houses may be his job). The simplest option: hiring some neighbours/former colleagues/other worker from his village/region to build his new house, for the time he definitively return home. But usually the majority of the workers from the same villages migrate together, that means no workers were found [the migration throughout close relationship/networks supported the *myth of the Romanian constructor*, vs. the *myth of Polish plumbers* ‘flooding’ the UK after 2004]. Our constructor with residence in an EU state must find a construction company to replace his or his former colleagues’ work. But who could work for such a company, if the workers are already gone abroad, as supposed before? A solution for the construction company to solve the problem is to replace the missing labour force with immigrants (maybe from Moldova Republic, Ukraine or even the *far eastern* China).

¹⁰ We carried out a survey of the (economic) media on migration, by collecting statements from certain on-line and printed media especially from Romania, UK, France, Spain and Belgium. The EU citizens seem to be scary of migration threat (or, at least, the media tries to influence us to believe this). In parallel, we noted that more and more news present new trends on the Romanian labour market: even is one of the major sources for the European labour migration, Romania seems to need workers and in the following period may ‘import’ foreign workforce. *Box no.1* and *Box no.2* presents the most significant excerpts from the media coverage and articles’ titles collected during our research.

¹¹ We used this example having in mind that the European media have created the so-called *myth of Romanian constructor*, opposite to that of the *Polish Plumber*. The majority of empirical studies show that working in construction is the main employment for Romanians with both legal and illegal/irregular status within the EU Member States. For details on this issues, see FSD (2006). As talking about those emigrated in the last decade, Romanians rather use the pejorative syntagm “*căpșunar*” [strawberry-picker or strawberry-man] to describe all those emigrated to the EU for labour purposes. At the beginning of the labour migration through governmental bodies’ mediation [based on bilateral labour agreements], Romanians were employed in farms to pick up strawberries [mainly in Spain]. Since then, the term was generally used both in the colloquial conversations and into the scientific papers. An interesting overview on the strawberry-pickers was delivered by Ana Bleahu during the international colloquium on migration and mobility held in Timisoara in May 2006, under the organisation of the Jean Monnet European Centre for Excellence, West University of Timisoara [on-line information available from www.migratie.ro/conference2006.html]. Until the final form of this study is available directly from the author, its abstract is available as part of the MPRA Paper 2793, hosted at <http://mpa.ub.uni-muenchen.de/2793/> For details or updates, please contact directly the author (contact data available on the conference’s web page).

Does Romania need labour force?

Press articles excerpts from Romanian media on the labour market and migration

ARIS tries to limit Asian labour immigration: The Romanian Agency for Foreign Investments (ARIS) will make efforts to temper the number of Asian workers brought by Asian investors in Romania, said ARIS representatives. They admitted that projects negotiated with Chinese investors usually included putting at their disposal land plots intended for the construction of housing for workers brought from China. The agency was trying to persuade them to limit labour imports to certain positions. He also claimed that the Chinese labour force would not cause any problems, especially if directed to certain areas of Romania, such as the Western part of the country. **“It seems that Romania is one of their favourite destination because it is a gateway to Europe”**, commented the ARIS official. (*Bucharest Daily News* no.570, Saturday, October 14, 2006)

The exodus of two millions of Romanians to West European countries has the result the lack of labour force on the Romanian market. The Romanian companies are heavily able to find skilled employees, and this situation will become more difficult after the Romania's accession to the EU. In order to attract specialists, the employers will be obliged to substantially increase the earnings or to ask for labour force from the former Soviet block or China. The National Agency for Occupation of Labour Force and Vocational Training currently looks for some 10,000 people **to cover the gap due to the migration of Romanians who work abroad**. (*Radio Romantic*, October 22, 2006)

The exodus of labour force is met in industry, textiles and constructions. There are some premises for an influx of cheap labour force originating from ex-Soviet or Asian space. The problems are admitted by the authorities too, after a long period they refused to issue work permits to Asian workers. (*Adevărul* no.5068, October 23, 2006)

Migration and ageing of population, risks for the national security (*Ziarul Financiar* nr.1824, 22/02/2006)

Roumains et Bulgares malvenus. Les chiffres sur l'afflux de travailleurs de l'Est font peur (*Le Soir*, France, 24/08/2006)

The Chinese take jobs from Romanians in the country and abroad (*Gândul*, 08/12/2006)

Romania becomes the destination of **undesired migrants: the Chinese** (*Mediafax*, 13/10/2006)

The Chinatown Effect in Europe: the Chinese Map of Europe (*Cotidianul*, 27/10/2006)

2007, the year of invasion of Chinese investments (*Adevărul Financiar*, 19/10/2006)

Romania, faced with workers' crisis (*Bloombiz.ro*, October 2006)

Romania looks for German workers. **We import even Chinese** (*Cotidianul*, 17/10/2006)

The salary in constructions will increase annually by one Euro per hour (*Ziarul Financiar*, 18/08/2006)

ARACO: The salary in construction should double (*Ziarul Financiar*, 02/11/2006)

Solectron to hire 800 in three months (*Ziarul Financiar*, 25/10/2006)

Solectron fire some 500 Scotchmen, after the announcement of recruiting 800 Romanians (*Bloombiz.ro*, 30/10/2006)

Producers of auto components **cannot find people to hire** (*Ziarul Financiar*, 13/09/2006)

Dacia hires 1,000 (*Evenimentul Zilei*, 06/11/2006)

Eastern Europe is the new Detroit for automobile producers (*Ziarul Financiar*, 18/10/2006)

IKEA, 400 hired before spring of 2007 (*Ziarul Financiar*, 07/11/2006)

The Europe of immigrants (*Business Magazin*, 10/11/2006)

It's only a matter of time until **Romanians return home** (*Ziarul Financiar*, Romania, 13/02/2006)

Analyzing the present situation on the labour market, we noted that Romania is a country with a labour market that already faces distortions. There are some years since Romania is known

as a country where there could be found engineers, call-centres, textiles and manual workers, at a very good price, with salaries defying all concurrence. On the other hand, Romania is in deep need of labour force (*Box no.2* presents the debate into the Romanian media on the lack of workers on the national market correlated with the Romanian labour migration to the European Union). The workers do not accept anymore low salaries and their demands are higher [the price of their work is increasing while the salaries increase slowly], and they rather prefer to migrate to countries where the salary [for basically the same job] is higher than the local income plus the costs of migration¹². To replace the emigrated labour force, Romania should find workers from other labour markets.

The foreign workers ‘imported’ by the local companies are mainly non-EU citizens (considered as *third country nationals*) and therefore they could not travel freely to the European Union. However, they accept to come to Romania, maybe in their way to the most desirable wealthiest country from EU15 (like Germany and those from the northern Europe).

The lack of available well prepared workers would normally force the employers to rise the price of work – the salary – in order to attract the still existent workers from the local market, or to create such an environment that may offer to would-be employees the option to chose staying Romania and refusing the migration (i.e. higher earnings, better working conditions, other compensations etc.). Instead of increasing the salary and improving the work conditions in order to keep stable the present workers, the majority of Romanian employers rather prefer to keep very low the salary level and to hire personnel from the local black-market [without paying taxes] or from abroad. The immigrants still accept a lower wage as compared to the medium wage in Romania, but bigger enough as compared to those from their country of origin (in this way the Romanian employers obtain better financial results, paying less money for the same product, the work).

The Romanian labour market faces distortions and the labour will not be cheap for long time: while the managers of the foreign companies share the same hard work and huge financial benefits with their colleagues from western countries, both the high skilled, the unskilled workers and the unemployed people don’t accept any more small incomes or low-skill demanded work, they refuse the offered ‘official’ work places and they prefer to be employed in the ‘shadow-economy’ while receiving social benefits from the Government, or rather choose to migrate to a wealthier country of the European Union. Distortions on the Romanian labour market are caused by the migration of workers, but in the same time migration is cause of distortions on the labour market: Romania will hardly manage to surpass this *vicious circle*. More than 2m Romanian workers are recorded as working and living abroad, mostly skilled,

¹² For a migration’s costs analyse, see Schiff (2006: 9-14)

well trained workers, with perhaps more than one million workers with *irregular* status that are eligible to register and work legally as starting with 2007 [the undocumented Romanian participants in the wide EU labour market could not be considered with illegal status, once Romania joins the EU]. The investments into the Romanian economy mainly involve the development of the construction field, well connected to the real estate industry. But the Romanian labour market is lacking just *the constructors*: most of them are in Spain and Italy, helping the growth of those countries' economy. The emigration of skilled labour migration from Romania to the labour markets of the European Union member states is a pressing topic on the agenda of Romanian trade unions. The situation is particularly acute in the construction sector, where labour shortages have been estimated by one employer organisation to be as much as 50%, corresponding to about 300,000 workers (Ciutacu 2006). Ironically, some Spain entrepreneurs announced the intention to develop some large projects in real estates in Transylvania (central Romania), to build houses for Romanians [see our case above], and Portuguese construction companies are involved into major infrastructure projects around Bucharest. But who builds those houses and for whom, if Romanians are working and living in Spain [or elsewhere]? *The constructions are the engine of the economic growth*. But now there are no more constructors to build new factories, new houses and to work in the infrastructure projects, as probably financed by European post-accession funds [if Romania manages to prepare eligible projects]. So, we have *an engine without fuel* (workers). This is the reason we consider that for Romania the *Strawberry Jam* is not tasteful at all!

Anything new on the market: on the European migration after 2004

With the accession of ten new Member States and the forthcoming accession of Bulgaria and Romania in 2007, major concerns were raised with regard to unrestricted labour mobility in an enlarged EU. Therefore transition arrangements were agreed in order to restrict free labour mobility from these new member states and EU15 of up to seven years upon accession (Krieger 2005: 4). The restrictions on labour mobility and the fear of immigrants prove one more time that the removal of the border barriers on May 1st, 2004, was symbolic. The European world is still considered as being divided in two, as according the economic development: "*the West*" and "*the Rest*" (Maddison 2002). That means "*the Rich*" and "*the Poor*". *The West* is now a relatively homogeneous group in terms of living standards. This is not true of *the Rest*: they have 'the cheap' workforce [as long as it is cheap]. Two years after the largest accession wave, the European media and public opinion still use stereotypes: '*East – West migration*' and '*cheap labour vs. better living conditions*' need to be put in

perspective. The enlargement and the workers' mobility benefited for both EU15 and the A8 countries. ECAS (2006b) demonstrates the economic benefits of lifting such restrictions. As consequence of the fact that some 600,000 workers from the new Member States have moved to the UK following enlargement, *'the benefits of having an open labour market to A8 nationals have been evident to the UK, as during the first eight month of accession. A8 contributed an estimate of GBP 240 million to the economy'* (ECAS 2006a: 15). In the same time, the economic performance of A8 improved (see Box no.3).

Box no.3

Stereotypes as *'East – West migration'* and *'cheap labour vs. better living conditions'* need to be put in perspective

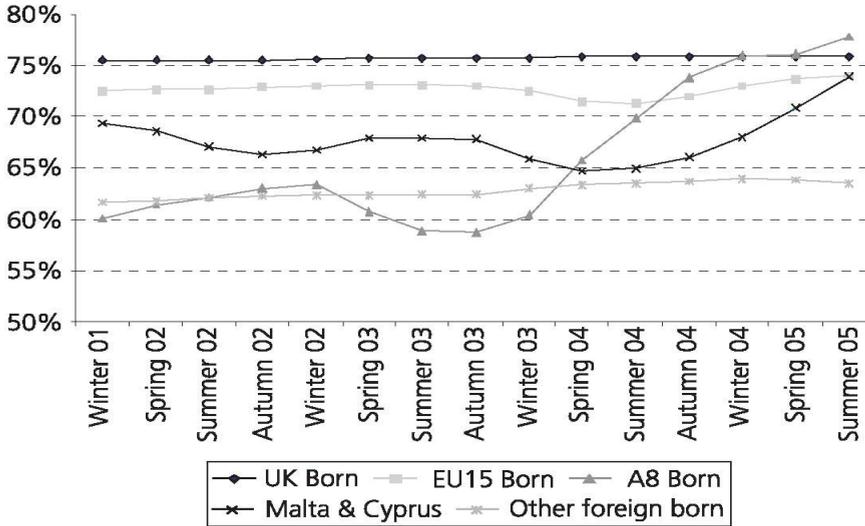
Since May 2004, the economic performance of the new Member States has significantly changed: accession has boosted trade between the EU-15 and A8. Western companies invested a total of 14 billion euros in the accession countries, of which 7 billion euros were after enlargement. GDP of the A8 countries rose by 5% in 2004 and a further increase of more than 4% is predicted for 2005. This rate is twice as high as in the EU-15. Among the eight accession countries, in 2004 Latvia's economic growth was the highest (also in comparison to the EU15) with 8.5%. It is followed by Lithuania (6.7%), Estonia (6.2%), Slovakia (5.5%) and Poland (5.3%). The "income gap" – which allegedly should have resulted in a massive transfer of residence of the new Member State jobseekers to Western countries – might well lose its credibility as accession countries will achieve a level of income convergence within the EU economy. (ECAS 2005: 22-23)

An important trend of labour migration was the transition from a net-sending to net-receiving country. The continental and Northern Europe countries and UK experienced significant immigration in the second half of the 1950s or beginning of the 1960s, while Greece, Spain and Portugal were major source of emigration on the South-North direction. In the 1990s and the last decade, the Southern Member States and Ireland experienced an inflow of migrants coming from Northern Africa and respectively from UK and North America, as a significant return migration. Before the 5th and biggest wave of EU accession, all countries were recorded with a low proportion of labour migration of below 10%, the Southern European countries being the extremes with labour migration between 40 and 60% (Krieger 2005: 6).

The demographic problems (the fall of the fertility rate below the level needed to replace the population) and the ageing of the labour force strongly support the idea of opening the EU labour market to the new European citizens from the CEE. The workforce of the ten new Member States equals to one-third of the active population of the western countries. The EU15 Member States are obviously workforce-demanding, and the closest supply is just *'out there'* (ECAS 2005: 33). On the other hand, the immigrants are seen as workers who take the

jobs from nationals, even if the evidences prove, in the case of UK at least, the UK-born employment rate remained stable since the A8 accession (Figure 1). However, studies show the impact of immigrants on employment is weak or ambiguous (Ghosh 2005).

Figure 1 Migrants and UK born employment rates on the British labour market (four quarter rolling



Source: Gilpin et al (2006: 24, Figure 5.1), based on data from Labour Force Survey [UK]

As presented above, the core EU Member States announced restrictions for the newest Member States. Whittal (2006) considers that the full application of Article 18(1) of the EC Treaty without the transitional provision would allow Member States to address the considerable problem of the illegal labour market: such a move would increase taxes and social security revenues, as well as protect employees working under precarious conditions. The transitional measures were accepted by the accession states during the negotiations that preceded the signing of the Accession Treaty [Luxembourg, April 25, 2005, for the case of Romania and Bulgaria]. In the case of forthcoming accession of 2007, the restrictions for entering the labour markets of the EU25 Member States are applying if the states do not opt not to put it in force (UK and Ireland have changed the way to deal with labour mobility from the new Member States and have already announced restrictions and quotas for Romanian and Bulgarian workers, while France and Finland welcomed the Romanians as future EU workers)¹³. The restrictions are based in the public discourse on the threat of flooding of the

¹³ In accordance with the '2+3+2' formula, before the end of the first 2 years after the accession of Bulgaria and Romania into the EU, the European Council shall review the functioning of transitional measures on the basis of a report from the

labour market by the hungry low-skilled immigrants, and the pressure on the welfare and social system. However, the previous experiences of the states that joined the EU in the 1980s do not provide any rational ground for the statement that the EU accession of Romania and Bulgaria in 2007 will cause mass migration of workers into the EU¹⁴. We consider that mass emigration from Romania will likely not be a concern, as it is now very easy to find work at home and the wages are rising. Table 4 summarises the main economic characteristics of the states that joined the European Union in different phases during its 50 years of existence.

Table 4 The ‘invisible threat’ of EU enlargement phases

Phases (waves)	Number of countries	Characteristics
FIRST	6 member-states	Founder countries
	Germany, France, The Netherlands, Belgium, Italy, Luxembourg	
SECOND	9 member-states	High income countries, regulated labour markets, labour force needs, smooth labour market restrictions, high qualification workforce, not income variations
	Great Britain, Denmark, Ireland	
THIRD	12 member-states	Low income, income variations, long distance countries (no borders), labour market restrictions, low qualification workforces, labour force needs
	Greece, Spain, Portugal	
FOURTH	15 member-states	High income countries, not income variations, high qualification workforce, long distance countries, smooth labour market restrictions
	Austria, Finland, Sweden	
FIFTH	25 member-states	Low income countries, high income variations, high unemployment rate, average qualification countries, good knowledge of foreign languages, rather young labour force, short distance countries (borders), restrictive EU immigration policy, dysfunctions in economic system, distortion on labour market: labour force needs
	Cyprus, Czech Republic, Estonia, Hungary, Latvia, Malta, Poland, Slovak Republic, Slovenia	
SIXTH	27 member-states	
	Bulgaria, Romania	

Source: Mary Geitona, University of Thessaly, Volos, and National School of Public Health, Department of Health Economics, Athens, Greece [*The ‘Potential’ Impact of Immigration on the EU Labour Market and Health Care Systems*, retrieved from [http://www.nsph.gr/oikonomika/euhealth2003/Presentations/Geitona\(present\).pdf](http://www.nsph.gr/oikonomika/euhealth2003/Presentations/Geitona(present).pdf)]

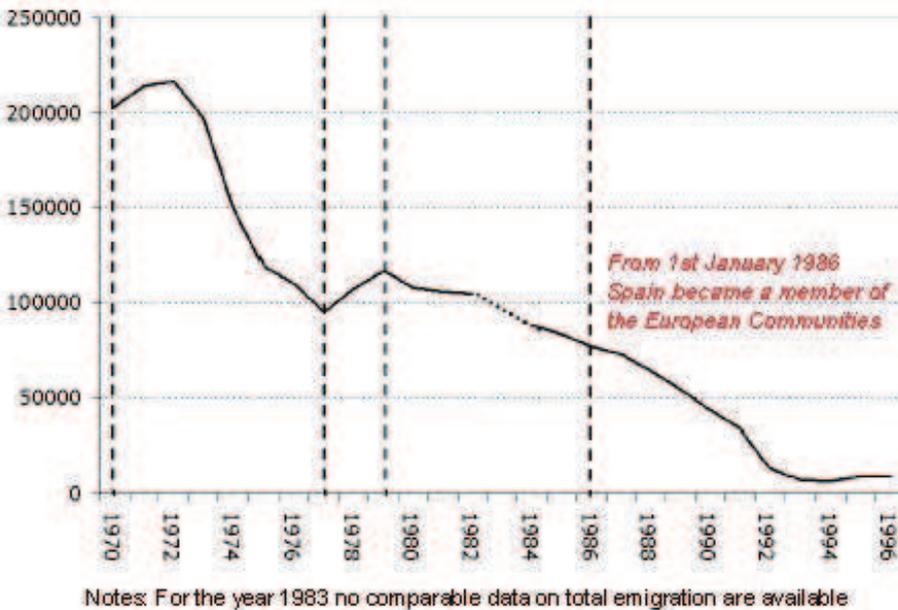
It could be noticed that Romania and Bulgaria (along with the A8 countries) meet with almost the same economical and social difficulties as the two countries from South-Western Europe (namely Spain and Portugal). The accession of Greece, Spain and Portugal was not marked by the mass migration of workers from these countries. Even if many migrants were leaving the countries of origin in search of a job [better opportunity] in the core UE, the scale of immigrations was acceptable for the EU Member States, without any threat to their labour

European Commission. Existing Member States will then have the option to apply restrictions for the next 3 years. Only if the country is expecting serious disturbances to its labour market may it restrict the labour mobility of the 2007 accession countries for the final 2 years.

