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Immigration to the European Union - Challenges and Opportunities for a Europe of 25+

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CHALLENGES AND OPPORTUNITIES FOR A
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EUROPE OF 25+**

By

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Dissertation submitted as partial fulfilment for B.A. (Hons.)
International Relations

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*This work is dedicated to my parents for their support and affection and to B. for her
love*

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Finally, I should duly acknowledge my numerous friends – the refugees from Iran and Afghanistan whom I encountered during my internship at ACET. By sharing with me their personal stories of hardship, courage and dignity, they allowed to come to terms with the everyday challenges faced by individual migrants.

Preface

Immigration has emerged as one of the most contested issues on the European agenda – occupying significant portion of media attention, public discourse and political measures in recent year. It obtained a particular significance for me, personally, after I completed an internship at a non-governmental organisation that provides assistance to refugees and asylum-seekers. Hence, the idea of combining first-hand experience with analysis and research emerged. I embarked on a study of the phenomenon, within the context of current EU developments, with the clear idea that it poses a multitude of challenges both at the practical level of decision-making and at the descriptive level of academic research. Therefore, this study shall try to avoid the trap of arriving at iron cast conclusions or concocting grand design solutions. Its main aim, instead, is to look at different aspects from various angles, involving the counterbalancing of conflicting arguments and the consideration of divergent perspectives.

I believe that research is pertinent for the provision of better understanding of various factors involved in the relationship between the European Union and migration. Importantly, thinking on the subject stimulates further questions and illustrates the incompleteness of partisan one-sided approaches. Thus, the accumulation of certain facts, background information, opinions and theoretical models into a single text could potentially transcend bias and precocious assumptions thus leading to a more fair assessment of the challenges and opportunities faced by Europe.

April 2005

Vasil Genchev

Contents

<i>Dedication</i>	iii
<i>Acknowledgments</i>	iv
<i>Preface</i>	v
<i>Contents</i>	vi
<i>List of figures</i>	vii
Introduction	1-6
Chapter 1	
The Study of Migration – a Review of Theoretical Approaches.....	7-21
Chapter 2	
The Evolution of EU Immigration Policy and its Implications.....	22-40
Chapter 3	
Europe and the Challenges of Immigration.....	41-63
Chapter 4	
Immigration – a Source of Opportunities?	64-81
Conclusion	82-86
Bibliography	87-91

List of Figures

Chapter 1

Table 1.1 – Indirect Utility Function, variables.	p. 10
--	-------

Chapter 2

Figure 2.1 - There is a significant East-West gap in terms of GDP per capita – the standard measure of a country’s wealth.	p. 38
---	-------

Figure 2.2 - The "old" EU averaged 1% growth in 2002, while most new members’ economies were growing two or three times faster.	p. 39
--	-------

Chapter 3

Fig. 3.1- Asylum-seekers in EU-15.	p. 45
---	-------

Fig. 3.2 – Net Migration, European Union 1960 – 2000.	p. 45
--	-------

Table 3.1 – The Decline of Asylum Applications 2000-2004	p. 49
--	-------

Chapter 4

Fig. 4.1 – Annual rate of growth of population aged 65+ and 15-64, EU 25, period 2000-2040	p. 67
--	-------

Fig. 4.2 – Employment rate and unemployment rate, 25-64 age group	p. 69
---	-------

Fig.4.3- Labour Force Survey	p. 79
------------------------------------	-------

Introduction

Immigration has become a highly topical and hotly contested issue within the European public discourse – involving many actors who often espouse divergent views and advocate policies that run contrary to each other. The scope of the problem is immense and it is inherently difficult to discuss all aspects of it, let alone to attempt a more profound consideration of each. This survey undertakes the modest task of delineating certain features of the uneasy relationship between immigration and the European Union. Given the subject's fluidity – most of its components can be reflected through the prism of individual perceptions and none of its facets are cast in stone – it is pertinent to provide a basic definition as a fairly objective point of departure. Thus, the International Organisation for Migration (IOM) defines migration as:

A process of moving, either across an international border or within a state. It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes; it includes migration of refugees, displaced persons, uprooted people, and economic migrants.¹

This definition lists different types of migrants who are distinguished according to the cause of their journey. It is useful to remember that immigrants come to Europe for different reasons – while some are primarily motivated by economic need, others have faced persecution and violence in their home countries. The distinction between economic refugees and genuine asylum seekers is at the heart of all immigration policies. Nonetheless, many have argued that rules and regulations for the admission and evaluation of refugees – including the 1951 Convention – fail to meet the realities of our

¹ International Migration Law: Glossary on Migration. International Organization for Migration (IOM) 2004, p.43.

time and are too restrictive. As a result of this most of the asylum claims tend to be rejected.² However, if European governments were to adopt too liberal admission criteria, inflows of refugees could spiral out of control and overburdened asylum systems would not be able to adequately cater for the needs of all. The debate over the modification of legal instruments illustrates the ambiguity germane to policy-making on immigration.

While the management of immigration poses a considerable challenge on the practical level, it is also subject to controversial theoretical interpretations. As migration-specific models and constructs are discussed within this study, it is perhaps pertinent to first place the phenomenon in the context of traditional International Relations theory. Migration fits within the realist-liberal opposition due to its relevance both to state interest and humanitarian concerns. A historical example of the first, an appalling extreme of *realpolitik* as it may be, is Hitler's strategy of forcing the migration of foreign workers to Germany during the war. Foreign labour made up one-fifth of the total workforce required to sustain the Nazi war machine.³ An example of liberalist thinking vis-à-vis migration could be found in the interwar period, which presented humanity with the first large-scale refugee crisis – the number of displaced persons for the years 1914-1922 has been estimated at somewhere between four and five million.⁴ This became a concern for the fledgling League of Nations, which tried to alleviate the problem in accordance with the principles espoused by Wilsonian liberalism.