¹⁴ For a detailed point of view on 2004 accession compared to the Spain-Portugal case, see Strielkowski and O’Donoghue (2004) and Reichlová (2004: Ch.6).

markets. ‘As it appears from the case of Spain and Portugal, no direct increase of emigration has happened after two countries accession to the EU. [...] On the contrary, in the aftermath of their EU accession net emigration from all three Southern European states has substantially declined’ (Strielkowski and O’Donoghue 2004: 4). Reichlová (2004) backs this statement: ‘We can see that the migration in general tends to decline over the period from 1970. In the early seventies over 200,000 people left Spain for some European states. In the nineties the number of emigrants reached hardly 2,000 or 3,000 per year. The fears of huge migration after the introduction of free movement and accession to the European Union did not materialize’ (Reichlová 2004: 49).

Figure 2 Migration flows from Spain to Europe [1970 – 1996]



Source: Reichlová (2004: 49, Figure 6.1)

On the other hand, immigration to the UK has been less permanent than is commonly thought: almost half (46 per cent) of all overseas-born immigrants left the UK within five years of arrival between 1981 and 2002 (UK Office for National Statistics data quoted in *ippr* (2006: 13)), and many accession country migrant workers, including Romanians, intend to work in the UK only temporarily in order to save money for their families or their studies. ‘Within Europe, most migration is not permanent, but part of a process of mobility in which both return and serial migration are natural economic responses to a dynamic economy’ (Piracha and Vickerman, 2001: 1). Analysis suggests that ‘a significant proportion of migrants return

to their country of origin within a few months of entering the UK (Portes and French 2005: 21). *'Migration is likely to slow as economic conditions improve in the accession countries. Not only will this reduce the flow of migrants from the A8 to the UK, but the rate of return is also likely to rise'* (ippr 2005: 28), and *'as the poorer of the accession states experience economic growth, the supply of migrant workers from the A8 is likely to diminish. Even the planned accession of Romania and Bulgaria, and in the long term, Turkey, may not supply sufficient numbers of migrants, certainly not to pre-empt undocumented flows in the immediate term'* (ippr 2005: 29).

Many Romania with illegal/irregular status are already present in countries as Italy and Spain. In the past years, ad-hoc flights were organised by Spain authorities to send illegal immigrants back to Romania, stopping in France and Italy to pick up more. Thousands of immigrants had been attracted by Spain's liberal amnesty policy. Spain and Portugal in the 1980s were traditionally net emigration countries, with a lower level of economic development. The economic situation of Romania is the same, maybe better, and it is improving, while the country is an important source for European migration nowadays (Simina 2002). In the case of Spain,

'we can identify these major causes of absence of migration wave after the introduction of free movement of workers from Spain to the European Union. First, the economic situation in Spain improved and optimistic expectations among people prevailed. Political stability was ensured by the membership in the EU. Second, economic situation in destination countries deteriorated especially with regard to unemployment. France and Germany were no more recruiting workers from Southern Europe and social tension has been present in relation to immigrants'. (Reichlová 2004: 51)

Why the situation regarding the *migration threat* to the European Union labour market should be different in Romanian case than in the case of Spain, Portugal and Greece?

Romania and the new economy of migration: costs, decision, networks, development

The economic analysis of migrations deals, mainly, with two problems: why people migrate and what the consequences both for host countries as well for origin countries concerning the functioning mechanism of labour market are. The costs and benefits for the migrant himself are not less important. The migration decision refers to a plurality of motives and causes, and generally is a result of a cost-benefit analysis, influenced by negative and positive factors (push-pull). We do not intent to summarise the all main theories of

migration, having in mind there are largely known and extensively debated. We analyse the decision making process for Romanian workers, trying to outline their reasons for migration to certain destinations and not to others.

Various factors are seen as underlying forces of migration. The economic drivers of all migration are often divided into *push and pull factors*, the so-called “push-and-pull model”. *‘This identifies a number of negative (push) factors in the country of origin that cause people to move away, in combination with a number of positive (pull) factors that attracts migrants to a receiving country’* (Piracha and Vickerman, 2001: 10).

Pull factors are positive factors of the origin or the host countries: the geographic and cultural proximity and the comparative advantages of destination country (differences in wages or better working conditions). They are reason for people to stay in their home country or to be attracted to the receiving country. Well developed social security systems in the target countries are an important pull factor for migration. *‘A slow transition speed may provoke migratory sentiments in the young, but a speedier transition can result in unemployment and a weak social security system can provoke mass movements’* (Piracha and Vickerman, 2001: 11).

Pull factors include the fact that wages are higher in developed countries, and that there is persistent labour demand. In the UK, fertility rates are declining, the population is ageing, education levels are rising and there are increasingly negative attitudes to menial jobs among the native-born population. While the native born population appears to be increasingly reluctant to work in low paid, menial jobs, demand for low paid workers is growing (ippr 2006b: 8).

The aliens will accept to deal with ‘*degrading*’ or ‘*dirty*’ activities, because they want to gain more material resources in order to return, richer, to their home country. The low paid jobs are filled by migrants, too. They cannot afford other opportunities, and those activities are traditionally filled with immigrants [usually in the framework of the informal economy].

Push factors are negative factors pushing people out of the home country or preventing them to move into the receiving country: demographic, political and economical situation in the country of origin. *‘Lower rates of population growth in the EU could lead to a significant shortfall in labour supply over the next 20 years’*, while *‘political factors are more complex and could possibly influence the migration decision more profoundly than the democratic factors. Impatience, particularly of educated youth, with the slow speed of transition to liberalised markets and the increase in ethnic tensions within a number of CEEC which remains masked during the communist period could both emerge as major push factor’* (Piracha and Vickerman, 2001: 10-11).

In the cost-benefits analysis more variables take part: the salary [wage] differences among different countries; differences in unemployment rates; the grade of social protection (social policies); an assembly of costs related to migration (information costs, transportation costs, costs of installation in a foreign country, psychological costs related with the moving off the birth place, the networking costs). The data show that migration rate is lowering as the medium income in the host countries grows up and the medium level of income in the origin country begins to lower and the migration costs begin to grow. Schiff (2006) adds financial constraints to migration costs as relevant features for migration. Migration costs include moving costs, cost of searching for a job and of housing and sustenance until a job is found, the time and money cost of obtaining a passport and visas, and payments to intermediaries in case of illegal migration. *'Assuming the ability to pay for migration as binding constraint, with heterogeneous migration costs, trade liberalisation in the source country that raises the country's wage rate enables more people to pay for migration, resulting a greater migration rate'* (Schiff 2006: 9-10). For the larger developing countries, where the transport costs are higher, migration costs may constitute a barrier to migration. From informal interviews at the Romanian border with illegal immigrants from China, some years ago, we noted the specificity of Chinese migration to Europe: the whole family pays for the costs of a member's migration¹⁵. As soon as finds a job, the Chinese migrant starts payments back home to return the loans to his relatives. The costs to migrate to Europe could rise up to 20-30,000 USD.

As previously stated, the economic conditions at home influence the chances of someone migrating. *'In poorer regions, potential migrants are less able to carry the costs of migration'* (Krieger 2004: 83). The unskilled individuals are constrained by their ability to pay for migration costs, while the skilled individuals can pay for migration and is able to choose between remaining in the source country or migrating, as depending on the equilibrium between the benefit from migration and the migration costs (Schiff 2006:12). A reduction in international migration costs implies an increase in skilled labour incentive to migrate and unskilled migrants to pay for migration costs, both types of labour mobility increase. As soon as the globalisation and trade without restrictions reduced the costs of transportation, migration increased in the same time with the increased incentive to leave home back of poorer or low-skilled would-be emigrants. Long-distance transportation and communication are within the reach of even relatively poor people now. Flying a low cost air company it is not a fortune at all in the last period, and migrants could travel easily between

¹⁵ For other examples regarding the results of empirical studies at the Romanian border between 1998-2002, see Simina (2002)

the host country and the country of origin. Some companies already flies from Romania carrying economic migrants, and some more are on the waiting list in their attempt to connect Romania on the other part of the European Union, as soon as the country join the EU and the 'open sky' agreement [which allows all European air companies to enter Romanian space without legal constraints¹⁶]. *BlueAir* [Romanian], *Skyeurope* [Czech], *MyAir* [Italian], *Wizzair* [Hungarian/Polish] and maybe *easyjet* [British] and Ryanair [Irish] are names of low-cost air transport companies which will be added soon on the preference list of Romanian migrants, if not already there. In the case of Romanian emigration after the moment the European Union Member States decided to lift the binding tourist visa [2002], the competition between the Romanian bus companies lowered the price of transportation to destination country of choice. In this way, 'waves' of Romanians decided easily to travel abroad for work (even working in irregular conditions), due to the fact that the migration costs decreased. As soon as some member of the families arrived in a certain place, they informed and helped the other members of the family or local community to take the decision to migrate. The better developed networks of migrants from their area of origin, the lower the costs and risks of migration, and higher the probability of migration into a certain area. Sandu (2000a and 2000b), Sandu et al (2004), Constantinescu (2003), Şerban and Grigoraş (2000) and Potot (2000) provide extensive analyses of Romanian circulatory migration phenomena and the formation networking process within Romania and European Union¹⁷, while Agunias (2006) review the international literature on circular migration.

From the perspective of *the 'new' economy of migration*, migrations are a result of collective decision [household decision] in the background of incertitude situations and market imperfections. The economy of the immigration vary by time and place, and immigration can be either beneficial or harmful (Borjas 1999: 1). Households accept diverse risks to their economic well-being by specific allocation strategies of labour within the family. Some family members are engaged in economic activities in the local community, often the head of household or the younger men is sent abroad to foreign labour markets with better employment conditions and higher wages.

The equilibrium wage on a regional labour market is driven by labour supply and labour demand. According to the *labour market dualism*, the migrations are explained by the labour force need originating from host organization (enterprises). *'Migration is in the first*

¹⁶ The ECAA Agreement (20 December 2005) COM(2006) 113 final - 2006/0036 (CNS) ensures open access to air routes within the ECAA for any ECAA Air Carrier. For detailed information regarding the European Common Aviation Area and the developments on the agenda of the European Union air transportation policy, see the European Commission DG Energy and Transport web page: http://ec.europa.eu/transport/air_portal/international/pillars/common_aviation_area/ecaa_en.htm.

¹⁷ For more papers on circular migration of Prof. Dumitru Sandu from Bucharest University, please visit his on-line library at: <http://dumitru.sandu.googlepages.com>.

instance caused by geographical differences in labour supply and demand (Krieger 2004: 82). The higher the expected reduction of relative income deprivation related to the area of origin through migration, the higher the intention for migration.

Based on this theory, the salary hierarchies represent *the prestige hierarchies*¹⁸. Employers in EU countries may also face a general motivational problem to fill unattractive jobs at the bottom of the occupational hierarchy by local workers, as they are combined with a low societal status. Hence, employers may decide to look for employees, e.g. in the acceding and candidate countries, who have fewer considerations regarding status and prestige in their destination country. The aliens accept to deal with ‘degrading’ activities because they want to gain more material resources in order to return, richer, to their home country. *‘This attitude of migrant workers is supported by relative deprivation, where the perception of the migrant is not determined by reference groups in the host country but solely by its status and well-being in the home country. A low status job in a receiving country may be a high status job in the country of origin’* (Krieger 2004: 86-87).

Demographic pressure (lower rate of population growth in the EU), wars, persecutions [political climate, among other types of persecutions] and environmental catastrophes [connected to economy crises that may follow the catastrophes] could be mentioned as important drivers for migration for both voluntary and forced migration (i.e. refugee, asylum seekers). Other theories allocate migrations to socio-historical factors: i.e. the final destinations of the labour force migration are countries with a *rich historical background*¹⁹. *‘While economic push and pull factors are central to decisions to migrate, it is essential that social and political factors are considered’* (ippr 2006b: 8). Political factors are more complex and could influence the migration decision more profoundly than the demographic factors (Piracha and Vickerman 2001: 11). The environmental factors are rather new on the migration agenda. Peter van Krieken (2004) mentions economics / ecology, war, persecution / repression and demography as causes for migratory movements: *‘these four main causes are interrelated: war has an impact on the economy; demographic developments may have an impact on the ecological balance, and so on’*. In the same way, the migratory movements can also be the *cause* of problems like war, social repression, economic gap, demographic awareness: migratory movements primary become elements for an increasingly conflicting situation when there is a lack of integration of immigrants and migration policies (van Krieken 2004). And of course lack of education regarding acceptance of immigrants (mentality).

¹⁸ Analyse of Romanian migration further on is based on a research done using the well-known Maslow’s theory of basic needs.

¹⁹ Spain and Italy were a major reservoir for the European migration between the 1950s and the 1980s. Nowadays, Romanians mostly migrate to Italy and Spain.

We consider that the economic factors are most significant push factors. The migration behaviour based on neo-classical labour market theory put great emphasis on income and income differentials as the main motivation for migration. In our research we emphasise the importance of personal needs and expectations on the decision to migrate. We agree that the differences in wage between the origin and the country of choice put a great pressure on the households, but the gap between the income earned in the country of origin and the sum that could be obtained abroad it is not sufficient to leave your home and family/children back. Usually the migration's costs increase by adding the psychological costs of putting back family, social networks and position into the [local] society/community. There are many other variables to be taken into account when analysing the migration decision, and we consider that the economic theory based income differences should be improved. If the would-be emigrant manage to surpass his basic needs and is motivated by the fulfilling of the esteem-related needs, he/she easily decide to migrate. *'Majority of EU citizens is probably able to fulfil their physiological needs and feel safe within their current place of residence. Hence these reasons are no more the driving force of mobility as in past times when people moved to feed their family and escape from uncertain places and countries. We can say that extensive social security lowers motivation for migration'* (Reichlová 2004: 42).

Among other authors, *ippr* (2006a and 2006b) did independent analyses of the likely impact of Bulgarian and Romanian accession to the EU, paying particular attention to past enlargement experiences and examining the drivers for migration this time round. We used the Abraham Maslow's motivational theory to construct the argument for our theory: *the need for esteem is probably most important for a big part of the Romanians who continue to migrate to the EU, especially for those going to Italy and Spain*. Analysing the fourth scale of the 'motivation pyramid', Reichlová (2005) suggests that *'people will move if this step is followed by improved social status or attainment of fame'* (Reichlová 2005: 9). And this is not a reason to induce mass migration (Romanians are not as poor as they are pictured in some European [tabloid] media or in much of academic papers wrote using only data from curt statistics). It is true that there are Romanians for whom labour mobility [as mentioned above, after 2007 it's wrong to say 'migration' for Romanians] constitutes an escape from a poor situation. Maybe some scientists do not agree with us, but these poor workers could find jobs in Romania if they really wish and look for [of course, maybe with a lower salary that its expectations and/or maybe in other field, needing to acquire some new abilities or to change the profession]. At mid October 2006, the National Agency for Occupation of Labour Force and Vocational Training (within the Ministry of Labour, Social Solidarity and Family) was

looking for some 10,000 people²⁰: Romania needs at least some 10,000 people to fill the gap on the labour market; Romania needs people, not working places! With other words, those 10,000 people who are missing were not migrated because they didn't find work. We should determine other reasons that drive Romanian migration, apart from the inequality in wages and shortages in labour on the local labour market.

As Maslow mentions, *'we have what we may call the desire for reputation or prestige (defining it as respect or esteem from other people), status, fame and glory, dominance, recognition, attention, importance, dignity, or appreciation. [...] Satisfaction of the self-esteem need leads to feelings of self-confidence, worth, strength, capability, and adequacy, of being useful and necessary in the world. But thwarting of these needs produces feelings of inferiority, of weakness, and of helplessness'*²¹. The model of Reichlová (2005) which try to find if the theory of motivation can explain the decision to migrate,

*'reflects the fact known and recognized by psychologists but scarcely used in economics. That is **general preference for known, familiar and predictable environment**. In case of migration we can express this psychological phenomenon as general preference of living in native country compared to life abroad. In comparison with other migration models we are able to explicitly work with preference for known, familiar environment and appreciation of proximity of friends, family and other socially tied individuals. These factors are in majority of models hidden under the all inclusive term "barriers".'*

Reichlová (2005: 21)

When we discussed the distortions on the Romanian labour market, we presented our opinion related to the fact that Romanian workers migration should not be compared with the Polish case in terms of destinations, flows and tendencies. The media influenced the previsions that suggest that Romanians will target UK as destination country after 2007, because the Polish did so soon after 2004. It is true that there are similarities among the labour flows from Romania and Poland, namely the age group, the unemployment rate in the source region, the average education/skilled individuals. But the language and the network effect of migration show that Romanians will be mainly attracted by the same destination countries, Italy and Spain, even if some of them will go to Britain (having in mind the labour stock of the countries is at a very low level, there are no migrants for a mass influx to UK, we believe that

²⁰ Romania, on the threshold of the lack of workers crisis, as wrote on *HotNews.ro* (17/10/2006). See Box no.2 above for more headlines in the Romanian press on the crisis on the labour market.

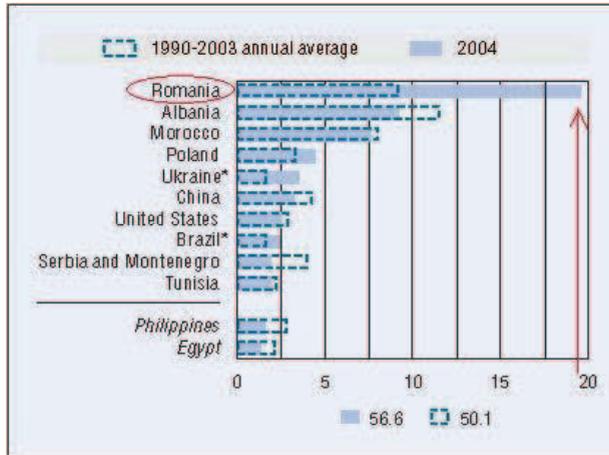
²¹ The text of Abraham (Harold) Maslow could be found easily in the virtual spaces, many web pages including excerpts of his famed theory, originally published as: Maslow, Abraham H. (1943): *A Theory of Human Motivation*, in *Psychological Review*, 50, 370-396. It was revised and updated with very little change when it was included in his 1954 book, *Motivation and Personality*, and again in the 4th chapter of the 1970 second edition as: Maslow, Abraham H. (1970): *Motivation and Personality*, 2nd. ed., New York: Harper & Row. The source of the text we used is: <http://www.xenodochy.org/ex/lists/maslow.html>. We cannot guaranty for its accuracy, we only used it to picture our ideas.

the migrants who will chose UK are those with former migration experiences and possible migrants that are already abroad at the time of accession and change their position within the labour market, moving from South-Eastern Europe to the UK). We launch the debate on the following subject: *UK does not fear of Romanians, it rather needs Romanians and use media debate to attract the interest of the labour workers!* Maybe the facts could show something else, but we would like to emphasise some specificities of migration to Britain. From our empirical research at the borders (see Simina 2002), we know that even before 2002 Romanians entered UK, staying there with irregular status²² [overstaying the tourist visa and quite often entering with false passports, usually Portuguese: nobody heard Portuguese or Romanian in the UK before, so nobody was able to easily recognise a Latin language which is neither Italian, nor French or Spanish, but sometimes similar, as sounds strange Latin. Showing the false Portuguese passports, the Romanians were allowed to enter the country and then the labour market freely]. With other words, those who embraced the idea of living and working in the UK are already there, they don't need to wait for the Romania's accession to the EU to do this. We would underline our opinion: it is generally felt that that the majority of Romanians inclined to work outside of Romania are already doing so. As emphasised above, there are many reasons for migration, but the accession is not among them!

As a response to the media debate regarding Romania's emigration, we consider the reasons why Romanians do not face mass migration to the UK. We do not say the Romanians will not go to UK any more, but we consider that the first choice will be countries as Spain, Italy and maybe France (see Figures 3 a-c presenting the inflows of top 10 nationalities as a percent of total inflows of foreigners in Italy and Spain). In a study which relates the intention to move into the another European country to the total population of each accession county (in the framework of the quality of life in Europe), the European Foundation for the Implement of Living and Working Conditions, Dublin, found that 52.8% Romanians and Bulgarians expressed their willingness to live in another European country where the language is different from mother tongue as "not at all". All researchers agree that Italian, Spanish and French are more related to the Romanian (the mother tongue of Romanians) than English which is spoken in the United Kingdom.

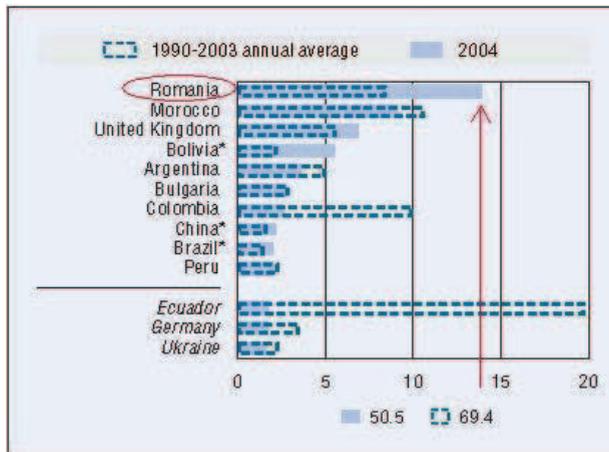
²² According to ippr (2006b: 10), Romanians were the fourth largest European nationality group in detention, after Turkish, Serbians and from Montenegro. Analysing the irregular status of Romanians, one should have in mind the fact that as starting with January 1st 2007, when Romania joins the EU, the Romanian citizens could be irregular workers, but they cannot have irregular presence on the UK territory, regardless the ways of entrance and the period of journey.

Figure 3a ITALY: Inflows of top 10 nationalities as a % of total inflows of foreigners



Source: OECD 2006: 191, Statlink: <http://dx.doi.org/10.1786/663488602457>

Figure 3b SPAIN: Inflows of top 10 nationalities as a % of total inflows of foreigners



Source: OECD 2006: 215, Statlink: <http://dx.doi.org/10.1786/125324665132>

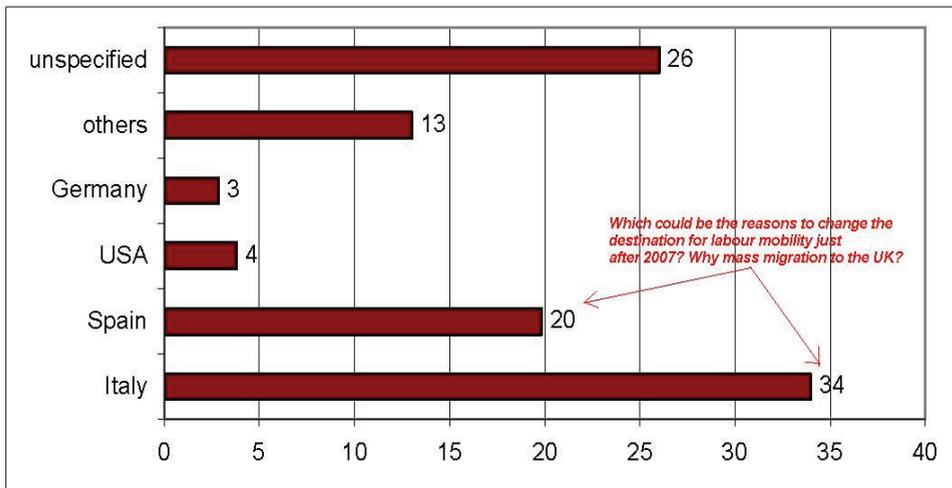
Figure 3c SPAIN: Inflows of foreign population by nationality

Thousands

	1998	1999	2000	2001	2002	2003	2004
Romania	0.5	1.8	17.5	23.3	48.3	55.0	89.5
Morocco	10.6	14.9	38.3	39.5	40.2	40.9	58.8
United Kingdom	4.5	7.9	10.9	16.0	25.3	32.1	44.3
Bolivia	0.2	0.5	3.3	4.9	10.6	18.1	35.3
Argentina	1.2	1.9	6.7	16.0	35.4	24.8	23.2
Bulgaria	0.2	0.7	6.5	11.8	15.9	13.6	17.9
Colombia	2.3	7.5	46.1	71.2	34.2	10.9	16.6
China	1.0	1.6	4.8	5.2	5.7	7.3	14.4
Brazil	0.9	1.6	4.1	4.3	4.7	7.3	13.0
Peru	2.1	2.9	6.0	7.1	8.0	13.3	13.0
Ecuador	2.0	9.0	91.1	82.6	89.0	72.6	11.9
Germany	7.1	9.3	10.2	10.7	11.2	11.1	11.8
Ukraine	0.2	0.6	6.3	11.0	10.8	9.1	10.3
Venezuela	0.9	1.6	3.4	4.1	5.4	10.4	10.2
Uruguay	0.2	0.4	1.3	2.8	6.2	9.3	9.8
Other countries	23.4	37.0	74.3	83.5	92.2	93.7	265.7
Total	57.2	99.1	330.9	394.0	443.1	429.5	645.8

Source: OECD (2006: 246, Statistical Annex, Table B.1.1)

Figure 4 Countries where those with intentions to leave would like to work (%)



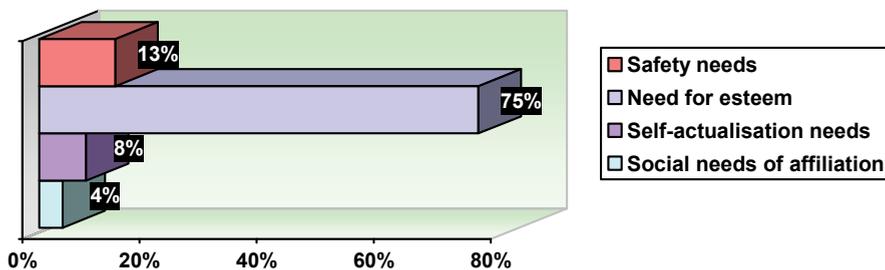
Source: FSD (2006), Figure 8, page 31. Countries where those with intentions to leave would like to work (%)

Data source: TLA Survey, basic sample, subsample of people with intention to leave to work abroad. N=106.

Example of reading: 20 % of the people aged 18 to 59, who would like to leave abroad to work, within the following year, target Spain as place of destination

If we relate to Maslow's theory, the research conducted by the Romanian National Association of Citizens Advice Bureaux revealed that the reason most often put forward was the NEED FOR ESTEEM (the fourth level/step), that means 75% of the respondents (Figure 5). The questionnaire: *the reasons why peoples from Romania [who worked/is currently working in the EU] have migrated to the EU for work* (759 respondents). The 'need for esteem' is a superior reason for migration, that means the emigrant had already satisfied the other needs (levels I, II and III) in Romania, before the migration decision and/or migration itself (ANBCC 2005).

Figure 5 Emigration reasons - Abraham Maslow's scale



Source: ANBCC (2005: 13)

The first situation is when physiological needs are not gratified. Then the only desire is to achieve additional sources of nourishment. Individual will move into another location provided that this step decreases hunger or thirst. Second, the individual has enough food but lives in unsafe, threatening surroundings where his life is endangered or the environment is chaotic and unpredictable. Then he or she will move to another location if the level of safety, predictability and order grows through such a step. Nevertheless, this move will not be done if the new safe place does not provide enough sources to guarantee gratification of physiological needs. On the other hand, safety needs are an important factor binding people to their native land. The territory they are living in is familiar, majority of people they are dealing with are known, they have social status that is connected with some duties and rights, they can communicate with other people using their native language, they are well oriented in cultural customs and they know their rights and acceptable ways of behaviour. Unfamiliar and sometimes hostile environment in destination country disturbs safety and stability requirement and thus decreases benefit from migration. Reichlová (2005: 9)

The EU Enlargement Map: Romania and the Syndrome of South-Eastern Europe

With the “*South-Eastern Europe Syndrome*”, we analyse the fact that the Romania develops in the same way like the southern countries which joined the EU in previous waves of enlargement. The EU has no reasons to fear Romania maintains its undeveloped economy. During the transition of Romania, all economic mechanism suffered strong structural crisis: Romania had a very powerful industry sector and a cooperative based agriculture, with workers trained for steel industry and mechanized agriculture. After the failing of the communist regime, the industrial companies were privatized and than closed, the land was returned to the farmers and the cooperative farms were destroyed. Romanians were prepared for an industry based productive economy, nowadays Romania is the land of the service industry, with investments in banks, distribution and selling industry. Soon after the changing of the regime, Romania met large unemployment and lot of people in need of identity. A solution: emigration for labour. Most of the former industrial areas are now transformed in investments for the real estate market. The agricultural land is used for developing large real estate projects. All major European retailers are ‘landed’ on the Romanian distribution market, with huge hypermarkets and entertainment areas [even considered the capital city of a ‘poor country’, with low income, a Bucharest based hypermarket of *Carrefour* is the third in the world as counting the transit of customers during the Christmas holidays, whit more than 100,000 people visiting the site per day]. In the same time, alike in countries as Spain and Portugal before their accession to the EU, lots of investors have bought plenty of land and buildings, for speculation on the real estate market purposes (the price of real estate multiplied many times, as compared to the price just before the accession). The same situation is met mostly in western Romania, but even in Constanța county, south-eastern region: Italians and Greeks have bought almost all available agricultural and in-town land, with the purpose of eventually reselling it upon the Romania’s accession to the EU. Nowadays, Spain is one of the main receiving countries of older emigrants in Europe, the main destination for European retirees (mainly thanks to its tourist tradition), due to the economic attraction of tourism factors (pensions, expenses at the place of destination). In the same time, the economy is growing. Before the EU: the Spain workers have migrated to the north of Europe for jobs, while the capital moved to Spain as investments in land and real estate. After the accession: Spain, Portugal and southern Italy benefited from the financial aid of the EU. Spain launched policies to help the families to raise the birth rate (the demographic growth), attracting immigrants with regularisation measures. Those migrants supported the Spain economic

development. The same situation is met in Romania, but using the “fast forward” style. We already need workers!

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SOCIAL-CULTURAL CHALLENGES TO ROMANIA'S EXTERNAL MIGRATION IN THE PERSPECTIVE OF ACCESSION TO THE EUROPEAN UNION*

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This paper addresses the socio-cultural dimension of Romania's external migration and its implications on the migrations policies in the perspective of accession to the European Union. To this end the main questions envisaged refer to migrant's profile, the perception of the migration phenomenon in the destination / origin country, the migrants' integration, the return migration particularities. The public opinion and mass media attitude as well as the need of a deeper involvement of the universities and research institutes in migration research is also emphasized.

Keywords: external migration, migrant's profile, migrants' integration, migration research

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1 Introduction

The international experience in migration administration and monitoring demonstrates the close relationship between the legislative-institutional dimension and the social-cultural one. The elaboration and adoption of laws, the creation of institutions, the development of corresponding strategies and policies represent major components of this process, but their success cannot be separated from the manner in which the involved actors – governmental institutions, non-governmental organizations, mass-media, communities and individuals – respond to the so-called “behavioural challenges”, related to participation, communication, mentalities and attitudes.

The accurate understanding of the social-cultural dimension and of its implications on the migration management policies in the perspective of accession to the European Union implies the reference to the multiple sides of this phenomenon, so as to provide answers to a series of key questions, such as: which is the migrant's profile, how are the migration flows – emigration, immigration – perceived in Romania and in the destination/ origin country, how is the integration of migrants carried on, what is the attitude towards the return oriented migration, especially in the case of certain special categories, etc.

* This paper represents a part of the author's contribution to the study entitled „The Migration Phenomenon from the Perspective of Romania's Accession to the European Union”, included in the PAIS II project of the European Institute in Romania (IER).

2 The migrant's profile

Considering the migration a social phenomenon that directly affects a significant part of the population and has complex implications on the entire society, it is vital to know and to emphasize the migrant's profile – the profile of the emigrant from Romania and of the immigrant to our country. That will enable an accurate development of the measures related to the administration of migration phenomenon and of the support provided to the migrants.

Within the dominant national tendency – namely labour migration, the most representative category is currently represented by young men (18-35 years old), with an average education level, as skilled workers from the big cities of Romania and Bucharest, its capital.

The villages' migration potential should not be ignored either; relating to this issue Dumitru Sandu²³ has suggested the metaphor of the “hydrographical network” (community represents the spring of migration) and the transition from the factorial approaches to the structural and typological ones, that makes possible to identify types of villages based on the dominant cultural profile and the experience regarding the international circulatory migration. Considering the studies that have been carried out up to now, one can reach the conclusion that “the communities having a maximum experience related to the temporary migration abroad are specific to the villages with a higher share of Hungarians; the communities featuring an average level of migration experience are specific to the immigration villages (whose population has arrived there from other regions of the country); the communities at an early stage of the external circulatory migration are mainly encountered within the modern villages, with a high education potential; the communities lacking the migration experience are specific to the traditional villages, featuring a low educational level and a high degree of isolation” (Sandu, 2004).

Various studies have also stated a series of hypotheses regarding the selective migration flows, according to which the minority ethnical or religious groups show a higher mobility level than the one of the majority Orthodox Romanian population (Sandu, 2000, Diminescu, Lăzăroiu, 2002). Thus has been proved the role of ethnical and religious networks within the early stages of the circulatory migration, with relevant examples, such as the migration patterns towards Germany, Hungary or the traditional support on behalf of the host-countries with respect to certain religious categories (such as the neo-protestant population)²⁴.

²³ *Note from the editor:* Dumitru Sandu is Professor at the Bucharest University, Faculty of Sociology and Social Work, Department of Sociology. Is a prominent sociologist, specialized in the fields as: sociology of transition, community and regional development, social stratification and migration, and well known for his studies on Romanian migration and the concept of “circular migration”.

²⁴ In the case of the Catholics and the Protestants, the religious category overlaps, to a large extent, the ethnical one (Hungarian, German).

Within the process of circulatory migration certain patterns and specific cases for different destination countries²⁵ have been identified as well, such as the German case, the French case or the Italian case (Diminescu, 2004). They highlight specific situations that have to be taken into account, which are often different from the « classical » profiles of the travelling migrants (entrepreneurs, workers recruited through the Office for Labour Migration, students, trainees and so on).

The German case emphasizes the role of the invitations from German individuals originating in Romania for the “setting in mobility” of tens of thousands of persons that do not have any other means that could allow them to travel within the Schengen space.

The French case focuses on a specific migrant type, whose peculiar social integration (in the street) is based on various collecting systems (trading worn off clothes, home appliances thrown in the street or direct collection of money by means of begging, selling newspapers in the street, reselling the metro tickets, wiping the windscreens, singing in the underground stations, in the street, etc.). According to the author of the study, this type of migrants « combines the status of the marginal, the circulation and a very active co-presence within the two countries » (Diminescu, 2004).

The Italian case refers to the current strategy of the Romanians entering the Italian territory and finding a job without observing any prior formalities, subsequently trying to settle the situation in some way. The permanent existence of a group of clandestine migrants who are looking for a job and of another group of clandestine migrants who already have a job and who want to gain a legal status can be noticed in this case (often there are more migrants sharing the same job, by sub-periods). Another feature of the Italian case consists in the high share of women (almost 50%) within the number of Romanian workers, due to the fact that, besides the family reintegration, there is a large demand on the informal market of domestic jobs. The high number of jobs taken by the Romanian women (approximately. 30 000) underlines the importance of the migration sub-adjacent networks, that set in motion an effective mechanism of social and institutional integration.

Even if at present Romania distinguishes on the background of international migration as an emigration country, with a labour market less attractive to the immigrants, being more interesting in terms of transit possibilities to the developed countries (briefly, « More ‘Out’ than ‘In’ at the Crossroads Between Europe and Balkans », according to the suggestive title of

²⁵ Together with the selective migration flows, these cases have a significant relevance, enabling the explanation of migration through the notion of *network*. The connections between the actors participating in the migration process based on networks refer to the exchange of information items, financial support, help when attempting to find a job, as well as other forms of support. Some informal networks enable the financing of one’s transportation, finding a job, accommodating the migrants. Still, in extreme cases, the networks are set up by professional traffickers, when the migrant becomes the victim of certain pressures, acts of violence, threats that may even endanger his/her life (IOM, 2003a).

an IOM country report from the autumn of 2003), is expected that the attractiveness of Romania will increase due to the EU integration perspective and thus Romania will become even an immigration country.

Up to now, the immigrant's dominant profile – a refugee, an asylum seeker, an immigrant for labour, study or business purposes – is based on men's preponderance (as it happens with the asylum seekers who have proven to be especially young men, aged between 21-30 years). Yet, when the total number of immigrants is taken into account, the gender based structure is quite well balanced. That happens to a large extent due to the business oriented migration: as soon as the business has become stable, the entrepreneurs (especially the Turkish and the Chinese ones) initiate the family reintegration procedure, which implies an additional number of women who join the general category of the immigrants. More particularly, as far as the immigrants from the Republic of Moldova are concerned, the gender distribution is more balanced as compared to the general situation, due to the significant participation of the women from this country in the agricultural activities in Romania.

3 Aspects regarding the integration within the host country society

The migrant's dominant profile – an emigrant/immigrant from/in Romania – involves a series of specific aspects regarding the integration within the host country society.

In general terms, for an immigrant the integration consists in the knowledge of the language spoken in the host country (reading, writing skills), the access to the educational system and to the labour market within the respective country, the opportunity of increasing professional mobility by attending to a higher level of education and professional qualification, equity in front of the law, cultural and religious freedom, the respect towards the laws and the traditions of the country he/she lives in. At the same time, for the host society the integration of the migrants supposes tolerance and openness, the consent of welcoming the immigrants, the understanding of the advantages and challenges of a multicultural society, providing an unrestricted access to information related to the advantages of integration, tolerance and intercultural dialog, respecting and understanding the status, tradition and culture of the immigrants, as well as the respect towards the immigrants' rights (IOM, 2003a).

As far as the particular case of Romania is concerned, given the lack of previous expertise in this field, the still low number of immigrants and refugees and the limited financial resources, it has been noticed that the services and the assistance for integration are not fully satisfactory, despite the diligence within the last years for the alignment to the international standards.

The Romanian state, via the National Refugees Office (ONR) established within the Ministry of Administration and Interior, currently runs a series of counselling programmes related to job opportunities and also organizes Romanian language and vocational training courses. Further on, the priority will be given to a prospective approach regarding the opportunities of getting integrated on the labour market, as well as the access of the refugees to certain social aids that are currently restricted due to the lack of identity documents.

An important support for shelter and integration is provided by UNHCR, consisting in financing the activity of the Romanian National Council for Refugees and the Romanian Forum for Refugees and Migrants, which are non-governmental organizations with remarkable results in the administration of the centres for reception of refugees and asylum seekers (together with ONR), in legal counselling, in training and integration programmes, in qualification and Romanian language learning programmes, in offering medical assistance, etc. The best practices identified in this field refer to the activities related to providing material and educational support, as well as the activities focusing on psychological and social support (communication with the assisted people, moral and emotional support, cultural orientation and so on).

In certain cases, the labour and business oriented immigrant communities have set up their own associations (The Association of the Turkish Businessmen, the Federation of the Chinese Businessmen) and they also get involved in the organization of schools, special services, newspaper editing, cultural activities for preserving their identity (the Chinese immigrants seem to be extremely active in this respect).