² 'The Rejected Asylum Seeker – from Inmate to Stalemate', public lecture by Dr. Ruth Farrugia, 9th Annual Seminar Series 'Work in Progress', University of Malta, 16 Feb 2005.

³ Hobsbawm E.J., *The Age of Extremes: The Short Twentieth Century 1914-1991*, (Abacus, London, 1995), p.47.

⁴ *Ibid.*, p.51.

It is tempting to regard immigration to Europe as a novel affair – unprecedented product of the growing rift between the prosperous and stable West and the impoverished war-torn Third World. While this description of the current causes for population movement is plausible, failure to note historic parallels would create a wrong picture and may lead to anti-immigrant sentiments. Before one posits serious arguments about closing Europe's gates to foreign workers or refugees, perhaps it would be useful to consider the fact that - ever since the discovery of the New World - Europe has been a continent of out-migration. The age of exploration, and events such as the Potato Famine in the nineteenth century, led to massive exodus to the Americas. During the period 1906-1915 there were 1,4 million emigrants departing from Europe every year.⁵ It is only in the twentieth century that Europe became the target of immigrants from outside the continent – mainly from the former colonies in Africa and Asia. However, this was coupled with the continuation of significant out-migration from the less prosperous South European countries – Spain, Portugal, Italy and Greece – which was to continue, albeit gradually diminishing, until the eighties.

Even the most superficial glance at European history would reveal another important fact – immigration has served as the founding and consolidating force that shaped Europe and influenced its development. There were two main conduits through which a plethora of tribes entered the Old Continent – the Eurasian steppes in the North and the Mediterranean in the South. Mobility spurred trade, facilitated population growth, led to the formation of cities and the advancement of civilisation. Thus, Europe was historically subjected to both population inflows and outflows, which is evident from the

⁵ Livi-Bacci M., *The Population of Europe*, (Blackwell, London, 2003), p.14.

colourful mosaic of languages, ethnicities and traditions that characterise it today. In sum, immigration is neither new nor unique for Europe. However, it poses greater challenges now than it used to before the creation of nation-states and the concept of state sovereignty. The inviolability of state borders is perhaps the development that had the greatest impact on migration in the twentieth century. In this context, the freedom of movement within the European Union has created a dilemma – while the unfettered crossing of internal borders is desirable and therefore facilitated, the need to guard external frontiers has become more important than ever. Many of the issues and questions regarding the phenomenon of immigration to the EU at present, and within a long-term perspective for the continent and the world as a whole, figure in the chapters that follow.

The aim of this work in general is to address some of the challenges associated with immigration, while also surveying the opportunities within the overall context of the EU's search for policy response and institutional adaptation. The study is divided into four chapters and a concluding section. While each chapter is devoted to certain aspects – both within the context of migration as a whole and in relation to European politics and society – the conclusion sums up the main arguments and discusses the broad picture that emerges after the undertaken analysis.

The first chapter discusses the theories and models that have been most influential for the study of migration. They are essentially economic and are used as a stepping-stone towards the assessment of potential benefits arising from immigration at the individual, state, and supranational level. In addition, the consideration of theoretical

constructs pinpoint possible ways of managing migration, which are further explored in other chapters.

The study then continues with a chapter on the institutional and legislative evolution of the European Union vis-à-vis immigration and asylum. It traces the main developments and provides a critical assessment, albeit limited in scope and size, of the current regulatory mechanisms and legislative instruments. Furthermore, Chapter 2 overviews the 2004 EU enlargement and its implications for the outlook of migratory trends, which is done with the prospective of further expansion towards the East in 2007.

Building on the background set by the first half of the study, the last two chapters discuss the current issues that arise out of the interplay between exogenous pressure (immigrant and refugee inflows) and endogenous factors (public opinion, the internal market, legislative measures, government and Community policies).

Thus, Chapter 3 delineates the challenges posed by illegal immigration and the need for integration of foreigners. It derives on EU and Council of Europe research and aims to delineate potential measures that may have a positive effect on certain aspects arising from migration.

Finally, Chapter 4 surveys the demographic decline of Europe and assesses the possible role that regularised immigration may play in relation to economic growth and

stability. It accents on the need for improved management of migratory flows, while recognising the need to evaluate immigration from different perspectives.

The consideration of diverging points of view lies at the centre of this study due to the inherently contradictory nature of the subject, which was mentioned above and will be reiterated elsewhere. The primary aim of this dissertation is to discuss different policies and strategies and assess possible ways forward without assuming that there is a single line, which if followed, will provide a solution for the multitude of challenges posed by immigration. Hence, the concluding section carefully counterpoises various arguments and builds certain assumptions, which are not, however, set in stone and are highly dependent on the rapid changes that take place in the highly fluid field of international migration.

Chapter 1

The Study of Migration – a Review of Theoretical Approaches

1.1 Introduction

The theoretical study of migration ascended during the second half of the twentieth century and especially during its last quarter when many models, analytical frameworks, conceptual approaches, empirical generalisations and simple notions were advanced by social scientists.¹ This upsurge was sparked by the increase in volume and importance of international migration, especially in view of the large numbers of labour migrants flowing into Europe from Turkey and the former colonies. Considering the penchant for analysis of the economic growth and development, germane to post-Marshall plan Europe, it is only logical that the theories were predominantly focused on the economic aspects of the phenomenon. In line with mainstream economic thought of the time, migration was explained in terms of costs and benefits, micro and macro approaches, equilibria, economic dependency and segmentation of the labour market.

Indeed, the relevance of economic gain as a motivating factor for migration cannot be neglected. It is also important to understand that while migratory behaviour could be a propitious option on the individual level, it could also be favourable for the economy of the recipient country as a whole. As George Borjas has pointed out recently:

¹ Arango J., 'Explaining Migration', *International Social Science Journal: International Migration* 2000, LII, 3 (2000), p. 283.