The immigrants' integration also requires an open, tolerant attitude of the Romanian society, as opposed to discrimination, xenophobia and other forms of rejecting the immigrants. The organizations dealing with the refugees' rights often notice that there is a subtle rejection of foreigners, shown not only by ordinary people but also by civil servants who deal with the problems of asylum seekers and refugees. They have encountered situations when one does not make the difference between a refugee, an immigrant and a trafficker, or between the persons who migrated for economic reasons and those who were forced to emigrate as a result of certain dramatic events or persecutions within their own country (Lăzăroiu, 2003).

A special issue envisages the vulnerable groups, especially the non accompanied minors, for whom a reconsideration of the interviewing procedures and an adequate training of the civil servants are necessary, since malpractice could have major traumatic effects. It is also highly recommended to encourage, besides the National Refugees Office and the Authority for Aliens (with its territorial departments) – that are governmental institutions

involved in the management of the non accompanied minor problems, their activity being focused especially on the juridical and administrative issues - the authentic participation of other institutions in the actions taken to the benefit of this category (such as The Ministry of Education and Research, The Ministry of Labour, Social Solidarity and Family), so as to answer other fields of assistance, such as education and integration. In fact, the legal provisions explicitly stipulate the minor foreigners' access to education. As far as the decision on repatriation is concerned, the Romanian National Council for Refugees suggests the need of including the child's interest prevalence within the Law regarding the foreigners' status in Romania.

As regards the public opinion and the perception of the immigrants who have settled in Romania, even if there are no data that could directly reflect it, one may draw up a series of indirect conclusions, such as the ones resulted from the Public Opinion Barometer organized by the Open Society Foundation in October 2002, that has studied, among other issues, the tolerance towards the ethnic and religious minorities. It can be noticed that the urban population, having a higher educational level is more tolerant and, generally, the people who have had contact with minority groups prove to be more tolerant than those who live within a homogenous cultural environment. It is estimated that the immigrants will be better integrated within the urban environment (the data state that 90% of the foreigners have already settled within urban centres), especially in Bucharest and the areas from the West and from the South-East of the country (opening to the Black Sea) than in the rural environment and within the southern and eastern areas of Romania. Certain studies have identified specific tolerance areas (Lăzăroiu, 2003), towards which the immigration flows are likely to be routed within the next years, while the access to other environments and areas may be restricted by intolerance.

Besides the integration of the immigrants, a multiple faced challenge for the Romanian society is represented by the reintegration of the Romanians who return to their home country after an external migration experience. It focuses on certain specific categories, such as the Romanian students and graduates from foreign universities, the Roma people, the victims of trafficking in human beings, the unaccompanied Romanian minors, the repatriated people, etc.

Despite the significant positive role that they can have within the Romanian society, the students who come back to their country after having attended the courses of foreign universities encounter many difficulties when trying to reintegrate, from the cultural shock after the contact and life within societies with other economic and social standards to situations related to their diplomas' recognition (intricate procedures (see the requirements regarding the recognition of the PhD title obtained abroad) implying in certain cases even the

re-attendance of some courses in Romania) and to the lack of attractiveness of the jobs offered, in terms of wages and work conditions. Therefore measures must be taken in order to provide an adequate treatment, based on serious reintegration programmes and incentives engendering the return, limiting thus -as much as possible - the brain drain and youth drain phenomena²⁶.

In another register, the return of the Roma creates serious problems with respect to the risk of social exclusion, since their behaviour and life style make the integration difficult. The society has not yet created strong structures and adequate reintegration procedures that are absolutely necessary if we think that most of the repatriated are individuals who have carried on illegal actions or almost illicit actions abroad.

A specific case is the one referring to the reintegration of the victims of trafficking in human beings²⁷, a significant share being represented by young women. Most of them have become victims of human trafficking after a series of mislead attempts for finding a decent job in a foreign country (« interrupted circulatory migration » – Lăzăroiu, 2000). A CURS survey on a representative sample for Romania in 2001 showed that 3-4% of the female population between 15-25 years old is subjected to an average risk with respect to such trafficking, while 4-9% of the female population within the same category is subjected to a higher risk. The dominant profile is imposed by the girls within the urban environment²⁸, residing in poor areas, abused by their families and having a low educational background (Lăzăroiu and Alexandru, 2003).

Human trafficking is organized on different levels, starting from individuals or small groups, up to criminal networks, that are very complex and activate at international level. In the region Romania belongs to, human trafficking is controlled and performed by men between 20 and 50 years old, but the role of women within the recruitment and exploitation stage should not be ignored either, at the same time with the increasing role of the teenagers who act at lower levels, as guards at whorehouses or as good for all people (UNDP–Romania, 2003).

The IOM–Romania statistics shows that this office assisted, from January 2000 until December 2003, 781 victims of human trafficking, out of which 753 where Romanian citizens

²⁶ The EUROFOND report on 2004 named “Migration Trends in an Enlarged Europe” estimated an average rate of youth drain of 2-3% for the youngest age category (15-25 years old), while for Romania and Bulgaria the flow corresponding to the same category has been rated at 10% for the next 5 years. On the whole, the origin countries seem to incur the danger of losing due to youth drain between 3% and 5% of the people with higher qualifications and more than 10% of the students.

²⁷ The trafficking in human beings is defined in connection with the intention of the trafficker to exploit the victim *after* having illegally entered the respective foreign country, the relationship between the trafficker and the victim being a coercive one, based on long term exploitation (UNDP-Romania, 2003).

²⁸ The explanation for this unexpected situation – the most vulnerable girls come from the urban environment – consists of the fact that many of them have arrived in urban areas after having had left their villages in order to attend the secondary education. The environment change represents a shock that makes them easily vulnerable for the traffickers.

(almost half of them were originated from Moldova, with the counties of Iași, Vaslui and Suceava holding the first three ranks) and 28 were citizens of the Republic of Moldova. The average age was 20.74 years in 2000 and 21.23 years in 2003, the overwhelming share being held by the female individuals (in 2003 there were only 2 male victims, 42 and 59 years of age, respectively). The main destination countries were Macedonia (29%), Bosnia-Herzegovina (23%), Albania (11%), Kosovo (11%), Italy (9%) etc. The real dimensions of human trafficking phenomenon are much larger, but the data provided only refer to the assisted persons, as specified.

From the legislative point of view, the Romanian authorities have evolved a long way with trafficking prevention, punishment of traffickers and protection of victims, but, in practice, there are still lots of shortcomings related to the financial support, providing shelter, repatriation and reintegration. At the Romanian society level, the phenomenon is not known in its essence, in its real light, since its perception is distorted by severe stereotypes. Most frequently, such young girls are being morally condemned by the society that makes no difference between trafficking and prostitution. This fact results in a very difficult repatriation and reintegration process.

The most sensitive aspect before initiating the reintegration as such is the treatment of so called “post-traumatic shock disorder”²⁹ suffered by most of the trafficking victims, requiring the enforcement of a complex plan of psychological counselling. It has been noticed that only after the victims are accommodated in a welcoming environment, where they are treated with the due respect and they benefit from different care services, they prove an increasing will to receive more information and to participate in the reintegration activities. But since few of them have ever had access to social or psychological support, it is vital to enforce a gradual, careful approach to the counselling sessions, so that the victims become open and accept the mid and long term support (Tudorache, 2004).

Last but not the least, the issue of repatriation and reintegration of the unaccompanied Romanian minors is also on the agenda of the Romanian authorities that have set up repatriation practices and procedures differentiated according to the different categories of unaccompanied minors: unaccompanied minors who have been the victims of human trafficking, children born on the territory of a different state and abandoned in the maternity hospitals, minors sent back based on the re/acceptance agreements, minors repatriated as a result of certain bilateral agreements (Delcea, 2003). Within these categories, the unaccompanied minors who were victims of trafficking in human beings seem to hold a

²⁹ A detailed description of this affection and its impact and implications is provided by ‘Trainer’s Manual. Best Practice – Law Enforcement Manual for Fighting Against Trafficking of Human Beings’, UNDP–Romania, 2003

special place. The defining profile is provided by children between 12-15 years old, who are forced to work on construction sites and clandestine workshops, to beg, to become sexual slaves or sources for the organ banks. The efforts of the Romanian authorities regarding the prevention of the trafficking in minors have been materialized by the reduction of their share in the total amount of the victims assisted by IOM – Bucharest from 24.85% in 2000 to 14.10% in 2003. As regarding the special assistance and the child's protection, enforced programmes based on the cooperation between the National Authority for the Child's Protection, the Ministry of Foreign Affairs, The Ministry of Administration and Interior, with the participation of the non governmental organization « Save the Children » and based on the IOM support have been drawn up. Within the framework of the strategic approach to the issues raised by the trafficking in human beings, based on the extremely large expertise on all continents, IOM includes, as one of its fundamental dimensions, the fact that specific care and protection programmes for children who are victims of the trafficking in human beings should be enforced throughout the world, taking into consideration the cultural characteristics of each form of trafficking and the particular needs of children (IOM, 2003d).

The reintegration of the Romanians who have returned from abroad is supported, besides the Romanian authorities, by certain international organizations, such as UNHCR, IOM. These organizations are getting involved, together with the Romanian state in the supply of medical and psychological aid services, in counselling programmes focusing on job opportunities and organization of training courses. For example, IOM supports the sustainable reintegration of the Romanians who have come back from France, by assisting such persons in finding a job, by encouraging them to start a business and not by simply offering them financial means. IOM–Romania currently runs specific assistance programmes designed for those persons who decide themselves to return from abroad. Thus, the Romanians who came back from Ireland were helped to get plane tickets, while those who had lost their travelling documents also received due support.

On the whole, the issues related to the reintegration of the Romanians who come back to their home country vary according to the educational level, their qualification, family status, duration of their stay abroad etc., complex social and psychological aid oriented programmes being necessary, so that re-emigration be not the sole solution to such people (Lăzăroiu, 2002).

Finally, besides the integration / reintegration on its territory, Romania must also care for certain aspects related to the integration of Romanian emigrants within the host countries. On a general basis, the Romanian migrants are grouped in homogenous communities that allow them to preserve their cultural identity and to contribute to diversification of social-

cultural environment within the host country. Though, living within homogenous groups can engender integration obstacles, generated both by the insufficient communication between the Romanians and the members of the host society and by the reserves of the latter towards the Romanians, due – to a certain extent – to an image that has become a stereotype (the Roma people behaviour).

The role of Romanian authorities should consist in the contribution to the increase and maintenance of an accurate, objective image on the entire Romanian Diaspora; that may represent a valuable share to the enrichment of the scientific and cultural patrimony of the host countries, as well as in preserving the connection between the Diaspora and the mother-country. It is well known that the Romanian Diaspora is unfortunately divided and it is often reluctant towards the communication with the Romanian authorities, reluctance that feeds on the suspicions related to the manipulation of the Diaspora for political purposes.

A special aspect refers to the support that the Romanian state must grant and that it actually grants to the large Romanian groups living outside the country's borders due to historical reasons (in the Republic of Moldova, as well as in Ukraine, Hungary, Bulgaria, Yugoslavia) who need, besides the support for the preservation of their cultural identity, support at international level, regarding the recognition of their rights within the respective countries.

4 The public opinion and mass-media

The Romanian public opinion perceives the migration related phenomenon mainly as labour migration. Thus, the Public Opinion Barometer from October 2002 shows that 86% of the interviewed individuals think that the migrants earn money from a paid job. Only 7% and 5% respectively consider that the migrants make money by stealing or begging, respectively. 51% of the interviewed people believe that only a part of the migrants create a bad reputation to Romania and 11% consider that the migrants are a shame for our country. When having been asked “who creates a bad image”, 68% answered that the Roma people have to be blamed for that, while 20% blamed the outlaw groups (thieves, beggars, prostitutes). This is a typical stereotype, by which the Roma ethnic group is associated with the outlaw activities, while the trafficking in human beings is incorrectly associated with prostitution.

The situation until 2001, characterized by difficult conditions of getting visa for the EU countries has engendered and fed a collective mentality based on fears, reluctance towards travelling abroad. 55% of the answers to the above mentioned barometer state that the negative reports on the Romanians' migration may determine the EU member states to reconsider the measure of lifting visa restrictions, as far as Romania is concerned. Besides,

64% of the interviewed people appreciate that there are certain categories of people who should not be allowed to leave the country, while 54% think that there are certain categories that should not have the right to bear a passport (the Roma people are on top).

The above mentioned results reveal a wrong perception – in some points – of the negative aspects that accompany the Romanians' external migration, which proves that the public opinion finds it difficult to distinguish between certain objective hardships related to the travel within the Schengen space and the violation of the law, between the groups performing illegal activities and the affiliation to a social, ethnic or religious minority, which leads to the creation of stereotypes, to attitudes that feed delinquency, intolerance and xenophobia. This perception could be set right by means of joint, coherent efforts of mass-media, public administration and representatives of the civil society.

Up to present, one cannot say that mass-media has brought its necessary contribution to the accurate rendering of external migration phenomenon, with all its aspects and to the creation of an adequate social behaviour with respect to both migration itself and the integration/ reintegration process. It has been remarked that migration is not systematically rendered and assessed, in its entire complexity, the emphasis being put on the narration of certain negative, sensational facts and less on the orientation of the migrants within an universe that makes them face numerous risk and uncertainty components, on the prevention and combating delinquency, clandestine travelling and corruption related to visa issuance. Mass media seems to be less preoccupied by the development of some objective reports on migration, being rather focused on the overtaking of certain articles from the international media and the stereotypes of the Romanian society. Furthermore, the passive attitude of the media has enabled the coming out of certain advertisements related to job offers abroad implying an obvious trafficking in human beings, as well as the mediation of certain labour recruitment campaigns that have proved to be fraudulent.

To a considerable extent, the partial and sometimes wrong coverage of the migration phenomenon by the mass media is the result of the shortage of specialized journalists in this field; therefore is highly recommended the organization of certain courses for their training with respect to the investigation and assessment of migration (Lăzăroiu, 2003).

The most important contribution, that has been coherently organized in order to create an accurate perception by the public opinion, setting the focus on the fight against the human trafficking and illegal migration belongs to IOM–Romania that has run large information campaigns by radio, television, the distribution of printed materials, the organization of media events. Also, besides the specialized NGOs of UNHCR and due to the cooperation of certain institutions of the Romanian state (the Ministry of Education, Research and Youth, the

General Inspectorate of the Border Police, etc.), of the Romanian Orthodox Church, IOM has initiated several informative campaigns in schools, churches and border police offices. At the same time, IOM has been involved in the building and reinforcement of the institutional and legislative capacity, in the assistance provided to the victims of the trafficking in human beings and to the illegal migrants, concerning their return home.

IOM also supports the scientific research in migration field and the introduction into the university curricula of a series of subjects specialized in this phenomenon (labour economics, law and policy, medicine, health policy, sociology, education sciences, etc.). It has come up with suggestions regarding the creation of a national centre for migration research (to be founded by the Romanian Government in partnership with IOM, UNCHR and other international organizations) and faculties or sections for the inter-disciplinary study of the migration phenomenon, so as to build new expertise in public policies, social assistance, human resources and migration management.

Conclusively, IOM considers that with a careful thinking and proper management, the national migration policy may become a major catalyst, able to enhance a new economic prosperity in Romania (IOM, 2004).

5 Concluding remarks

Within the social-cultural dimension of migration, the problems of integration in the host country society takes a central part, the following aspects having special relevance to Romania: the integration of immigrants, the re-integration of Romanians returning to their home country after an external migration experience, the integration of the Romanian emigrants in the host countries.

My study appreciates and supports the proposals converged in various documents regarding migration (especially the IOM's) with reference to the introduction in the academic curricula of subjects specialized on the study of the migration phenomena as well as the creation of a national migration research centre, of departments of inter-disciplinary studies and master programmes on migration within Romanian universities, so as to build up the necessary expertise in public policies, social assistance, human resources and migration management.

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ECONOMIC AND SOCIAL ASPECTS OF ROMANIANS' MIGRATION WITHIN THE EUROPEAN UNION

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The population's migration is a form of its spatial mobility (from one geographic unity into another), which implies, generally, the domicile change from the origin place to the destination place. But which are the migration causes, what determines people to change their residency country? Among young people, we can talk about migration in the purpose of education and professional preparation. We talk here about students or other persons in professional preparation. Their migration should be temporary. Among migrants, we can also find those that work in other country, being immigrant workers or international civilian employees. Other migration reasons are family reunification or formation, a well as the right to free establishment, in order to work, based on family liaisons, ethnical origins of ancestors, entrepreneurs and investors, or pensioners.

As for the Romanians, one has noticed an unprecedented increase of the number of those leaving their country, temporary or definitively, choosing to live abroad. For many of them, the living conditions in the country, as well as the search for a better paid job push them to live their families and go abroad, searching for a better life. The example of "strawberry-pickers" from Spain is relevant. These Romanians send regularly money back home, only in 2005 the amount having been estimated at more than 5 billions Euros. Another reason pushing the Romanians to leave their country is the possibility of an international career, in a multinational firm. This brain exodus is benefits the host country, but has many negative effects for the origin country

Keywords: labour force migration, labour force markets, advantages and disadvantages of migration, costs and benefits of migration

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1 Introduction

Between 1992 and 2002, Romania's population has decreased by 1.1 million people. This descending evolution is not surprising, all the information concerning the natural and migratory evolution after 1989 indicating an important demographic decline. The unexpected element is the dimension of this decrease, and especially the contribution of a new and less known statistic component: the external migration, the Romanians abroad, which have not been registered at the census survey. The demographic decline of Romania has new dimensions, amplifying the country's demographic situation deterioration.

The external migration remains one of the major unknown variables, concerning Romania's population. Only between 2001 and 2002, some 10,000 Romanians have legally left the country (according to the National Statistic Institute). As for the unknown external migration, this is much more important. The future evolution of external migration is

unpredictable today, depending directly on Romania's economic and social evolution, on the immigration policies of developed countries. Anyhow, Romania's external migration will continue being negative, maybe even more important in the perspective of EU integration, which will worsen even more the country demographic situation³⁰.

In the present, millions of Romanians work, legally or illegally, in the EU. There is no clear evidence of their presence in Europe, because it is impossible to monitorize the illegal workers. According to recent estimations, in Greece, there are around 40,000 Romanians, while in Italy and Spain work 1,000,000 Romanians.

2 Which are the causes of migration?

Among young people (18 – 26 years old), we can talk about migration in the purpose of education and professional preparation: students or persons in professional preparation. Their migration should be temporary. Among the adult migrants, we can also find those working in another country, being immigrant workers or international civilian servants.

Other reasons for migration are the reunification and the formation of families, and also the freedom of establishment, in order to work, based on family connections, ethnic origin, entrepreneurs and investors, or pensioners. The humanitarian reasons also determine the migration of the population; these are the refugees, the asylum solicitors, the persons having temporary protection or persons accepted for other humanitarian reasons.

The causes of production factors mobility

From an economic perspective, the causes of labour force mobility, as a production factor, are:

- The price differences (wage differences, profit rates differences, interest rates differences) – according to neoclassical theory
- Income difference, meaning saving excess or insufficiency for the capital – according to Keynes approach;
- Differences in the level of economic development, determining unequal changes – according to the monetarists.

³⁰ According to the Romanian National Institute for Statistics (INS), Romania's population at January the 1st 2006 was of 21,610,213 inhabitants. The hope of life in 2005 was: for women – 68.19 years, for men – 75.47 years. The internal migration in 2005 was 272,604 persons; the external migration (Romanian citizens living abroad/ foreign citizens living in Romania) - emigrants 2005 – 10,938 persons; immigrants 2005 – 3,704 persons. Romania's population has registered a continuously decreasing tendency, during the last 15 years, especially due to a number of deceased bigger than the number of living births and to the external migration (more emigrants than immigrants). According to the 2005 prognosis of INS, Romania's population will be of 20.8 millions inhabitants in 2015 and 19.5 millions inhabitants in 2025.