Most of the studies in the immigration literature emphasize some measure of the cost that immigrants impose on various sectors of the host country's economy – whether they be the wage losses suffered by native workers or the increase in taxes borne by native taxpayers. Remarkably little attention has been paid to the possibility that immigrants impart a variety of benefits to the host country's economy. A great deal of research remains to be done to better understand the source and magnitude of these benefits.²

The concepts and models discussed in this chapter are not necessarily viable theories that could serve as the basis for veracious assumptions. On the contrary, they have many flaws and are often marred by partiality, over-simplification and tautological expressions of well-known facts and empirical observations. In spite of that, they present a credible source, a good point of departure in studying a phenomenon, as multifaceted and diverse as international migration.

1.2 Neo-Classical Theory and Migration

The second half of the twentieth century witnessed rapid developments in global affairs – post-War economic growth, internationalisation of trade, decolonisation and the *de facto* division of the world along economic lines – a rural, underdeveloped and impoverished South and an urban, industrialized and prosperous North. Thus, the methodological ascendancy of economics in theory-building within the social sciences should come as no surprise. Migration was often conceptualised following analogies with previously studied phenomena and the concepts used to describe its facets and processes had long been entrenched in the neo-classical discourse of rational choice, utility maximisation, expected net returns, factor mobility and wage differentials. The neo-classical approach surveyed migration both

² Borjas George J., 'Does Immigration Grease the Wheels of the Labor Market?', *Brookings Papers on Economic Activity*, 1 (2001).

at the micro- (individual decision-making) and macro- (structural determinants) level.³

L. A. Sjaastad laid the foundations of the economic study of migration with his viable ‘Human-Capital’ (H.C.) model.⁴ Its logic follows neo-classical economic theory, in the sense that it views migration as a rational decision, taken on the basis of a cost-benefit analysis. The H.C. model has historically been applied for decisions that carry long-term effect, such as Adam Smith’s view of education as a form of ‘investment in human resources’.⁵

In its most straightforward form it posits that ‘a potential migrant has to calculate the discounted (remaining after subtracting costs) future income stream minus costs (over a given planning horizon) for each region and then he would move to the region with the largest discounted net benefits.’⁶ The variables under consideration include income (average wage in the destination region), employment opportunities, quality of life (climate, population density, pollution, health care, etc.), costs of migrating (the tangible costs of travelling and searching for a job, the opportunity costs of adapting to a new environment and the ‘psychological costs’⁷ of moving away from one’s home and friends). Thus, cost-benefit analysis is done in terms of the indirect utility function (v) as:

³ Arango J., ‘Explaining Migration’, *International Social Science Journal: International Migration* 2000, LII, 3 (2000), p. 285.

⁴ Sjaastad L.A., ‘The Costs and Returns of Human Migration’, *Journal of Political Economy*, 705 (1962), pp. 80-93.

⁵ Eltis W., *The Classical Theory of Economic Growth*, 2nd edition, (Palgrave, Houndmills, 2000), pp. 68-106.

⁶ Berninghaus S. and Seifert-Vogt H., ‘A Microeconomic Model of Migration’, in *Migration and Economic Development*, ed. Zimmermann K. F., (Springer-Verlag, Berlin, 1992), p. 4.

⁷ Milne W., ‘The Human Capital Model and its Econometric Estimation’, in *Migration Models: Macro and Micro Approaches*, ed. Stillwell J. and Congdon P., (Belhaven Press, London, 1991), pp. 137-152.

$$v(P_j, W_j, O_{yj}, A_{ij}) > v(P_i, W_i, O_{yi}, A_{ji}) \text{ for all } i \neq j$$

where

P _i	Vector of price of goods in region i
W _i	Individual's wage in region i
O _{yi}	Individual's other (non-wage) income in region i
A _{ji}	Vector of other variables (e.g. climate, availability of public goods, employment opportunities, etc.) that represent characteristics of region j from the point of view of an individual living in region i. ⁸ (the j indexes represent the same determinants for the other region, conversely).

Table 1.1 – Indirect Utility Function, variables

Source: Milne W., 'The Human Capital Model and its Econometric Estimation', in *Migration Models: Macro and Micro Approaches*, ed. Stillwell J. and Congdon P., (Belhaven Press, London, 1991), pp. 137-152.

The Human-Capital model is superior to some of its theoretical predecessors in the sense that it incorporates future developments (conditions in the new environment, costs incurred by the search for employment) and goes beyond a mere comparison of wages between the two regions. Todaro (1969) included the decision-maker's uncertainty of finding employment as a variable in the calculations by considering expected discounted future income streams. His model represents the expected values in each period as per-period wages multiplied by the probability to the unemployed. Therefore, if potential wages were high enough, migration could still be beneficial – according to the discounted expected value criterion – despite of possible periods of unemployment.⁹

While Todaro developed the H.C. model and attempted to face the problem of the potential migrant's uncertainty of future income and costs, his solution is only partial and does not heed the reality of information gathering. A realistic scenario

⁹ Todaro M. P., 'A Model of Labor Migration and Urban Unemployment in Less Developed Countries', *American Economic Review*, 59 (Mar 1969), pp. 138-148.

could envisage the following – a disillusioned unemployed immigrant would consider moving to another area (repeat migration) or decide on going back home and returning during a period of economic ascendancy for the recipient country (return migration).

Siegfried Berninghaus and Hans-Günther Seifert-Vogt (1992) consider the lack of prescient information for the potential migrant in their enhanced H.C. study.¹⁰ Their approach incorporates potential later revisions of earlier decisions induced by incoming unfavourable information, i.e. including the eventualities of repeat migration and return migration. They deploy a statistical mechanism, which allows for the consideration of a given finite number of ‘alternatives’ at each decision time point. This paradigm is called the ‘Multi-armed Bandit’ and posits that ‘pursuing an activity for one period produces an (economic) reward, i.e. a random variable with unknown distribution.’¹¹ Thus, the migrant practically explores the reward probability law of each ‘arm’ and then makes an informed decision within the timeframe. This model is congruent with the nature of human behaviour and embodies the dilemma of whether to put off immediate gains with the prospect of acquiring more information and maximizing profit (pecuniary, social, or psychological) in the long run.

While the neo-classical explanation of migration provided some useful insights on aspects such as rational decision-making, initiation of migration and the macroeconomic implications of the phenomenon, it was generally incongruent with practical developments. Critics of the above-discussed approaches have pointed out their failure to appreciate the political, social and cultural factors influencing

¹⁰ Berninghaus S. and Seifert-Vogt H., ‘A Microeconomic Model of Migration’, in *Migration and Economic Development*, ed. Zimmermann Klaus F., (Springer-Verlag, Berlin, 1992), p. 6.

¹¹ Ibid.

migration. Indeed, after the moratorium on labour immigration imposed by European countries in the early 1970s, it became evident that political determination had a direct and decisive impact on migratory flows and patterns. The rapid and all-encompassing changes in the international arena during the last few decades brought about an array of new approaches whose aim was to provide some theoretical explanation of international migration, which was gaining an increasing share of the public attention in Western societies.

1.3 Contemporary Economic Study of Migration

The new theoretical concepts that emerged in the last quarter of the twentieth century largely reflected the new realities of international migration. Asia, Africa and Latin America had replaced Europe as sources of out-migration and illegal immigration and family reunification were the main challenges after the halt on policies of importing foreign labour. The contemporary models focus either on the initiation of migration (new economics of labour, dual labour, world system) or on the migratory flows over time (networks, systems, cumulative causation). Despite the production of feasible results and logical assumptions, the contemporary study of the phenomenon has failed to advance a coherent and streamlined model that encompasses all of its facets and dimensions. As Massey puts it:

Rather than new migration theories qua se, they are either modified versions of previous strands or adaptations of theoretical frameworks built for different purposes. They do not amount to a new paradigm, but rather form a colourful, variegated mosaic.¹²

¹² Massey D.S. et al., *Worlds in Motion. Understanding International Migration at the End of the Millennium*, (Clarendon Press, Oxford, 1998), p. 92.

Indeed, the theoretical contributions to the study of international migration can be seen as pieces of a jigsaw puzzle, which, when put together, contribute for a better understanding of the general picture but provide little information when viewed on their own.

1.3.1 The new economics of labour migration

This theory emanates from the neo-classical tradition and focuses on explaining the supply side of migration, while failing to rationalise the demand for it. The similarity with the Human-Capital model is in the explanation of migration as a rational behaviour, adopted as a utility-maximising strategy. The crucial difference is that the decision-making actor is set to be the family as a unit and not the individual. The decision to migrate is taken with the purpose of diversifying sources of income and thus minimising the risks arising from unemployment, loss of revenue, or crop failure.¹³ This maximisation of income is not an absolute value, but rather a strategy gauged in a comparative perspective, i.e. a family is more likely to commit one of its members as a labour migrant if its neighbours or relatives have greater or more stable incomes, which might be due to remittances from abroad. This condition links the new economics of labour theory with the notion of ‘relative deprivation’ as advanced by Stark and Taylor (1989).¹⁴

While, the *new economics of labour* is a feasible contribution to the neo-classical discourse, it lacks the coherence and profundity that would turn it into a standing theory. Its empirical backing is extremely limited and it fails to heed any

¹³ Arango J., ‘Explaining Migration’, *International Social Science Journal: International Migration* 2000, LII, 3 (2000), p. 288.

¹⁴ Stark O. and Taylor J. E., ‘Relative Deprivation and International Migration’, *Demography*, 26, 1 (1989), pp. 1-14.

external factors affecting migration. Its greatest value lays in the attention paid to the role of the family unit, the consideration of remittances as a factor in the economic equation, and the incorporation of ‘relative deprivation’ within the cost-benefit analysis.

1.3.2 Dual labour market theory

Michael Piore (1979)¹⁵ developed the dual labour market theory as a demand-oriented approach to migration, which perceives advanced industrialised economies as generators of a constant necessity for low-skilled, low-paid foreign labour. According to this theory, the labour markets of developed recipient countries are divided into two segments – primary and secondary. The primary segment is characterized by capital-intensive production and predominantly high-skilled labour, while labour-intensive means of production and low-skilled labour are germane to the secondary segment. Migrant workers occupy a niche in the labour market, within the secondary segment, which is characterised with a permanent availability of jobs that are no longer desired by nationals. Piore’s theory does not deliver a universal explanation of the causes and analysis of the process of international migration. Nevertheless, it successfully elucidates three important points that are related to migration per se. First, the dual labour market theory pinpoints the importance of the structural demand for foreign labour as a cause of migration. Second, it abets understanding of the seemingly anomalous coexistence of a chronic demand for foreign labour alongside significant rates of structural unemployment in a number of receiving countries. Last, it refutes

¹⁵ Piore M. J., *Birds of Passage: Migrant Labor in Industrial Societies*, (Cambridge University Press, Cambridge, 1979).

the idea that immigrant workers necessarily compete with native ones and affect the latter's level of wages and employment prospects.¹⁶

The dual labour market theory presents a veracious study of labour migration, albeit plagued by the weakness of all the theories under discussion here – it is too limited and fails to produce viable generalisations for the phenomenon as a whole. Piore's theory is also tailored for the specifics of the state of affairs prior to the 1970s. It cannot be adapted to the sinews of contemporary migration such as family reunification, asylum seekers, and highly skilled migrants. Nevertheless, it is a credible attempt of surveying the phenomenon at the macro level of structural determinants.