The neoclassical theory of price differences

According to the neoclassical theory, the labour force migrates from regions with low wages and low profit rates, to regions having high wages and high profit rate. Thus, the production factors are used in a more productive way. The factors' mobility contributes to the equalization of the wages and to a better factors allocation.

Consequences of migration

According to the neoclassical theory, there are two consequences of migration: real wages convergence and an increased production on the global level, as we can see in the next graphic³¹. In *Graphic 1* we present the consequences of labour force migration.

We take two countries: Romania and Germany, having different wages. On the vertical axis, we take the work marginal product in the two countries, and on the horizontal axis, the employment level in Romania and Germany. We suppose two situations: firstly, we assume that there is protectionism between the two countries (e.g.: before Romania's integration in the EU). Then, in a second time, we suppose that the labour force market is liberalised (e.g.: after Romania's integration in the EU).

I. Before liberalization, under the conditions of protectionism

- OL_1 employees in Germany
- $O'L_1$ employees in Romania
- Lower wages in Romania: L_1C
- Higher wages in Germany: L_1B

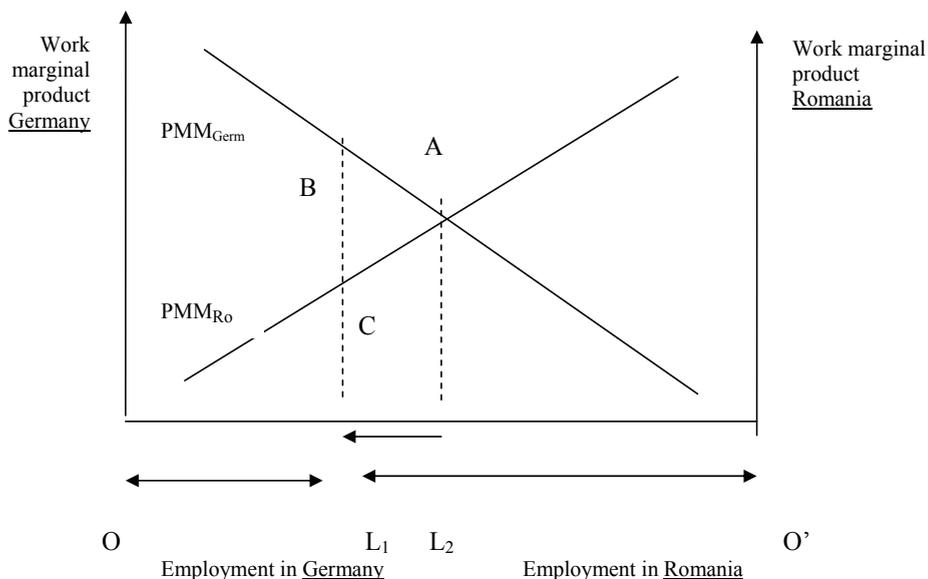
II. If we have liberalization of labour force market, workers can freely move to the country with higher wages, until there will be an equalization of the wages

- OL_2 employees in Germany
- $O'L_2$ employees in Romania
- L_2A will be the wage in both countries

The segment L_1L_2 represents the labour force migration, from Romania to Germany.

³¹ Rujan Ovidiu, and Pârgaru Ion (2004): *Economie Internațională*, Bucharest: Editura Economică

Graphic 1 Consequences of migration, according to neoclassical theory



Following the labour force redistribution, we can see the following aspects:

1. The mobility of the labour force determines a convergence of the real wages. The wages will increase in Romania and will decrease in Germany.

2. This mobility will raise the production on the integrated market, represented by the surface ABC .

a. For Germany, the production will raise with the surface L_1L_2AB .

b. For Romania, the production will decrease with the surface L_2L_1AC .

As we can see, Germany's gain is bigger than Romania's loss, so, on the whole, the integration has a positive result: the surface ABC .

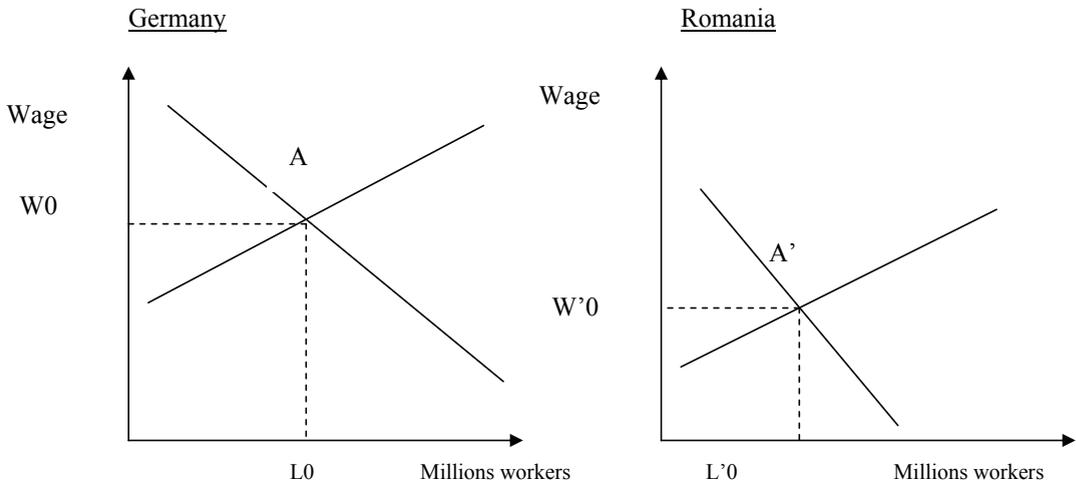
3 The effects of labour force migration on wage differences

Does that mean that after 2007 (or 2008), after Romania's integration in the EU, we will witness an "invasion" of Romanian workers in the EU? Is this what happened with the workers of the 8 CEEC, new members of the EU?

In practice, the situation can be described as follows: we take the same two countries, Romania and Germany. On the graphic, we take the wage on the vertical axis, and the employment on the horizontal axis. We suppose the same two situations: protectionism, followed by the liberalization of the labour force market.

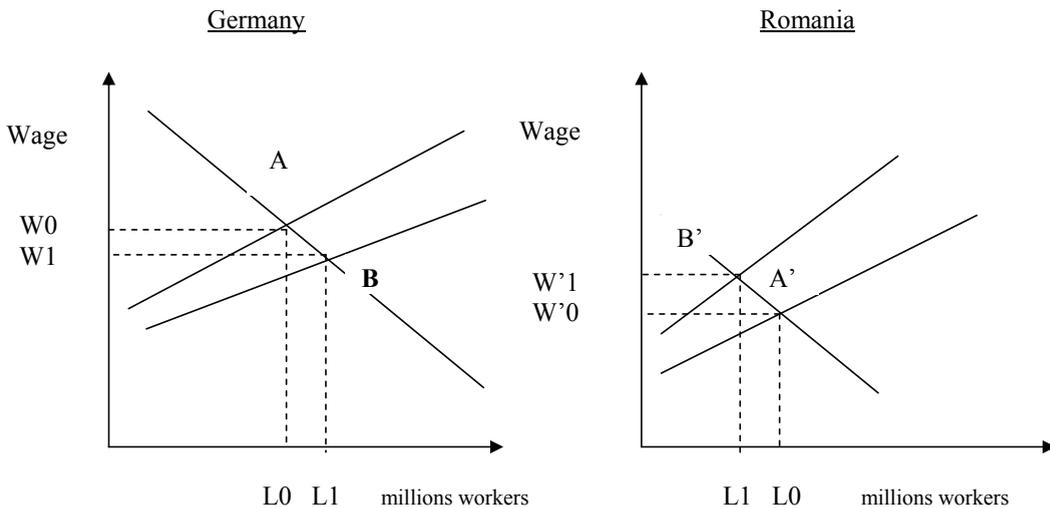
In Germany, the wage for a worker is W_0 . In Romania, the wage is W'_0 for a worker.

Graphic 2 The wage difference in Romania and Germany, under the conditions of protectionism



A and A' represent the equilibrium points in the two countries. Germany: wage W_0 , employment: L_0 millions persons. Romania: wage W'_0 , employment: L'_0 millions persons. In the conditions of free labour force movement between Romania and Germany, the labour force will increase in Germany and will diminish in Romania. Consequently, the wages will modify.

Graphic 3 Evolution of the wage difference, under the conditions of the labour force market liberalization



B and B' represent the new equilibrium points. As we can notice, the wages in the 2 countries, after liberalization, are not equal. This can be explained by the fact that immigration has 2 costs: an economic cost: moving away, looking for a job; a psychological cost: the change of cultural environment, language differences. Consequently, only a part of the labour force considers that an increased wage is enough to compensate the cost of migration. The wage increase is $W_1 - W'_1$. So, the free movement of workers allows wages to get to a closer level, but not to equalize.

4 Effects on demographic scale

The international migratory movement produces important effects on some demographic variables, by modifying the numeric dimension of population. The migration determines very important modifications on population age structure. Generally, the international mobility is bigger among men, and among persons having the appropriate age to work. Consequently, the emigration countries face an accelerated demographic aging process, as well as a feminization process of their population, while the immigration countries face the increase of the active population, the increase of men proportion in the total population, and the aging process is slower.

The international migration has also an effect on birth rate and fertility rate. Many times, in the emigration countries, there is a birth rate decrease, because women leave, and also a disequilibrium between genders, leaving to obstacles for forming and developing a family. In the immigration countries, there is an increased birth rate and fertility rate, because of the increase of feminine population, having, generally, the tendency of making more children than the local population.

5 Effects on the labour force market

The external migration causes divers disequilibrium and dysfunctions on the labour force market, such as: the potential employment capacity of the labour force; the rate and the characteristics of unemployment; the lake of labour force in some areas; the level of education and professional preparation; wage distortions and the segmentation of the labour force; an increased "shadow or informal economy"; the differences between the wages in the immigration countries and the emigration countries.

A country is winning if the immigrants have a superior education and professional preparation level, comparable at least with the level of active local population. For the

emigration countries, the external migration phenomenon represents a factor of diminishing labour force offer, qualitatively and quantitatively. The short term consequences can be the decrease of the unemployment rate, and even the lack of labour force in some domains. Usually, the immigration countries encourage those with a high level of education and preparation, with low wages and with perfect health, because those people have an increased participation at the budget and spending less from it.

The EU's population is facing an accelerated aging process. The foreseen decline of active population is a phenomenon which will profoundly affect the EU labour market, during the following 4 decades. The demographic aging rises questions related to economic growth, as well as to social solidarity among generations – *“Who will pay the pensions for an increased number of demanding pensioners, while less and less young Europeans will work?”* – and also to the European cohesion. The objective of the Lisbon Agenda of maintaining an employment rate of 70% until 2010 is achievable. But after 2010, the battle for labour resources will begin. Combining the employment rate inferior to 70% with the decline of active population is imperiously asking for resources. The politics concerning the exit rate from the labour market, the increased of the pensioning age must be correlated with the attraction of migrants and the increased of labour productivity. An increased employment rate of 70% and an increased pensioning age are already current European politics (Romania has also adopted them). These will produce effects of economic growth until 2010, when the resources will diminish. The European scenario assumes an annual increased of immigrants of 630,000, which will contribute to an annual increase of active population of 450,000 people. Under the conditions of constantly maintaining the employment rate, a number of 4 millions migrant workers are annually needed in Europe in 2020. In the present, the average is about 1 million.

The massive decrease of employment rate in the departure countries will not have an important effect over the growth, if it will be compensated by the technological progress; but this effect can be devastating over the public pensions system, incapable of facing increasing demands with diminished resources³². The EU pensions systems receiving labour force are not very sensitive to an increased immigration. The simulations prove that, by doubling or even triplicate the annual immigration rate one couldn't entirely compensate the annual decrease of the active European population. There is only one solution according to which the immigration level can clearly advantage the pensions systems: the immigrant workers will not become the beneficiaries of the pensions systems; this will happen in the case of not very

³² These data are based on the Eurostat demographic scenario.

young immigrants, who work for a short period of time, insufficient in order to obtain a pension, and come from a non-European space.

EU15 avoids receiving workers from other member states, and prefers to accommodate, temporarily or definitively non-European citizens, who will not receive a pension, unless they accomplish the conditions required by the law, concerning the time of contribution. These immigrants, even if less qualified than the Romanians or the Bulgarians, for instance, might be preferred, as contributors and not beneficiaries of the social insurances for pensions.

6 Some aspects of Romanians' migration to the EU

We will start by presenting some positive aspects:

A part of the unemployed labour force is absorbed (the unemployment rate in Romania is 3.8%³³; if the labour force abroad is unemployed in Romania, the unemployment rate would be approximately 12%). The Romanians abroad send important amounts of money back home, allowing a decent standard of living to their relatives. There are some happy cases, when the children of Romanians left abroad benefit from material advantages and can continue their studies, going to faculty (otherwise, it would have been impossible for them to pay for self-support during their faculty studies).

Unfortunately, any migration is accompanied by negative aspects:

A diminished local labour force – we might be soon forced to use immigrants in order to complete the lack of local labour force. The emigration of high qualified labour force – the loss of “brains”, capable of creating a high added value. In the case of “strawberry-people³⁴”, their children either remain in Romania, in the care of grandparents or even neighbours: these children usually have bad results in school, or even abandon the studies, and sometimes, their behaviour turns to delinquency; either leave the country, together with their parents: in this case, no data are available concerning their scholar situation abroad, but there are fears that these children abandon school, working together with their parents (i.e. only several cases are recorded as regarding the continuation of studies with Romanian professors abroad; where the system of the destination country accept the migrants' children in the school, they may continue there the general education, but no data are available for the moment).

³³ Romanian National Institute for Statistics (INS)

³⁴The strawberry people indicated initially the Romanians that left for Spain, in order to pick-up strawberries. But the term has generalized, indicating today all Romanians left abroad for work.

7 What happens after Romania's integration in the EU?

The EU integration also means the opening of the EU labour market for Romanians, as well as the opening of Romanian labour market for the citizens of any EU27 member state. However, in order to prevent a decrease of social cohesion within EU25, the Adhesion Treaties of the new member states have foreseen the possibility of establishing some transition periods, during which the internal politics and the bilateral agreements will operate, instead of constitutional principles, according to the "2+3+2" rule, in order to apply the principle of labour force freedom of movement within the EU³⁵. According to the reciprocity principle, the new member states can apply the same restrictions to the old member states (Poland, Hungary and Slovenia have done this towards the old member states applying the transitory provisions). Also, during the period of applying the transitory provisions, the new member states can ask for a saving clause, which diminishes the access of other new states labour force, in case of serious imbalances on its own labour market (none of the 10 new member states has applied these measures). Taking into consideration the general framework concerning the transitory provisions and the choice of each member state concerning the use of the restrictions, between May the 1st 2004 and April the 30th 2006, there are 4 types of regimes applied by the old member states to the new member states:

A. *A restrictive regime* (the labour force from the new member states is subject to the same rules as the labour force from abroad the EU): Belgium, Finland, Germany, Greece, France, Luxemburg, Spain, Denmark.

B. *A restrictive regime with an admission quota* (a certain number of workers and a certain number of domains are established): Austria, Italy, Netherland and Portugal.

C. *Free access to the labour market*, with limitation of social benefits: Ireland and United Kingdom.

D. *Free access to the labour market* (fully application of the European legislation): Sweden.

³⁵ The transitory provisions concerning the labour force freedom of movement between the old member states and the new member states correspond to the scheme "2+3+2" and are comparable to the clauses applied to Spain and Portugal in the moment of their integration in the EU (1986), as well as to the states that integrated on May the 1st 2004 (to the so called A8 states from CEE). According to the transitory provisions, the old member states can apply, in a first stage, restrictive measures during 2 years, or can decide the liberalization of the new member states labour force access immediately after the accession. During this period, the measures applied will be those from the internal right, or those resulted from bilateral agreements. The first evaluation of applied measures by the old member states takes place before the initial 2 years period expires. The evaluation is done by the Council, following a report of the European Commission. The EU members have the obligation of announcing the Commission in case they intend to apply the transitory provisions for 3 more years, or to apply the European legislation (the labour force freedom of movement). Generally, the EU states have the obligation to liberalize the labour markets during the first five years since new members' accession. However, in the case there are serious imbalances on the national labour markets, the old member states can extend with two more years the transitory period, by notifying the European Commission. With the consent of the European Commission, the member states that have not applied or have given up to transitory provisions, can ask, during the "2+3+2" interval for a saving clause allowing them to introduce/reintroduce the transitory provisions, in case of serious imbalances on their respective labour markets.

Due to the European rules concerning the transition period, the new European citizens of the last enlargement wave must wait between 2 and 7 years, before working in a state of the EU 15. Those transition periods have been stipulated in the accession negotiations, and have been established by the European Commission, at the request of the old member states. Those states were afraid of a wave of well prepared labour force from the new member states, having reduced financial requests, stealing the jobs from the occidental people. There are some voices sustaining that the transition periods proved to be useless, and must be eliminated as soon as possible. Those restrictions have been applied by 12 countries from EU 15. The exceptions are the United Kingdom, Sweden and Ireland. None of these countries has been confronted with the so much feared “invasion”. The myth of the “*Polish Plumber*”³⁶ proved to be just a story. The Polish went to the United Kingdom, where they have been warmly welcomed, since the country is facing a severe lack of labour force in some domains (health, agriculture or tourism). Finland, Greece, Portugal and Spain have just opened the labour force market for the new members of the EU.

But this doesn't mean that the countries that have welcomed the Polish will do the same with the Romanians at January the 1st 2007. Still, that would mean that, in our opinion, Romania will no longer face a frightened European Union, scared by the “Eastern invasion”. The old and new member states have announced the conditions of Romanian labour force accession on their respective national labour force markets: 11 countries haven't introduced any restrictions at all; 15 countries have introduced a restriction of at least 2 years (although, some of these countries have announced that, for certain work places, the labour market is opened for Romanians and Bulgarians).

Whether Romania's accession in the EU will be a success or a failure, this will depend only on our capability of taking advantage of all the opportunities offered to us by the EU membership. We recommend Romania to follow an adequate management of economic migration, in order to solve the possible scarce labour force in certain areas. Special accession programs on the internal labour force for certain profession categories from abroad could be conceived, taking into consideration the demands of Romania's labour force market demands. Another option could be to stimulate the entry on the Romanian labour force market of highly qualified foreign personnel, in order to stimulate the research and development activities. Also, to follow an efficient management of Romanian emigrants' flows, by assuming the implementation of efficient systems to control these flows.

³⁶ After Poland's accession to the EU, on May the 1st 2004, the old member states feared on an invasion of cheap and qualified labour force from the new member states; in this context, the so-called myth of „Polish plumber” has appeared and became a reference and it represents the symbolic image of the cheap and well trained personnel from Eastern Europe, which „steals” the work places from the more expensive Western European personnel.

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THE IMPACT OF FREE MOVEMENT OF PERSONS AND SERVICES ON THE MIGRATION FROM ROMANIA

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The present paper focuses on the migration phenomenon regarding its proportions and consequences at a national level. The freedom of movement of persons and services in the framework of EU accession has various quantitative and qualitative implications concerning the immigration phenomenon. An analysis of these implications could reveal several possible solutions for a viable accession regarding both Romanian and the EU immigration policy. At the same time, the present analysis aims to identify the results of *acquis*' implementation in terms of a costs-benefits analysis and also to project some possible economic effects, even trends of the immigration process, during the accession period in Romania. Thus, based on these findings, several options concerning the immigration policies are proposed serving as a starting point for strengthening the Romanian position as European Union Member State.