1.3.3 World system theory

The *world system theory* also focuses on the macro level and reiterates the idea that prosperous capitalist economies characteristically possess labour market niches that are in constant demand for cheap foreign labour. Its main consideration, however, is the relationship between the affluent industrialised countries and the underdeveloped agrarian ones, seen in a historical and political perspective. The theoretical backbone of the *world system theory* is built upon historian-sociologist Immanuel Wallerstein's division of the world into three concentric spheres – core-states, semi-periphery and peripheral areas.¹⁷ The contemporary researcher of migration theory, Joaquin Arango, says the following about *world system theory's* raison d'être:

¹⁶ Arango J., 'Explaining Migration', *International Social Science Journal: International Migration* 2000, LII, 3 (2000), p.290.

¹⁷ Wallerstein I., *The Modern World System. Capitalist Agriculture and the Origins of the European World-Economy in the Sixteenth Century*, (Academic Press, New York, 1974).

World system theory belongs in the historical-structural tradition that inspired dependency theory in the 1960s. Although it differs in many respects from the latter, it shares with it the view of migration as one more product of the domination exerted by core countries over peripheral area, in the context of international relationships fraught with conflict and tension. Therefore, migration also stems from inequality – in this case an unbalanced international order – but, contrary to equilibrium models, it reinforces the inequality instead of leading to its reduction.¹⁸

World system theory represents a strain of thought that sees migration as a factor, which aggravates the economic disparity on a global scale. Proponents of this idea depict migration as a new form of exploitation – low-skilled foreign immigrants are forced to work gruelling, demanding and dangerous jobs that are shunned by members of the industrialised societies. Furthermore, the human capital of the underdeveloped countries, their best and brightest, are lured away by promises for greener pastures abroad, thus effectively draining indigenous economies of highly-skilled professionals. Hence, while *new economics of labour* and *dual labour market* theories see migration as an economically propitious strategy both on an individual and macro level, *world system theory* posits that the movement of labour is an unequal relationship that provides rich countries with much-needed cheap workforce, while further impoverishing the countries of origin. In a nutshell, migration is presented as a global labour supply system that maximises profits in certain segments of the rich countries' economies, while causing dislocations, disruptions, and displacement of workers in the countries of out-migration.

World system theory is pertinent in explaining linkages between countries on the basis of colonial past, shared cultural and linguistic ties, geographical proximity or policies of attracting migrant workers. Nevertheless, it is deterministic and prone to historical generalisations, failing to consider differences in developments of separate

¹⁸ Arango J., 'Explaining Migration', *International Social Science Journal: International Migration* 2000, LII, 3 (2000), p.290.

regions and countries. It also lacks appreciation of the individual plane of migratory behaviour, equating the diversity of push and pull factors under the lowest common denominator of global capital accumulation. Similarly to the previously discussed theories, it fails to respond to the challenges posed by contemporary developments – diversification of migration flows, political determinants and the globalisation of the world economy.

1.3.4 Migration networks

Migration networks can be defined as sets of interpersonal relations that link migrants or returned 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. By doing this, they reduce the costs and uncertainty of migration and thus facilitate it.¹⁹ Douglas Massey was the first to advance the explanation of migration networks as ‘a form of social capital, insofar as they are social relations that permit access to other goods of economic significance, such as employment or higher wages’.²⁰

It takes no scientific reasoning to appreciate the overarching importance of networks as facilitators of migration. The presence of relatives or friends at the destination makes the transition from home and familiar surroundings to a whole new world less abrupt and dramatic. In addition, established migrants are likely to assist newcomers, thus reducing the adaptation costs. Migrant networks also abet the newly

¹⁹ Massey D.S. et al., *Worlds in Motion. Understanding International Migration at the End of the Millennium*, (Clarendon Press, Oxford, 1998), pp. 42-43

²⁰ Massey D.S. et al., *Return to Aztlan: The Social Process of International Migration from Western Mexico*. (University of California Press, Berkeley and Los Angeles, 1987).

arrived in terms of overcoming the language barrier. They are the main mechanism that makes migration a self-perpetuating phenomenon. Networks tend to grow larger and denser, as every move constitutes a resource for those who stay back, and facilitate further moves, which in turn widen the networks and the probability of their further expansion.²¹

More research could be done on the relationship between networks and the level of integration of migrants. Empirical data could be drawn from countries like Germany, where Turkish immigrants have formed cultural ‘enclaves’ – speaking exclusively Turkish, insisting on marriages within the community, and living in homogeneously populated districts. Thus, while networks spur and facilitate migration at its initial stage, they may actually be counter-productive when it comes to successful integration within the recipient society. This could have a direct impact on migration policies, as European countries are likely to curb immigration if integration levels of newcomers are low.

Finally, *migration networks* constitute an intermediate, relational level that stands between the micro level of individual decision-making and the macro level of structural determinants²², which makes them useful in facilitating a more holistic approach, which has so far been lacking in migration theory as evident from the preceding arguments.

²¹ Arango J., ‘Explaining Migration’, *International Social Science Journal: International Migration* 2000, LII, 3 (2000), p.292.

²² Faist T., ‘The Crucial Meso-Level’, in Hammar T. et al., eds., 1997, *International Migration, Immobility and Development*, (Berg, Oxford, 1997).

1.3.5 Systems approach

Rather than focusing on a particular theoretical argument, the *systems approach* adopts an eclectic perspective and tries to integrate different aspects of the existing migration theories. Its key notion is that the exchange of capital and people between a set of countries occurs within a specific economic, social, political and demographic context. The approach lacks a specific cause-and-effect relationship, which can be derived if other migration theories are applied as complementary to it. The basic structure of an international migration system is a group of receiving (core) countries that are linked to a set of sending countries by relatively large flows and counter-flows of migrants.²³ These linkages, and their various interactions, serve as a propitious context for the analysis of migration.

1.3.6 Cumulative causation

Gunnar Myrdal was the first to coin the concept cumulative causation several decades ago. It aims to explain migration as a self-sustaining and self-perpetuating phenomenon.²⁴ David Massey has recently done further theoretical work on the notion, identifying several factors and mechanisms that are responsible for the self-perpetuation of migration. The cornerstone of his theory is that migration changes reality in a way that induces consecutive moves through a number of socio-economic processes. The most important of them is networks, which was mentioned above. Other migration-caused relevant mechanisms that spur further migration include

²³ Massey D.S. et al., *Worlds in Motion. Understanding International Migration at the End of the Millennium*, (Clarendon Press, Oxford, 1998).

²⁴ Arango J., 'Explaining Migration', *International Social Science Journal: International Migration* 2000, LII, 3 (2000), p.292.

relative deprivation, the development of a culture of migration, a perverse distribution of human capital, and the stigmatisation of jobs usually performed by immigrants.²⁵

1.4 Conclusion

The increased attention paid to migration by analysts in recent decades has created a voluminous reservoir of theoretical constructs that focus mostly on explaining the causes of migration and the size of flows from given countries at a particular point in time. Unfortunately, most theories are bereft of discussion on dimensions of migration that are increasingly relevant within the current state of global affairs. Most prominently, the approaches discussed in this chapter fail to contemplate the importance of political decision-making, i.e. admission policies, border controls, bilateral relations, international institutions, etc. An analysis of the impact on politics and state sovereignty is especially pertinent within the context of immigration to the European Union, considering the great emphasis placed by European countries on political solution of the problem. Furthermore, theory has generally focused on labour migration, while recent developments call for a greater focus on illegal migration and refugees. While migration models provide a good basis for pursuing greater understanding of the subject, they do not cover all the aspects poised by ongoing developments.

Arguably, the greatest weakness of migration theoretical constructs is their limited nature, i.e. the failure to incorporate different perspectives, approaches, and focal points and to scrutinise a wider range of causative factors, patterns of behaviour,

²⁵ Massey D.S. et al., *Worlds in Motion. Understanding International Migration at the End of the Millennium*, (Clarendon Press, Oxford, 1998).

and possible consequences. Nevertheless, this weakness could be turned to one's advantage if the plethora of theories is used in an eclectic mode with the purpose of finding the best answers for a given problem. Migration *per se* is 'hard to define, difficult to measure, multifaceted and multiform, and resistant to theory-building'²⁶ – its intrinsic qualities call for the adoption of a holistic, flexible and interdisciplinary approach. Having said that, it logically follows that the study of immigration to the European Union should derive from standing theory, as much as necessary, while applying Ockham's razor to siphon off the perfunctory and striving to arrive at conclusions that are logical and veracious while avoiding the dogmatism of theory-building.

²⁶ Arango J., 'Explaining Migration', *International Social Science Journal: International Migration* 2000, LII, 3 (2000), p.295.

Chapter 2 – The Evolution of EU Immigration Policy and its Implications

2.1 Introduction

Immigration came to the fore of the European agenda during the last two decades of the twentieth century. After the recruitment of foreign labour was halted in the early seventies and Europe closed its doors, immigrants sought their greener pastures mainly through family reunification. By the early nineties it was evident that the ‘zero immigration’ policy was defunct – in 1991 the legal immigrants in the EU numbered one million, while the unaccounted flows of illegal immigration were even more voluminous. Intrinsic factors – strategic behaviour of EU governments and administrative elites and the interests of the supranational bodies buttressed this exogenous pressure – in order to set the scene for common policies on immigration and asylum.¹ While issues arising from the free movement of people and rights of third-country nationals were regarded as a matter of ‘high politics’ and thus decision-making was on an intergovernmental level, it became evident that the increased interdependence brought by the single market had to be supported with concerted action in more spheres than before.

The nature of migration, its defiance of national borders and restrictive legislations, makes policy-making at the supranational level the most feasible regulatory regime. This chapter traces the developments in European legislation and decision-making vis-à-vis immigration, starting with the Single European Act and reaching the recent Constitutional Treaty and enlargement. A consideration of all the stumbling blocks

¹ Hix S., *The Political System of the European Union*, (Palgrave, Houndmills, 1999), pp. 307-331.

that a common European immigration policy had to face (and continues to do so) gives some explanation for the imperfections and prevarications characterising it.

2.2 The Single Market – Impetus for Increased Cooperation

Following the decrease in supranational cooperation, which ensued for two decades after the Luxembourg Compromise, Europe's federalists sought to provide a way out of the intergovernmentalist inertia. The late seventies and early eighties saw a rise in intellectual activity with the production of several reports sharing the same goals and rhetoric – the future of Europe was envisaged as based on genuine supranational cooperation, poised at superseding the functionalist spill-over. The debate led to the creation of the Single European Act (1986) – seen by many at that time as a watered-down version of the grand designs concocted beforehand. Nonetheless, the SEA established 1992 as the deadline for the full implementation of the single market, providing for a 'free movement of goods, persons, services and capital' and the 'removal of all internal frontiers'.² The setting of a framework for the internal market affected EU's decision-making – the veto was rarely used and qualified-majority voting became commonplace in the Council.

The prospects of relinquishing the internal borders led to an increased consideration of ways to regulate the entry and stay of third country nationals within the Union. Considering the increasing levels of immigration, it was evident that some sort of

² Craig P. and Gráinne de Búrca, *EU Law: Text, Cases, and Materials, 2nd edition*, (Oxford University Press, Oxford, 1998), pp. 19-48.

concerted approach had to be applied. The SEA spurred discussion on the matter of common immigration policies and led to the establishment of two initiatives. First, the Benelux countries, France and Germany signed the Schengen Accord (1985) – agreeing on the gradual abolition of internal border controls. This was an intergovernmental ‘dress rehearsal’ for the adoption of single market rules and illustrated the need to provide the administrative capacity for the free movement provision. The agreement was later joined by most of the EEA members, except Britain, Ireland and Switzerland.³ On its own, it would have probably had adverse effects for immigrants and asylum-seekers. The reason for this is the reductionist nature of its cooperation plan – admission policies had to be made more stringent as to ensure that one member state’s lax criteria would not affect the rest of the signatories. Nevertheless, the Schengen Convention was later incorporated into the EC Treaty and its restrictive spirit was ameliorated by other EU policies and agreements.