Keywords: freedom of movement, labour migration, brain drain, immigration policies, cost-benefits

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General overview: free movement of persons within the EU

Giving up direct and strict control over migration in Romania has led to an amplification of the phenomenon and to a change in its qualitative side, resulting in a shift from an ethnic migration pattern to an oscillating, medium and short-term one driven by searches for higher incomes. The implications of these changes are serious because Romania becomes a full member of European Union in 2007³⁷. Ensuring the free movement of goods, services, capital and labour force determines essential transformations regarding the status of Romanian migrants in the European Union countries. Demographic figures show that Romania has a relatively large population. The figures also show that per capita average income in Romania is the lowest of any European country. A direct consequence of these changes could be the intensification of the frequency with which Romanians workforce leaves their country searching for a better way of life.

Social factors contribute greatly to the migration process from Romania. Such factors include the diminution of work potential due to fewer opportunities than in Western European

³⁷ *Note of the editor:* the information and the data provided here were available at the time of the submission of the paper for publication, as prepared for and presented at the SISEC 2005 colloquium. An updated version of this paper could be obtained directly from the authors. The editors thank for your understanding.

countries, the lack of capacity of the national market to retain its workforce and, over time, the absence of an adequate work culture.

The free movement of persons has as its legal grounds The Treaty of Rome of 1957 and The Single European Act of 1987³⁸. In 1999, The Treaty of Amsterdam introduced Title IV to the EU Treaty, which provides the main rules regarding the free movement of persons, the control of external borders, rights to asylum, the safeguard of the rights of third-country nationals and the standards for cooperation in judicial, civil and criminal matters. “Free movement” is not defined by the European legislation. However, its meaning as a term is indirectly given by various EU treaties and directives and by the jurisprudence of the European Court of Justice.

Applying these sources, a starting point in establishing free movement policies has to be the implementation of the “non-discrimination” principle defined by article 12 of The European Community Treaty. According to this rule, “any discrimination on grounds of nationality shall be prohibited”³⁹.

Another basic rule that should be respected when creating free movement policies is “the mutual recognition” principle. Initially this rule was associated with the free movement of goods; that is, it primarily addressed trade. But gradually it has been extended to the free movement of persons⁴⁰. Its impact on the free movement of persons increased in the last decade, especially with regard to the professional training of the work force.

The concept of free movement of persons has a different meaning today. Initially, people were seen as economic agents, employees and service providers. The concept has gradually changed its meaning to focus more on the European citizen, regardless of the economic activity or citizenship. The movement of the workforce is also encompassed within the general concept of the free movement of persons. The term “worker” is defined by EU law as any person who, during a determined period of time, provides services for and under the supervision and guidance of another person and who receives just compensation for his work.

With regard to the freedom of creating and providing services, The EEC Treaty stipulates that workers can independently exercise any activity in two ways. Specifically, a firm could be established in any member state (Right of Establishment – article 43(52)) or could provide services in any EU member state indifferently of the EU country where the firm is created (Freedom of Providing Services – article 49(59)).

³⁸ The Single European Act states that the EU ideal internal market is a zone with no internal boundaries, where the free movement of goods, persons, services and capitals is ensured.

³⁹ Jurisprudence has extended the meaning of this principle, being perceived today more as the equality among persons regardless of nationality, place of residence or sex. Thus, the free movement of workers automatically imposes the interdiction of discrimination concerning employment, remuneration and other work issues such as social protection or fiscal benefits.

⁴⁰ Mutual recognition was stated as a rule by The European Court of Justice in *Cassis de Dijon* Case, in 1978

Citizens from the EU candidate states currently do not have the right to establishment in the EU space. This restriction is premised on public policy, public security and public health and on legal grounds such as Article 59 of the Agreement⁴¹. Even though the agreement comprises a section on “movement of workers and services”, in fact the right to free movement of persons between Romania and one of the EU member states is limited. Thus, the alternatives on which Romanians could rely on could be any one of the following: right to establishment, trade with services, residence cards given to family members, working permits, recognition of special rights for refugees and persons without citizenship (eupatrids).

The Treaty of Amsterdam incorporated the Schengen Agreements in 1999, thus becoming one of the most important steps in building a solid internal market. The two Schengen Agreements were *The Agreement of 1985* and *The Convention from June 19th, 1990*, that was given effect on March 26th, 1995⁴².

Romania’s experience

Romania, as future EU member, has been making noticeable progress in the legal field, modifying its existing legislation concerning the status of foreigners in our country and their social protection. As a result, EU citizens do not need an entry visa in Romania. Foreigners’ social integration was regulated in 2004 by special legislation. The prevention and the restraint of international traffic in persons also have been re-enforced in order to guard the free movement of persons. The international cooperation in this field aims to maximize the efficiency of legal remedies, restraining these phenomena and providing assistance to its victims.

Using work permits could legally ensure the free movement of persons. These are required of every foreigner who intends to work in Romania. The few exceptions to this requirement include one that applies to EU citizens and to citizens coming from the states that have signed The EEC Agreement.

Under the legislation now in place, the only difficult thing left is to monitor and to analyze the migration phenomenon as it manifests itself in Romania and inside EU space. In order to correctly evaluate it and determine its future trends, objective and specialized

⁴¹ Article 59 of The European Agreement Establishing an Association between the European Communities and their Member States, as the one part, and Romania, as the other part (The European Agreement), states that “for the purpose of Title IV of this Agreement, nothing in the Agreement shall prevent the Parties from applying their laws and regulations regarding entry and stay, work, labour conditions and establishment of natural persons and supply of services, provided that, in so doing, they do not apply them in a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific provision of the Agreement”.

⁴² The Convention was signed by 13 EU Member States. Ireland and United Kingdom did not sign it but they have the right to apply some of its provisions. Finland and Sweden have become parties to the Convention at the end of 1996, while Norway and Iceland are only associated members with limited rights.

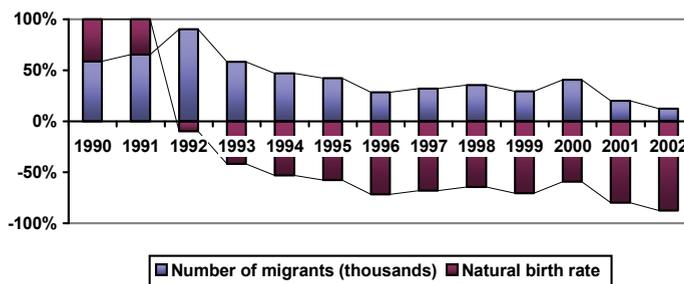
evidence is needed, information that will accurately reveal migration flows, the number of persons annually entering Romania and the number of persons leaving it. Thus, an error-free analysis, or reasonably error-free analysis, of migration patterns needs to be made. The goal of such an analysis will be to provide the hard evidence that will be necessary to assess the negotiating position that Romania should take when free movement of persons and services becomes an issue with respect to its achieving full membership in the EU. This will be a challenge, however, because, in the face of scarce resources with which to acquire this information, the data might remain incomplete. Thus, even though the resulting product is official, it will be superficial in that it will not reflect what has actually happened or is currently happening.

The proportion of migration phenomenon⁴³ in Romania has fluctuated. In 1990, a wave of emigration caused some to make fatalistic predictions about depopulation of our country. But, shortly thereafter, the phenomenon took a completely different turn. Thus, between 1991 and 2003 the volume of the population emigrating annually from Romania declined to approximately twenty thousand individuals. During the same period the migration rate dropped from two individuals per thousand inhabitants in 1991 to 0.64 in 2003. There were two periods of significant decreases registered. The first occurred between 1991 and 1993 when “a return to the origins” took place. This was the time when different minorities living in Romania such as Hungarians, Germans and Jews returned to their countries of origin. A second wave of migrants left Romania between 2000 and 2003, the time when permanent migration decreased and was almost replaced by the temporary one.

However, we cannot base our analysis solely on these figures. At a fundamental level, we must also take into account the evolution of the birth rate in Romania, for example, which has large implications for such a study. The impact of migration coming from Romania and the work potential held by Romania at this point can be revealed more accurately by combining the natural birth rate with the migration rate. In this respect, Romania suffered a loss of 330,000 persons between 1991 and 2002, a loss that was amplified by negative migration flows. At the same time, the loss of ten thousand people annually, even uncompensated by immigration, cannot be considered a quantitative factor with a major influence on national labour market (Graph 1 below).

⁴³ Globally, one person in thirty five is a migrant and the annual flows register between five and ten million persons.

Graph 1 Evolution of the Migration Rate and Natural Birth Rate in Romania between 1990 and 2002



Source: *The Statistical Annuary of Romania, 2003, www.insse.ro*

A structural analysis of the natural birth rate and the migration rate could prove the theory that the population of our country has been reduced more by the negative birth rate and than it has by migration. The registered loss in population during the period between 1991 and 2003 is under 3% of Romania’s total population, as can be seen in Table 1 below.

The population leaving Romania between 1991 and 2003 is estimated at 252,000 persons, with this flow decreasing at a rate of 10,000 people annually. The simple mathematical difference between immigrants and migrants over the entire period is a negative 180,000 persons. The only exception was registered in 2001 when immigrant numbers were surpassing the migrant numbers at a rate of one to 429 persons.

Table 1 Natural Birth Rate and the Migration Rate between 1991 and 2003

Year	Newborns	Deceased persons	Migrants	Immigrants	Natural birth rate	Migration rate	Result
1991	275275	251760	44160	1602	23515	-42558	-19043
1992	260396	263855	301152	1753	-3462	-29399	-32861
1993	249994	263323	18446	1269	-13329	-17177	-30506
1994	246736	266101	17146	878	-19365	-16268	-35633
1995	236640	271672	25675	4458	-35032	-21217	-56249
1996	231348	286158	21526	2053	-54810	-19473	-74283
1997	236891	279315	19945	6600	-42424	-13345	-55769
1998	237297	269166	17536	11907	-31869	-5629	-37498
1999	234600	265194	12594	10078	-30594	-2516	-33110
2000	234521	255820	14753	11024	-21299	-3729	-25028
2001	220400	259600	9921	10350	-39200	429	-38771
2002	210529	269666	8154	6582	-59137	-1572	-60772
2003	212459	266575	10673	3267	-54116	-7406	-61522
Total	3087083	3468205	251681	71821	-381122	-179860	-560982

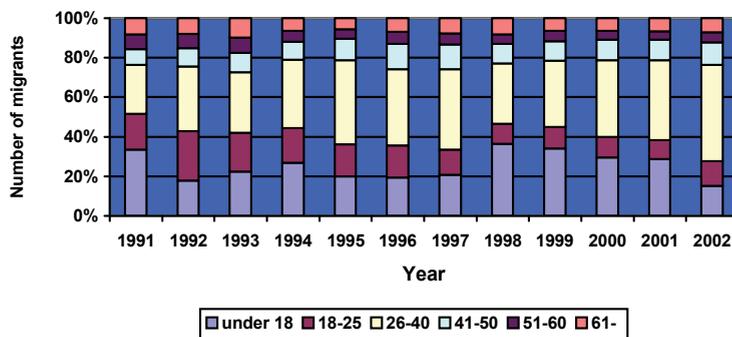
Source: *Statistical Annuary of Romania, 2003, www.insee.ro*

When investigating “the quality” of the migrant population by age groups, it is easy to notice that there is a distinct tendency to leave Romania among those who have the best chances to succeed in making a career outside our borders (Graph 2). Thus, a high percentage of persons

of 26 to 40 years of age (48% in 2002 and 51% in 2003) are individuals with high working potential, and these persons being considered the most to move and adapt to a new working environment. At the same time, a decreasing percentage of migrants were between 18 and 25 years old (25.06% in 1992, almost 16% between 1995 and 1996, 10% between 1998 and 2000, 9.4% in 2001), although the percentage in this age group who migrated increased to 12.62% in 2002 and to 13.4% in 2003. This category of persons mainly consists of graduates or final year undergraduates with real chances to find better-compensated work abroad because of their age and working and creative potential. Only 11% of the total migrant population consisted of persons of 41 to 50 years of age. While persons in this group are still active in the employment market, they generally have slimmer chances of success in finding better employment than do their younger counterparts.

Referring to these figures we can conclude that migrants represent a loss for Romania, proving once more that our economy has a reduced capacity to generate working opportunities and to provide attractive compensation relative to other European economies. Romania's loss is other nations' gain, for the latter receive the benefits of a qualified expatriate workforce capable of high performance and production. Whether viewed as a 'brain drain' or a 'labour drain', this outward migration deprives Romania of the contributions of some of its most talented and educated citizens.

Graph 2 The Structure of Migration from Romania on Age Groups between 1991 and 2002



The migration flows towards EU countries after the instatement of free movement of persons, goods, services and capitals can be estimated by using abstract calculus of analytical macroeconomic models or by using questionnaires of microeconomic models to record population's expectations and inclinations towards migration.

The empirical results obtained using macroeconomic models show that Romania's migration rates vary from 1.3% if the mobility of the working force is reduced to 6% when the movement of working force is constant (Bauer and Zimmermann 1999). However, we believe that when working and living conditions in Romania improve, these flows will subside. One of the most detailed studies referring to the East-West migration flows is based on the premise that all candidate countries entered the EU in 2004 (Boeri and Brucker 2001). The analysis used statistical data from sixteen countries including Turkey and USA. It was registered between 1997 and 1998 in order to make predictions about EU migration flows. Romania is one of the subjects of this analysis (Table 2).

Table 2 Prediction of Annual Increase of Entries from EEC Countries to Germany (2002-2030)

Country/Year	2002	2003	2004	2005	2010	2015	2020	2025	2030
Bulgaria	22812	20592	18564	16711	9606	5128	2337	626	-396
Czech Republic	11024	9990	9044	8180	4860	2755	1434	614	116
Estonia	3991	3614	3270	2955	1746	981	500	202	22
Hungary	16129	14520	13051	11709	6573	3348	1349	134	-581
Latvia	8309	7511	6782	6115	3556	1940	929	306	-70
Lithuania	12210	11084	10055	9113	5490	3189	1738	833	277
Poland	66301	60146	54521	41381	29639	17149	9319	4479	1553
Romania	66516	60226	54477	49223	29035	16255	8238	3275	265
Slovakia	9825	8932	8116	7370	4493	2676	1526	808	368
Slovenia	1313	1186	1069	963	554	300	140	43	-15

Source: Boeri & Brucker, 2001

Analytical microeconomic models show similar results, but they do not predict migration rates (Fassman and Munz 2002). Instead, they only show people's intentions to seek a better life abroad. Nevertheless, the studies show that Romanians want to leave their country for short period of time to find better jobs and that they have a high tendency to migrate for long- and medium-term periods (IOM 2003)⁴⁴.

Another outcome of such studies is the possibility of discovering subjects' socio-economic profiles, potential migrants⁴⁵ and the identification of future flows toward certain geographical areas. For example, Germany and Italy register 20% among migrants' preferences, followed by Spain, France and Austria. Charting migration flows is important for Romania's stance during future bilateral negotiations with the EU countries.

The analysis of past evolution and the predictions registered so far lead to various conclusions. First of all, even though there are significant discrepancies between the methods used to analyze and predict migration flows, we could correctly say that the differences

⁴⁴ IOM analysis proves that 47% of Romanians want to leave their country for less than a month and 36% among them are interested in leaving with medium and long-term working contracts or even for indefinite periods.

⁴⁵ IOM study also shows that most interested in migration are the youth, persons between adolescence and the start of their professional career.

between the obtained results are relatively minimal. This proves that “the intuitive rule” is viable (Straubhaar 2001). Its application generated the prediction that Romanians’ immigration in the EU countries will rise to 3% or 4% during the next two decades, marking the moment when Romanians will benefit from the right to free movement of persons.

The free movement of persons and services will undoubtedly produce a rise in workforce flows oriented toward EU space. Countries in Western and Southern Europe such as Spain, Portugal, France, Italy, Greece and Germany remain the most favoured destination for the Romanian workforce. However, in the long run, Romania is not likely to be a permanent source of migrants for the EU countries because of demographic changes and anticipated improvements in economic conditions in Romania. The evolution of migration phenomenon, however, is under the influence of a multitude of unpredictable factors such as the path Romania will take towards EU accession, its economic implications and the expectations of Romanians from their leaders.

The analytical research of the West-East migration potential holds the hypothesis of reduced flows of migrants with a stationary tendency under the reserve that analyzed countries were mainly new EU members. Romania’s case will not necessarily follow the same pattern.

It is also important to acknowledge that migrants are aiming for the regions where their presence is accepted and where they know from past experiences that there are slim chances of being rejected by the host country. This is also the reason why temporary migration due to work contracts is taking over definitive one. It is also true that the duration of working contracts varies from a few months to a few years, but there is increasing tendency for the duration of these contracts to be extended due to the high value of Romanian workforce. As a result, and a desirable one, the willingness of workers to work on the black market is slowly evaporating. Working abroad legally is the option that brings with it security of earnings, equality between work done and remuneration, a higher level of social protection and security that workers could not enjoy otherwise. Their returning home and starting working again on national labour market could also lead to economic growth, quicker absorption of technological progress, promotion of a modern, more efficient and competitive working environment and, in the long run, to the development of a “working culture” in Romania compatible with the Western European one.

With regard to permanent migration, the prognosis for Eastern Europe seems not to follow the usual pattern manifested during the last twenty-five years. From a migration zone as it was considered between 1975 and 200, Eastern Europe might turn into a region of relatively reduced migration flows of approximately four hundred thousand persons between

2005 and 2010. Such predictions are based on the future EU enlargement and EU laws governing migration and the movement of persons in the EU space. When Eastern Europe states become EU members, it is possible that they will also turn into immigration regions for Asian and African people. However, as one of the Eastern European countries, Romania's contribution to regional and international migration flows will be somewhat modest in registering a significant effect on other countries' economies. The figures show this. Between 1995 and 2000, the migration rate in Romania was a quarter of the rate registered in the developed regions of the world. Between 2000 and 2005 the estimated rate was 1/7. UN estimates show that future migration rate for Romania, although positive, will suffer a reduction of 25% (UN 2003). On the other hand, temporary work migration is shaped in size and intensity by Romania's future EU accession. Thus, until 2007, the bilateral agreements that our country will sign with EU members will trigger a controlled migration that will be achieved by border controls and by legal assistance for potential migrants. Two to seven years after becoming an EU member, the flows would be strategically guided and limited to some geographical zones. After 2014, it is believed that Romanian migration phenomena will dramatically change as a result of economic and social progress, resulting in a decrease of Romanian migrants.

It is nevertheless true that on a longer term the apparently beneficial effects of free movement of persons and services (a decrease in the unemployment rate, reductions in pensions, etc.) could be thwarted by the diminished quality of the human resources needed as a base for economic growth. Thus, Romanian migration will concentrate only in certain areas of work and it will be attractive only to certain age groups or individuals with a certain level of education. In other words, migration will be more selective.

Analyzing and making predictions based on different theories and models looks simple relative to the monitoring process needed to provide the necessary data.

Monitoring the migration flows is the task of different institutions around the world, indifferent of region or state. The main objectives, in addition to acquiring the data needed for monitoring such a complex phenomenon as migration, include the encouragement of legal migration, the creation of specialized assistance services for potential migrants, the stimulation of circular migration for the benefit of all states involved, the improvement of skills and capabilities of the workforce, and the elimination of the discrimination that migrant workers all too often encounter. Another important goal is to encourage money transfers through out bank systems and also investments in the home country.

It is beyond doubt that the migration process is highly volatile; it will change in quality and frequency during the entire period before Romania's admission into the EU. A

firm but not inflexible attitude at the negotiation table could favour a decrease in migration from Romania. On the other hand, “occasional” hesitations or even the postponement of Romania’s becoming an EU member could lead to future migration restrictions that might, to Romania’s detriment, trigger an even greater frequency in migration flows.