The second instrument drawn at that time was the Dublin Convention – signed in 1990 and ratified by all participants in 1997. It is complementary to the Schengen Accord and provides for synchronisation in the field of asylum. The centrepiece of the Convention is that asylum applications have to be deposited in the first signatory country reached by the refugee. As a rule, they cannot be reviewed by any other Member State, thus preventing the mobility of asylum-seekers who may be attracted to better conditions elsewhere. In addition, the Dublin Convention introduced the system EURODAC – a computerised finger-print database, which is shared by all the countries participating and

³ Rasmussen H.K., *No Entry: Immigration Policy in Europe*, (Copenhagen Business School Press, Copenhagen, 1997), pp. 153-177.

prevents multiple applications.⁴ Although the signatories were initially hesitant in implementing it, the EURODAC is currently functioning under the aegis of the EU. While the Dublin Convention was a step ahead for cooperation on asylum policies, it failed to address many important issues such as the need for common standards for reception of refugees, a single procedure for the review of applications and a coherent framework of readmission agreements. The inherent difficulties posed by exclusively intergovernmental cooperation led to the reduction of common immigration policies to the lowest common denominator, i.e. the preoccupation with the ‘zero immigration option’ posed by some countries disparaged economic, legal and human rights concerns. The logjam created by state interest is perhaps best illustrated by the following statement made by the Ad Hoc Group on Immigration in 1991:

...if the harmonisation process were initiated without defending basic principles, harmonisation may be carried out at the lowest level. Assuming that immigration into member states must remain limited, it is above all the restrictive opinions which could dominate.⁵

The fact that immigration and asylum are quite intractable issues for Member States was reaffirmed by the structural composition of the Treaty on European Union, signed in Maastricht in 1992 and ratified in November 1993. It epitomised the compromise between intergovernmentalist and supranationalist cooperation, creating the *sui generis* concept of ‘pillarisation’. Hence, immigration and asylum were incorporated within the Third pillar (Title VI) of ‘Justice and Home Affairs’. While the basic framework of policy initiation and decision-making in the field was essentially intergovernmentalist, there were some provisions that enhanced the Community role.

⁴ ‘Dublin Convention’, Online: <http://europa.eu.int/infonet/library/a/97c25401/en.htm>, Last accessed: 12 Mar 2005.

⁵ Arditis S., *The Politics of East-West Migration*, (St Martin Press, The Macmillan Press Ltd., London, 1994), p. 222.

First, the EU institutions were entitled to greater participation – the Commission was to be ‘fully associated with the work done under Title VI’ and the Parliament was to be ‘informed and its views duly taken into consideration.’⁶ Then, it was envisaged that policy-building under the Third pillar would take place largely through cooperation in the Council, which could act on proposals from Member States, or, more significantly, from the Commission. The European Parliament could question the Council and make recommendations to it.⁷ A major advancement was achieved in terms of visa policies – provisions of the Maastricht Treaty led to qualified-majority voting on the matter of which third-country’s nationals had to apply for entry visas to the EU.⁸ Despite the restraints posed by variable geometry, the Treaty of Maastricht can be seen as the first attempt to work towards a collective and synchronised asylum and immigration policy at Community level. It prepared the ground for the increased harmonisation that was to follow the establishment of common interests.

2.3 The Treaty of Amsterdam – ‘an Area of Freedom, Security and Justice’

Less than four years after the Maastricht Treaty entered into force, the leaders of the EU redrew its basic framework at the Amsterdam summit in June 1997. One of the most important changes was the transfer of most of the Third Pillar provisions to the EC treaty. The newly created Title IV encompassed the areas of Asylum policy, Crossing of the external borders, Immigration policy, Judicial cooperation in civil matters and

⁶ Craig P. and Gráinne de Búrca, *EU Law: Text, Cases, and Materials*, 2nd edition, (Oxford University Press, Oxford, 1998), p.29.

⁷ Ibid.

⁸ Rasmussen H.K., *No Entry: Immigration Policy in Europe*, (Copenhagen Business School Press, Copenhagen, 1997), p.160.

Customs cooperation.⁹ It set a five-year timeframe, from the Treaty's entry into force, for the adoption of visa rules and measures to ensure the abolition of any internal border controls for EU citizens and third-country nationals. Decision-making was to remain by unanimity within the Council during the first five years. The states were then to decide whether to revert to qualified-majority voting in some areas. The role of Parliament remained consultative over the initial period, while the Commission shared the right of policy initiation with the Member States.

The title on 'free movement of persons' is a *mélange* of different policies, mechanisms and legal provisions. While within the remit of the EC treaty, it *de facto* belongs to the area of 'close co-operation' provided by Title VII of the TEU.¹⁰ The reason for this is the opt-out agreements that are in place for Britain, Ireland and Denmark. Thus, asylum and immigration policies did not quite escape the orbit of intergovernmentalism, despite being 'communitised'. The mixed nature of Title IV is further emphasised by the limitations on the preliminary rulings jurisdiction of the ECJ placed by Article 68. Jurisdiction can be conferred to the ECJ only if a Member State court or tribunal 'against whose decisions there is no judicial remedy under national law'¹¹ requests it. In addition, the Court is to have no jurisdiction on measures infringing on national legislation and internal security.

Due to the specific nature of immigration and asylum, as phenomena that call for synchronisation of policy-making in different areas, the success of Title IV provisions

⁹ Craig P. and Gráinne de Búrca, *EU Law: Text, Cases, and Materials*, 2nd edition, (Oxford University Press, Oxford, 1998), pp. 707-711.