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TRADITIONS OF THE HUMAN RIGHTS INSTITUTIONS IN ROMANIA: HISTORY OF THE ASYLUM MANAGEMENT BEFORE 1990*

Anca Cristina Pristavu¹⁾

History has shown us that persecution and conflicts are the primary source of migration. On the other hand, human beings are characterised by the need to seek for safety, no matter what obstacles they might confront with. No *sovereign* power has the right to treat people under its jurisdiction in an arbitrary way and without respect. Therefore, the international community has provided for an impressive range of human rights standards, which are nowadays protecting the rights of both individuals and groups.

Even if, from the history perspective, the asylum phenomenon is not a new topic, the issues of the refugee flows have only recently been regulated. Refugee protection has become a priority of the whole international community. Thus, international efforts to reinforce peace are inter-correlated with the efforts to re-establish the right of coming back home of those persons who have left their country or have been sent to exile. Modern concepts and contemporary mechanisms have been improved during the last decades, firstly under the supervision of the League of Nations and later within the United Nations Organisation and the regional treaties.

Along the history, the activities of the Romanian institutions evolved and they are now involved in implementing the EU Acquis in the field of asylum, they are considering the new aspects generated by the increase in the immigration phenomenon, as well as the need of fully respecting human rights on the territory of Romania. This paper represents an excerpt from a large study regarding the history of the humanitarian protection related to the asylum matters in Romania.

Keywords: humanitarian protection, asylum, Romania, brain drain, immigration policies

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1 Introductory aspects

Asylum has always generated more questions than the answers. In the democratic countries, where the economy is stable and the laws are strictly respected, Governments are having troubles and dilemma arising from the commitments they have taken in this field. The

* *Note from the editor:* this paper represents an excerpt from the study the author prepared for her MA dissertation for graduation from the Oradea University's 'Free Movement of Persons' Master Programme in Political Sciences. The study deals with the analysing of the history of the humanitarian protection related to the asylum matters in Romania. The information and the data provided here were available at the time of the submission of the paper for publication, as prepared for and presented at the SISEC 2005 colloquium. An updated version of this paper and/or the full version of the study could be obtained directly from the author. The editors thank for your understanding.

Universal Declaration of Human Rights (1948) provides that ‘everyone has the right to seek and to enjoy in other countries asylum from persecution’⁴⁶.

Even if the international community has established certain standards and objectives, reality is different – for centuries, millions of people are choosing to immigrate or they are premeditatedly excluded from their home environment. The lucky ones, who have succeeded to escape, are looking for hospitality somewhere else, taking with them only their own human dignity. It’s obvious that persons, whom have been rejected their asylum applications, find themselves in consequences sometimes irreversible, but I have to remind you about how much would mankind have lost if bright and important figures, such as Sigmund Freud or Albert Einstein, had not been granted asylum in another country.

History has shown us that persecution and conflicts are the primary source of migration. On the other hand, human beings are characterised by the need to seek for safety, no matter what obstacles they might confront with. No “sovereign” power has the right to treat people under its jurisdiction in an arbitrary way and without respect. Therefore, international community has drafted an impressive range of human rights standards, which are nowadays protecting the rights of both individuals and groups.

Even if, from the history perspective, the asylum phenomenon is not a new topic, the issues of the refugee flows have only recently been regulated. We can notice that, in the past, third country nationals had a less favourable treatment than the nationals. Today, the principle of non-discrimination is the basic principle of contemporary legal thinking, only with a few exceptions (i.e. the right of vote or the right of joining the army).

2 The ‘asylum seekers’ in Romania, until the First World War

Romania, as well as all the incipient state structures that existed on the territory inhabited by the *Dacs* and by their descendants, *the Romanians*, have had long hosting traditions of many people that, from different reasons, were forced to leave their home country, usually from SE Europe, an area with an agitated, restless history (Vlad 1996:12).

The age of these traditions is the Ancient Times, even if there are rare evidences of those times. A well-known case is of the Roman poetry writer Publius Ovidius Naso, who was hosted by the Pontus Euxinus⁴⁷ seaside inhabitants a long time ago. Born in 43 BC in a wealthy family, he became famous both as a lawyer, a profession wanted by his father, as well as a very talented poetry writer. His lines in the poems like ‘the Metamorphoses’, ‘the Faste’

⁴⁶ Article 14 of the Universal Declaration of Human Rights, adopted and proclaimed by the General Assembly Resolution 217 A (III) of 10 December 1948

⁴⁷ Latin version of the *Black Sea*

and 'the Art of Love' made people to admire him. But this admiration determined the family of the first Roman emperor, Octavianus Augustus, to hate him. Thus, in 8 AD, during a period of full glory, the poet of the Court was sent to exile at Tomis, on the seaside of the Black Sea. In his next volumes, 'the Triste' and 'the Pontice', Ovidiu tells about the hospitality of the Dobrogea region inhabitants, about the sympathy they have shown to him (Marinescu 1957:101-118). Although the sources are not certain, after the appearance of the Christian religion and the several persecutions ordered by the Roman emperors, many Christian believers asked for a refugee on the Romanian territory, until Constantine the Greatest became an emperor and he legalised the new religion (the Milan Edict of the year 313 AC). This is why, in the 4th century, the Christian religion had lots of members in the North of the Danube and the first episcopises were established in Dobrogea, i.e. at Tomis (Păcuraru 1980: 54). After the falling down of the Eastern Roman Empire (in 602), following the great invasion of the Avars, several refugees and internal displaced persons from Bizant were hosted in the North of the Danube (Oțetea 1970: 102).

When the states of *Țara Românească* and *Moldova* were proclaimed independent in the 14th century, the Romanian territory became a refugee place for lots of Balkan inhabitants, who did not agree with the perspectives of the Ottoman domination. Therefore, when the Balkan countries fell under the Ottoman domination, the Romanian states (*Țările Române*), which had kept their political and cultural independence, supported their Southern neighbours: many scholars from these countries found a refugee and support on the Romanian territory, and many Bulgarian, Greek, Serbian or Albanian patriots established their first political parties and freedom organisations in the North of the Danube. Lots of these emigrants, together with other Balkan people, were recruited by the volunteer organisations from *Moldova* and *Muntenia*. These joint teams of Romanian, Bulgarian, Greek and Serbian soldiers were on the side of the Russian army and they fought together against the Ottoman domination. As an example, the following mixed teams fought in the Russian-Turkey war from 1806-1812: the '*Hellenic Volunteer Corpus*', established at Bucharest in 1807, the '*Bulgarian Territorial Army*' (1810-1811), established in *Muntenia*, the '*Cerno-Serbski (Montenegrin-Serbian) Volunteer Regiment*'. I must underline that these joint teams of Balkan emigrants were established in *Țara Românească* and, after the war, most of the volunteers returned in Romania. This phenomenon is not a singular one. We can find it both after the war of 1806-1812, and following the war in 1828-1829 (Djordjevic and Fisher-Galați 1981: 45).

The Union of *Moldova* and *Muntenia* (1859), the setting up of the modern Romanian state and the brave foreign policy of Alexandru Ioan Cuza determined the strengthening of the alliance with the Balkan people. Bulgaria emigrants had a great sympathy for the Romanian

Voievod [edit: name of the Romanian ruler of that time]. This is why Rakovski, a patriot of those times, decided to move to Bucharest and to better conduct their fight for freedom. He arrived in the middle of September 1863 and was welcomed by his Bulgarian and Romanian friends, as a true ideologist and a leader of the fight for freedom in his home country.

After the Berlin Congress (in 1878), even if the political issues and the international relations were changed, Romania continued to support the national movements of freedom in Balkans, trying to be a factor of equilibrium during the conflicts raised between the newly-born countries. The Romanian territory was still considered a refugee place for the persecuted leaders and the political parties in the region, a place for supporting a range of activities on the national emancipation and unity of these people.

3 Time between the two World Wars

Because of its geographic lying, Romania has confronted with the refugee issue ever since the moment this issue became international. The authorities in Bucharest were interested in solving the residence issue of Russians on the Romanian territory, according to the regulations of the League of Nations. It also included the ID certificates for the Russian refugees, which allowed these persons to travel and establish their residence in another country. The Romanian authorities were considering that the owners of these certificates did not have a favourable statute, according to the laws of the host country, the host authority being the only bodies empowered with renewing these documents⁴⁸.

Romania adopted these measures at the same time with the other European countries, such as France, the United Kingdom, Yugoslavia, the Netherlands, Germany, Greece and Norway. More than that, the Romanian authorities wanted to urge the issuing of these certificates, so that all the Russian refugees to leave Romania, considering that “it is not in the best national, economic and sanitary interests of our country to accept the proposal of receiving on our territory other countries’ refugees, because the refugees reception capacity in our county is saturated”⁴⁹.

The issuing of these certificates was a long process. A special Commission was set up in Chişinău. Its mandate was to investigate the cases of each Russian refugee and to give an approval for the issuing of ID certificates for these persons⁵⁰. The refugees which could prove their participation in the fight against Bolshevik troops were already benefiting of temporary staying authorisations in Romania; they were issued certificates only after the

⁴⁸ ‘Archives of the Romanian Intelligence Service’, fond D, file 8021, f.1, as quoted in Mariţiu 2001: 13

⁴⁹ Idem, f.2: approx. 15,000 Russian refugees were counted in Bessarabia.

⁵⁰ Idem, f.127

conclusion of the Commission's investigations⁵¹. The British and Dutch legislation were permanently providing measures for urging the clarifications on the legal statute of refugees, because of humanitarian and material reasons. Their sailing companies were directly interested in the transport of the Russian refugees who wanted to leave Romania⁵². When the Nansen Office was set up within the League of Nations, a Representation of this Office was opened in Romania in 1932⁵³. The presence of the Nansen Office was welcomed by the Romanian authorities, because of its important contribution to clarifying the statute of the Russian refugees in Romania.

There were two refugee categories: those who ran away because of the Bolshevik party and those who were residing in Bessarabia in 1918 (the year of Romania's Union). The Romanian authorities made some proposals for extending the permission for leaving Romania on the basis of the Nansen certificates, as well as for the Russian refugees from the 2nd category, who had meanwhile become Romanian citizens, but they could not adapt to their new statute, being considered as 'citizens we can not count on'. Had these persons asked for being issued the Nansen passports, they would have lost their Romanian citizenship and their right of being a minority in Romania. This attitude of the authorities was doubled by the surveillance of the ex Russian citizens, who were considered to cooperate with Moscow, especially with the Soviet Socialist Republics Union (URSS), because of their origin, especially because Russia had never recognised the Union of Bessarabia with Romania⁵⁴. The Representation of the Nansen Office in Romania dealt with the issuing of different certificates on the civil status of refugees, their ethnic origin, their religion, their professions and their studies. Its prerogatives also included issues on the refugee labour force, the education of their children in Romanian schools and the permanent contact with the Romanian authorities, for solving any problems, which refugees might have had. An important activity was to grant material support to the poor persons, as well as free-interest loans. The material support was granted especially from the taxes for the issuing of Nansen passports. I must point out that the Representation of the Nansen Office in Romania was clearly apolitical, the refugees being "intensively advised not to carry out any political activities and to be absolutely loyal" to Romania, their host country⁵⁵.

The High Commissioner for Refugees was set up in 1939 and it had permanent contacts with the concerned national Governments, including Romania. It had no legal or

⁵¹ Idem, f.121

⁵² Idem, f.113

⁵³ Idem, file 8734, f.1-3: the head of this Commission was the ex- Russian minister in Bucharest, Stanislas Poklevsky-Koziell. His mandate was to take over the Russian refugees and decide on their statute on the Romanian territory.

⁵⁴ Idem, f.23-25

⁵⁵ Idem, f.219

financial obligation towards the League of Nations⁵⁶. When the Nansen Office was dissolved at the end of 1938, the Russian population in Romania decided to set up a *welfare organisation* for the Russian immigrants. It was therefore set up the Committee for Supporting Russian Immigrants⁵⁷.

Starting with 1 January 1939, the Supreme Commissioner for Supporting Political Refugees dealt with the refugee issues in Romania⁵⁸. During the 2nd world war, the connections with the Commissioner were interrupted, but it continued to issue the Nansen passports, together with the Ministry of Foreign Affairs. A special body was set up in order to continue granting legal and material support to the concerned refugees. Later, the Nansen passports were abolished and replaced with the ID cards, “a fact which pleased” the refugees, because in 1938 they had submitted several memories, asking the Romanian public authorities to grant them full protection⁵⁹.

As a conclusion, we can affirm that, until the end of the 2nd world war, the Romanian policy towards refugees was not different from the world policy, Romania being one of the first countries involved in the refugee protection activities. No matter the gaps in applying the international regulations, the Romanian authorities were permanently interested about the statute of refugees on our territory. It is remarkable, considering the new domestic legal and political framework after the big Union, as well as the fact it was a new international issue, not yet completely legally clarified.

4 The asylum system in Romania between the World War II and 1989

When Romania became a Soviet Republic (1944-1947) and during the Communist period (1948-1989), the destiny of the Romanian society was radically changed, in all the fields⁶⁰. The independent human rights issue became a political „ideology”, including the legislation in the asylum field and other connected matters.

By the Decree 238/1948, the previous legislation was abrogated, namely the Law of 20 March 1915 on the control of aliens and several public establishments, as well as for the setting up of a Population Office, and the Regulation of 20 March 1915 on the control of aliens and several public establishments. These legal acts provided that the stay of political refugees in Romania was authorised only by the Ministry of Interior, and they received a “free pas ticket”.

⁵⁶ Idem, f.144-147

⁵⁷ Idem, f.171

⁵⁸ Idem, f.164

⁵⁹ Idem, f.245: a *Note* of the Bucharest Police Prefecture from 28 November 1945

⁶⁰ For more details, see Frunză 1990: 155 and the following; Georgescu 1991

Article 35 of the 1948 Constitution provided that the Popular Republic of Romania grants the right to seek for a refugee statute to all the aliens persecuted for their democratic activities, for the fight for national freedom, as well as for their scientific and cultural activities.

Article 11 para 3 (4) of the Decree 125/1948 on the Romanian citizenship provided that the aliens have the right to seek for a refugee statute in the Popular Republic of Romania and their time for being granted the Romanian citizenship was diminished. This Decree was abrogated by the Decree 33/1952.

Article 21 (a) of the Decree 238/1948 on the aliens regime in Romania provides some exceptions from the formalities on the entry, the staying and the exit from the country of the aliens persecuted for their democratic activities, for the fight for national freedom, as well as for their scientific and cultural activities, if they are considered as such by the Ministry of Internal Affairs.

Article 89 of the 1952 Constitution grants the right of asylum to all the citizens persecuted for protecting the workers, for their scientific activities, as well as for the fight for national freedom and peace protection.

The Decree 260/1957 on the regulation of the aliens entry, stay and exit from the Popular Republic of Romania, abrogated the Decree 238/1948, which was providing in article 28 the exception of aliens who were granted asylum from complying with some of the legal obligations and formalities.

Article 38 of the 1965 Constitution provided that Romania was granting asylum to the aliens persecuted for their activities towards protecting the best interests of the working class, for their participation in the fight for national freedom and peace protection. According to article 63 (7), one of the permanent prerogatives of the State Council was to grant asylum. Following the amendment of the Constitution, by Law 1/1974, the article 75 para 1 (9) of the Constitution provided that the right to asylum was granted by the President of Romania.

The Law 25/1969 on the aliens' regime in Romania abrogated the Decree 260/1957 and provided that the aliens who were granted asylum may be exempted from complying with some legal obligations, by the Ministry of Interior.

Article 4 (c) of Law 4/1971 on the extradition was prohibiting the extradition of the persons who were granted asylum in Romania (Popescu 1996: 57).

All this time, the UN High Commissioner for Refugees could not have contacts with the national Governments of the communist countries⁶¹. The asylum concept and the refugee

⁶¹ Considering that Yugoslavia had signed the 1951 Geneva Convention, UNHCR opened in the 80s a Branch Office in Belgrade. It played an important role in facilitating the residence of Eastern European political emigrants in third countries.

rights, as defined by the United Nations, were not completely unknown in Romania, but they were differently approached, according to the communist political ideology.

The 'Refugee statute' granted before 1989 in Romania was fundamentally different from the concept provided by the international legal instruments, namely by the 1951 Geneva Convention and the 1967 New York Protocol. As a matter of fact, the asylum seekers were usually granted asylum, meaning that they were protected against *refoulement* to their country of origin and they were granted the right of residence in Romania, as long as they were sharing the same ideology as the "working class". More than that, the presence of these refugees in their host country was a mystery, their integration becoming seldom extremely difficult (Verona and Delcea 1996: 14).

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MECHANISMS TO PROTECT HUMAN RIGHTS AND TO COMBAT DISCRIMINATION: THE ROMANIAN MECHANISM

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Respect of fundamental human rights and the fight against discrimination were two of the main goals of international organisations even after the First World War. Actually, the main international organisations such as UN, Council of Europe or European Union, were built in this respect. The result of sustained efforts to protect human rights and combat discrimination resulted into establishment of some mechanisms meant to effectively implement the provisions of the international documents in the area and to represent also effective instruments for persons or states. An analysis of such developments demonstrates that there are similarities among these mechanisms also at UN level, but at the European level or national one as well.

Keywords: mechanisms, human rights, discrimination, migrants, integration policies

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Argument

The Revolutions at the end of the XVIII century have established the concepts of the fundamental human rights and equality between human beings, later developed in all the documents adopted at global level. However, the breakings of these principles have led to the outlining of a phenomenon whose getting over would lead, besides the appearance of various theses of supremacy of certain races, to frequent and bloody conflicts. The sad experience of the Society of Nations – otherwise a salutary idea of the American president W. Wilson – corroborated with the principles of discrimination, anti-Semitism and intolerance which stood at the base of the Second World War ideology and which have led to the necessity of adopting a new vision concerning the human rights, their protection in the sense of an effective assurance of the equality between human beings and of sanctioning when these rights are broken.

Thereby, the establishing and the application of integrated systems to ensure effectively the protection of the fundamental human rights and freedoms has become a necessity. This has been accomplished by creating certain mechanisms that, through their activity, would lead to the fulfilment of the proposed goals. In this direction, at all levels-

global, regional or internal- the basic treaties of the inter state organizations have institutionalized complex structures with a concrete role in the protection of the human rights or social categories and, implicitly, in combating discrimination.

The UN mechanism

At global level, the first step towards the approach in a rational, objective and efficient manner of the problem of the human rights regarding their protection and the combating of discrimination has been made by founding The United Nations Organization and through the adopting of the Charter of the United Nations. In this manner it has been established the base of an institutional construction able to develop efficient activities in specific domain such as labour, health, the child rights or the combating of discrimination. In the domain of the combating of discrimination, as a domain of interest for this paper, there must be set out the specific steps that have been made for creating and developing the UN system in this domain.

The Universal Declaration of Human Rights has represented, for the subsequent UN measures or other international organizations, a real document of reference. This document, together with the UN Charter, has represented fundamentals towards the developing of the normative frame regarding the prevention and the domain of discrimination. Even though, until that moment, the adopted documents referred to the fundamental rights and freedoms and equality of chances; in practice the Declaration has established the discrimination as a phenomenon reported to the breaking of whichever right stipulated in the treaty. This approach, together with the documents that followed, especially with the International Pacts, has led to the acknowledgement of this phenomenon as a maximum risk reported to the recognition, application and protection of the human rights.

As a confirmation towards the above affirmations and as a main point of the mechanism of combating discrimination at global level, the adoption of the International Convention regarding the elimination of all forms of racial discrimination, has represented a crucial moment in the establishing of a normative and institutional frame in this specific domain. One of the most important innovations that the Convention brings is the definition of discrimination. Therefore, in this sense, discrimination represents “*any difference, exclusion, restriction or preference (...) which has as a scope or effect the destruction or compromise of the recognition, use or exercise in conditions of equality, of the fundamental human rights and freedoms in the following domains: politics, economical, social and cultural, or in any other domain of the public life.*” The innovation and the importance of this definition lies in the fact that, actually, through this definition is established the “framework” of the definition of any kind of discrimination: women, racial, discrimination as definition in the European

Directives or in the ECRI's General Policy Recommendations. Even though the Convention refers at the racial discrimination, the practices have revealed that both the principles of the definition and the circumstances are applicable in the case of discrimination and other criteria than those of race and nationality. Moreover, due to the fact that, most of the times the most serious forms of discrimination have concerned the racial, ethnical affiliation or national minority or gender, at international level have been institutionalized especially these forms.

As mentioned earlier, starting with the UN Charter, The Universal Declaration and The Convention regarding the elimination of racial discrimination the mechanism of effectively combating discrimination has been created. In the case of the Convention, the implementation of the dispositions and also the adoption of the measures against the signatory states that commit discriminations, the competent organism is The Committee for the Elimination of Racial Discrimination. The Committee is composed of experts known for their morality and impartiality, chosen by the signatory states from their own citizens and their functions are being exercised with individual title. In the process of the experts' nomination within the Committee the equitable geographical position, the representation of different forms of civilization and the main juridical systems are taken into consideration.

The Convention establishes as a task of the Committee two different procedures. The first one, according to Article 11 concerns the differences among states regarding the application of the treaty's stipulations. This means that if a signatory state of the Convention considers that other state doesn't respect the treaty's stipulations, this state can inform the Committee about this fact. After examining the reasons, according to the established procedure in Article 11-13, the Committee brings in a verdict through a report about the real facts which contains recommendations regarding the solutions of the conflict in an amiable manner.

The second procedure, in conformity with Article 14, provides the possibility of persons or of groups of persons to address complains to the Committee regarding the violation by a signatory state of the rights mentioned in the Convention. According to the stipulations of the document, the signatory states must designate a specialized organism to be responsible with the receiving of the complaints regarding the racial discrimination, organisms that will enter into force only after all the internal ways of attack have been exhausted. The complaint can also be petitioned to the Committee only after this organism can pronounce itself towards it. Also, like in the case of the first procedure, the Committee addresses suggestions and recommendations to the implicated sides.

The Council of Europe Mechanism

On the 5th of May 1949, the representatives of 10 states – Belgium, Denmark, France, Ireland, Italy, Luxembourg, United Kingdom, Norway, Netherlands and Sweden- have signed for the founding of the Council of Europe which has its headquarters in Strasbourg. This organization has as a goal, in a Europe *tear* to pieces after the horrors of the Second World War, major objectives regarding the quality of the human life, of progress, of defending the human rights.

The constant promotion and ensuring of the fundamental human rights and freedoms represent one of the central missions of the Council of Europe. In this direction, the Council acts on four main areas:

- accomplishment of efficient control and protection systems of the fundamental human rights and freedoms;
- identification of the new threatening towards the human rights and the human dignity;
- raise awareness of the public concerning the importance of the human rights;
- the promotion of education and professional training in the domain of human rights.

As mentioned above, the mechanism put into practice by the UN has been taken over and even improved by other international organizations. Among these, the Council of Europe has a well defined place.

Moreover, the popularity of the Council of Europe in the domain of the protection of the human rights is owed in the first place to the Convention regarding the Protection of the Human Rights and Fundamental Freedoms, called very often the European Convention of Human Rights, signed on the 4th of November 1950 in Rome.

The text of the Convention reaffirms the essential rights provided by the Universal Declaration of Human Rights. Among these: the right to life (Article 2), the forbidding of slavery and of forced labour (Article 3), the right of freedom and safety for the retained persons after a judicial decision (Article 5), the right to a fair trial, in a public reasonable period, the presumption of innocence and the right to juridical assistance (Article 6), the right to private life, to home and correspondence inviolability (Article 8), the freedom of thought, belief and religion (Article 9), the freedom of expression (Article 10), the right to peaceful meetings and association (Article 11) , the non-discrimination in the exercising of the rights and freedoms (Article 14).

Subsequently there have been adopted 12 additional Protocols through which there have been added more rights, among which, the most important in the perspective of this paper is the Additional Protocol no.12 regarding the combating of discrimination. Protocol no.12 at the Convention is relatively of recent date, being included in a complex context of

intensification of the fight against discrimination at European level. According to the Article 1 of this protocol, the person's right to benefit from all the rights in the law must be assured without any discrimination based on sex, race, colour, language, religion, political opinions or any other opinion, national origin or birth, the belonging to a national minority, wealth, birth or any other situation. Analysing the provisions of the Article 1 of the Protocol and also those in Article 14 of the Convention, we can notice that they coincide. However the innovation brought by the Protocol refers at the competence of the European Court of Human Rights to receive the requests of physical persons, non-governmental organisations, or of particular groups of persons in cases of discriminations. These stipulations have become practical for the normative sanctification of the role of the Court in solving complaints regarding cases of discrimination making its competence in the solving of the breakings of the stipulations of the Convention doubtless.

The European Court of Human Rights has been founded in 1959 after the adoption by the Council of Europe of the European Convention of Human Rights. The Court together with the European Commission of Human Rights and with the Committee of Ministers was a part of the control mechanism of the Council and had the role to pronounce itself and to decide in the cases of breaking of the human rights.

Following the growing number of complaints addressed to the Council of Europe and especially of the fast increase of the number of members of this organization after 1989, a reform of the control mechanism became necessary. Through Protocol no. 11 at the European Convention of Human Rights, entered into force on the 1st of November 1998, it has been founded a Permanent Single Court which has taken over the attributions of the previous two institutions.

This reform, initiated at the first reunion at high level of the Council of Europe (Vienna, October 9th, 1993) had as a main goal the increase of efficiency of the manners of protection, the reducing of the period in which the complaints are being examined, the increase of accessibility of the persons at the control system and the strengthening of the protection of the human rights.

The European Court of Human Rights has become directly accessible to the prejudiced persons in the rights guaranteed by the Convention, and its jurisdiction is compulsory for all the member states of the Council. The Court functions on a permanent base taking care of the entire process of examination and solving of all the cases that are being addressed to it.

The control over the application of the Courts decisions and the determination of the respective breakings of those are in the duty of the Committee of Ministers, which has to

ensure, in particular, the adoption by the member states of the general measures (the modifications of the legislation, the jurisprudence, the regulations and practices) necessary for the avoiding of new similar violations.

Another body within the Council of Europe is the European Commission against Racism and Intolerance (ECRI) which was created in 1993 as a result of the Vienna Summit. ECRI is an independent body monitoring and combating racism, xenophobia, anti-Semitism and intolerance from the perspective of the protection of human rights, the European Convention on Human Rights, the additional protocols and practice too. Its goals are focused on amending national legislation of Council's Member States, their policies and any other measures adopted to combat racism, xenophobia and intolerance. ECRI has also the possibility to propose actions at local, regional or European level. ECRI's activities and programmes are focused on three aspects: country by country approaches, activities on general themes and relation with the civil society. Within country by country approach, ECRI elaborates reports on the situation in each member state of the Council of Europe regarding activities and measures in the field of racism and discrimination. Also the Commission can propose measures to help governments to deal with certain issues in the specific field of activity.

Part of the activity on general themes, ECRI has adopted nine General Policy Recommendations addressed to the governments of the member states. Out of those nine, Recommendations no.2 and no.7 are very important referring to the legal and institutional framework in the field of anti-discrimination. These documents provide norms to establish national bodies specialised in combating racism, xenophobia, anti-Semitism and intolerance. Practically, these are the same provisions as those in the International Convention for the Elimination of Racial Discrimination regarding specialised bodies. Recommendation no.7 is focused on the national legislation for combating discrimination and, in the spirit of the international provisions member states are invited to adopt specific legislation addressed to this phenomenon.

ECRI's programme on the relation with civil society aims to involve the civil society in the fight against racism and intolerance and to promote inter-cultural dialogue among different segments of society.

The EU mechanism

The legal framework of EU has to be analysed considering its role as an economic, political and social structure. In this respect, a comparison between EU and other international organizations is impossible to be done.

The principle of non-discrimination is one of the general principles of the EU. It is also expressly mentioned in a number of distinct contexts in the Treaties in relation with the European common social policy and employment. In this respect, it was the EC Treaty in 1992 which referred for the first time on the protection of “*fundamental human rights, as they are provided by the European Convention*”.

One of the most important moments in the history of EU is the Amsterdam Treaty. As a matter of fact, through this Treaty the social policy has become a common action area at the European level. Among the objectives and activities set out in the Treaty, combating discrimination and social exclusion are stipulated in order to reflect the commitment for an inclusive society. On the other hand, at that occasion, equality between men and women was considered as a major objective of the Community’s Policy.

Coming back to the fight against discrimination, the EC Treaty states into the Article 13 that,

“Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation”.

This is not a direct prohibition, but rather an empowering provision which enables the EU to take action against the different forms of discrimination.

According to these provisions, which are contained as principles also in the EU Charter of Fundamental Rights, a complex strategy was put in place regarding both the legal and institutional framework and also an action plan to implement the principle of non-discrimination.

Concerning the legal and institutional framework, in 2000 the Council of European Union has adopted two directives: a Directive to implement equal treatment irrespective of racial or ethnic origin (Council Directive 2000/43/EC) also known as “Race Directive” and a Directive establishing a framework for equal treatment in employment and occupation on the grounds of religion or belief, disability, age and sexual orientation (Council Directive 2000/78/EC) known as “Employment Directive”. To implement the principles of non-discrimination and to support the Member States and the candidate ones in developing positive actions, at the EU level has been promoted the Decision 200/750/EC establishing a Community Action Programme to combat discrimination.

We may consider that the Race Directive is structured in three main parts based upon key elements which can offer guidance over certain measures in the field. In this respect, the

first part refers to the definition of the concepts related to the combating of discrimination. According to this, direct and indirect discrimination is defined in order to stress the fact that discrimination can be the result of both active and passive behaviour. Also, an instruction to discriminate has to be considered and sanctioned as discrimination. Another concept introduced in the Directive is harassment. It is considered as discrimination but it is for the Member States to define harassment, according to their national law and internal practice. Provisions sanctioning any adverse measures as a result of a complaint – victimisation – are also stipulated in the Directive. When discrimination is objectively justified and there is a legitimate aim, it won't be sanctioned as well as when, according to occupational requirements, a difference of treatment is committed. These aspects are extremely important considering that possible abuses could be perpetrated. The second part provides measures that should be taken by the Member States in order to prevent and to combat discrimination. In this respect it is stressed the necessity to adopt and to promote positive actions to prevent discrimination or to compensate disadvantages on race or ethnic origin. Social dialogue is considered as a main component in the fight against discrimination. Also, in the field of combating discrimination, legal ways stating compensatory measures for the victims of discrimination are indicated in the Directive as well as, a controversial issue, the shift of the burden of proof. Finally, the third part is dedicated to the establishment of specialised bodies on equal treatment.

As regards the Directive 2000/78/EC, the same argument can be done on the structure of the document. Specific part of the Employment Directive consists of provisions on reasonable accommodation for disabled people and for objective justification of the differentiated treatment on the ground of age.

According to Article no. 6(2) of the Treaty, EU has to respect the fundamental rights guaranteed by the European Convention on the Protection of Human Rights and Fundamental Freedoms and by the constitutional common tradition of the Member States. These rights are the general principles of the Community Law. In this respect, the European Parliament has stressed the necessity that EU has to develop and strengthen its policy on equal treatment. This was the main reason for the adoption of the Community Action Programme for combating discrimination (2001-2006). This programme can be considered as a European strategy for combating discrimination. In order to ensure its success concrete measures should be taken especially regarding the legal framework and the establishment and implementation of certain action plans. The Programme is focused on all forms of discrimination except gender discrimination which is object of another EU action plan. Regarding financial aspects

we must mention that all activities are funded through the contribution of participating states – Member states, acceding or candidate countries – and by EU budget funds as well.

Also, to implement the Programme, the experience and expertise of the national or European NGO's is taken into account together with the support of participating countries. The main objectives of the Programme were: improving the knowledge of all factors related to discrimination by raising awareness, evaluating practices and specific policies; creating a European network of specialised bodies in order to facilitate the exchange of information and the best practices considering the various forms of discrimination; promoting and disseminating practices in the field of anti-discrimination through the raising awareness campaigns. In order to achieve the objectives following actions were taken: analyse of discrimination factors through the evaluation of national practices and legal provisions in order to evaluate their efficiency and impact; transnational cooperation and promotion of European networks of NGO's or other stakeholders; raise of awareness through campaigns organised in media and other means of publicity.

The Romanian mechanism

The Romanian legislative framework on the discrimination field provides the principle of equality among all citizens without discrimination on account of race, nationality, ethnical origin, language, religion, gender, belief, political orientation, fortune or social origin, as well as sanctioning the discrimination deeds.

The Romanian Constitution states that the international agreements on the fundamental human rights that Romania is part of, are to be priority applied on the internal judicial activities. Generally, the substantive provisions on the human rights field, as well as the principal of equal chances, are parts of some internal special laws. The internal legislation on the discrimination field provides the organization of the National Council for Combating Discrimination, an independent body created to implement the principles of equality of chances and non-discrimination.

The Romanian legislation in the field of combating discrimination provides sanctions for discrimination deeds based on 14 different grounds: race, nationality, ethnic origin, language, religion, social status, belief, gender, sexual orientation, age, disability, chronic disease, HIV, belonging to a disfavoured social category.

According to the tasks assumed by Romania within the integration process, the provisions of the European Directives were implemented in the national law. In this respect the Government Ordinance no.137/2000 regarding the combating of all forms of discrimination, was successively amended. The harmonisation of the legal framework has

been finalized in 2006 when Law no.324 was adopted. In this respect, according to the national law, direct and indirect discrimination is sanctioned. There are also provisions sanctioning harassment, victimisation and instruction to discriminate.

On the other hand, the discrimination deeds which can be sanctioned refer at different aspects of socio-economic life. Thus, law is taking into account discrimination deeds regarding different fields such as economic activity, in terms of employment and profession, access to legal, administrative and health public services, to other services, goods and facilities, access to education, freedom of movement, and the right to personal dignity. All of these fields, together with the wide social categories provided as discrimination grounds should ensure a well established framework in the field of non-discrimination. The specialised body, according to European Directives, which has to implement these provisions, is the National Council for Combating Discrimination.

The National Council for Combating Discrimination was established as a specialised body of the central public administration subordinated to the Government. Further, in 2006 through the Law no. 324, the Council was put under the Parliament control in order to ensure a higher independence. However, its goal has been, since its creation, to act as the main authority in the field of preventing discrimination in Romania. The Council's main tasks are to coordinate public policies in the field of preventing discrimination, to promote and to implement positive actions for the victims of discrimination, to promote raising awareness campaigns and advocacy campaigns as well and to combat discrimination deeds by investigating and imposing *contraventional* fines when discrimination is proved. Also, the Council can act as a regulator in the normative area when it promotes recommendations and guidelines which are legally binding. The main structure of this body is the Steering Board. Until the adoption of the Law 324, the Steering Board had seven members, appointed by the Prime Minister for a period of seven years. One of the members had the position of secretary of state and the president of the Council as well. After the reorganisation under the new legislation, the number of members was increased to nine, and the modality of appointment was changed too by taking into consideration nominalisations coming from the Parliament, Presidency and civil society. The mandate was changed from seven to five years, but the status of the members of the Steering Board has been changed, all of them being now secretaries of state.

Analysing European systems in the field of anti-discrimination we can observe that we can't talk about a universal system. Both European directives and ECRI's recommendations request the establishment of a specialised body acting to combat discrimination. Also, there are set some minimal measures to be implemented at the national level to ensure the

punishment of the perpetrators and also, reparatory measures for persons discriminated against. From this point, European states can set the system according to their internal realities, expertise and experience. For instance, in Ireland, additionally to the specialised body there were established specialised courts dealing with discrimination deeds. In Belgium the specialised body usually acts as a supporting authority of the specialised courts. Also in spite of the fact that the monitoring organisations at the European level – EC, EUMC or ECRI – require that specialised bodies should act independently, this is quite an issue of each debate. While some are referring at the independence of the activity focusing on effective and efficient measures to combat discrimination, others are more concerned in the administrative independence. The majority of the European states – unfortunately this isn't the case of Romania - considers that the most efficient way to combat discrimination is to create a complex system and not only a specialised body.

There is one important aspect to be stressed out. In all European systems it is for the Court to decide whether there is or not the case for discrimination. Also, all measures, punitive and reparatory ones, are decided by the courts. This is the final goal of the Directives. In Romania, the system is slightly different. That is because the Romanian legal framework provides the possibility that a perpetrator could be sanctioned directly by the National Council for Combating Discrimination by imposing *contraventional* sanctions. And this is not against the aim of the Directives but complementary because on the basis of the Council's decision the Court only decides the reparatory measures.

Discrimination and integration of immigrants in the Romanian society after the European Union integration

Migration is inextricably linked with the labour market because the main cause of migration is the economic and social underdevelopment in the countries of origin. Even if now Romania can be considered as a country of origin in terms of migration, the integration significantly changes the situation. As a Member State and as the eastern border of EU as well, Romania will become a target for many migration flows. In this respect, measures have to be taken to ensure a competitive legal and institutional framework doubled by practical measures addressed to migrant groups.

Without discussing the general framework, we are focusing here on the integration policies that should be taken into account by the structures or persons dealing with this issue. When setting up integration policies, there are two main aspects that should be considered. First, as we have mentioned above, migration is inextricably linked with the labour market. Labour migration policies must deal with a wide range of types of foreign worker, possessing

variable levels of skills and degrees of permanency. Some foreigners are in a precarious situation. Others are highly skilled and consider themselves as transnational citizens. Their acceptability and attractiveness to host countries depends on the state of the labour market. In that respect, and considering the future trends, given the tendency for the labour markets of individual states to be merged into a single market, it is essential that management planning is appropriate for a range of temporal and geographical scale.

Second, apart from the cases where it is governed by humanitarian motives (asylum, family reunion) immigration mainly reflects a need for economic activity which immigrants cannot profitably fulfil in their own country. Immigrants looking for a job in the country where they hope to go and earn their living come up against three major obstacles: first, employment has become difficult to obtain in many European countries, second, the available workforce, which is overabundant as a result of this, has to be protected even if unemployed and third, immigrants' foreign background in the destination country.

Living in the Central and Eastern Europe, we often feel and see what the does the status of a minority mean. Immigrants coming in a country become ethnic minorities interacting with the local communities. Experience of attempts at integration over three decades indicates that a successful integration process involves three main elements: adaptation of immigrants with the host society/community; adaptation of the host society/community with the immigrants; and adequate communication strategies between the two populations, between each of them and the government. Implicitly in the end is the need for an acceptable "grammar" of rules and forms for communication and a mutuality of language for expressing ideas and meanings in order to prevent distortion of views and ideologies.

Because of all these aspects, the Romanian policy makers should take into consideration possible adverse reactions from some communities. All social measures applicable to Romanian citizens should be applied also to migrants – housing, employment, health care, nutrition, education – and these measures are to be considered and evaluated as integration indicators for migrants. This could cause in some circumstances dissatisfaction among the majority of the community.

Considering the new status of migrant groups – ethnic minorities – the reaction of the historic national minorities shouldn't be ignored. The main reason for this idea is that the legislative and institutional framework in the field of minorities focuses on the status of national minorities recognising special rights as parliamentary representation in consideration of their specific values which must be protected. But these values are quite the same for the most of the immigrant groups – language, culture, religion, tradition. According

to the legislation in force now in Romania, this issue can cause a big problem for the state which could face either the parliamentary representation for the “new minorities” or restrictions for the ‘*historical*’ minorities. Also, the question is: are the national minorities ready to accept new rivals or restrictions?

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