¹⁰ *Ibid.*

¹¹ EC Treaty, Title IV, Article 68 (1).

depends to a great extent on the application of other legislative instruments. Accordingly, the Treaty of Amsterdam ‘communautairised’ the Schengen *acquis* in a protocol to the EC Treaty. Another step forward was the incremental cooperation under the reshuffled Third Pillar whose main objectives were delineated as: developing ‘common action’ in police co-operation, judicial co-operation in criminal matters, and the prevention and combating of racism and xenophobia. Evidently, the issues faced by the Third Pillar touch on human rights and fundamental freedoms and many aspects of them are linked to free movement issues arising under the Community Treaty.¹²

The Commission has constantly emphasised the nexus between organised crime and illegal immigration and its impact on the plight of the most vulnerable – asylum-seekers fleeing persecution and conflict. Therefore, cooperation on matters such as the creation of Eurojust and the European Arrest Warrant has a direct bearing on immigration policies. While the Treaty of Amsterdam set a legislative framework, albeit somewhat limited and based on compromise, it had the more important effect of shifting the European discourse away from the exclusive sphere of economic and monetary cooperation and prioritising the political issues of ‘freedom, security and justice’ that called for policy-making at the highest level.

2.4 The Tampere Milestones

The Heads of State and Government of the European Union held a summit in Tampere in October 1999 in order to set a political strategy and a five-year programme

¹² Hix S., *The Political System of the European Union*, (Palgrave, Houndmills, 1999), pp. 307-331.

aimed at the creation of an area of freedom, security and justice envisaged by the Treaty of Amsterdam. While recognising the Union's inherent commitment to 'freedom based on human rights, democracy and the rule of law'¹³, the Tampere Council delineated a blueprint that can be discussed in terms of three main overarching approaches to action.

First, any initiative taken has to be in line with the Programme's dedication to democracy and citizens' rights as evident from its general tone and emphasis on transparency, the freedom of movement and the expressed commitment to the Geneva Refugee Convention and 'other relevant human rights instruments'.¹⁴ Second, Tampere accents on the need of building further Community legislation, in line with the Treaty of Amsterdam, and the convergence of national jurisprudence related to the areas under Title IV. The third approach is the reinforcement of administrative capacity, both by the creation and development of European regimes like EUROJUST and the Common European Asylum System, and the stepping up in convergence of 'best practices' and cooperation among national judiciaries. Thus, all of the policies taken under the aegis of Tampere are democratic, in terms of procedure and legitimation, and aim at reinforcing the EU's legislative base and administrative capacity in order to ensure the attainment of freedom, security and justice.

The Tampere Programme operates with the overall aim of maintaining a constant equilibrium between the triad of freedom, justice and security. This balance is underpinned by the notion that human rights and freedoms can only be provided if the

¹³ Presidency Conclusions: 'Tampere European Council', Tampere, 15-16 October 1999, Online: http://www.europarl.eu.int/summits/tam_en.htm, Last accessed: 14 Mar 2005.

¹⁴ *Ibid.*

security of citizens is guaranteed.¹⁵ Importantly, the security mechanisms should not infringe on individual rights, such as the right to privacy – a highly topical and controversial issue, which was brought to the fore by the introduction of anti-terrorism legislation in the United States and Britain. One of the most momentous statements in the Tampere protocol is the recognition that freedom ‘should not be regarded as the exclusive preserve of the Union’s own citizens’.¹⁶ The recent developments in Community legislation related to third-country nationals can be seen as a practical backing of this commitment. For instance, the EU adopted a Directive on the Status of Long-term Residents in November 2003. It grants foreigners, who have resided legally on EU territory for more than five years, equal treatment in most of the social and economic fields. Subject to certain conditions, it also bestows upon them the right to move to another Member State to work, study, or for other reasons.¹⁷ In addition, the right to family reunification was also added to the *acquis communautaire*. The directive, adopted in September 2003, delineates the conditions under which third-country nationals who are legal residents in one of the Member States have the right to bring husbands, wives and young children into the EU.¹⁸ These measures facilitate cohesion and integration at the European level, by promoting greater convergence between the social and economic rights of citizens and nationals of third countries.

Tampere drew the agenda for the incorporation of human rights provisions, enumerated in various treaties, conventions, agreements and adjudications, into one

¹⁵ ‘Assessment of the Tampere Programme and Future Orientations’, (European Commission Communication, 2 Jun 04).

¹⁶ Presidency Conclusions: ‘Tampere European Council’, Tampere, 15-16 October 1999, Online: http://www.europarl.eu.int/summits/tam_en.htm, Last accessed: 14 Mar 2005.

¹⁷ Council Directive 2003/109/EC of 25 November 2003, Official Journal, L, 16, (23/01/04), pp. 44-53.

¹⁸ Council Directive 2003/86/EC of 22 September 2003, Official Journal, L, 251, (03/10/2003), pp 12-18.

coherent document – the EU Charter of Fundamental Rights. As provided by a protocol of the Tampere summit, the Charter was drafted by a convention, composed of representatives of the EU institutions and national parliaments, and officially proclaimed in the end of 2002. Under six headings – dignity, freedoms, equality, solidarity, citizens’ rights, and justice – it enshrines, among other rights, the right to human dignity, equality before the law, equality between men and women, non-discrimination, freedom of expression and information, freedom of assembly and association, the right to education and the right to social welfare.

There are two overarching reasons for the enumeration of a ‘Bill of Rights’ at the EU level. First, it ‘consolidates the fundamental rights applicable at Union level and makes them more evident’¹⁹ – European residents are thus made more aware of the array of inalienable rights they are entitled to. Second, it not only safeguards individuals but also ‘serves as a framework to govern the activities of EU institutions and give them political and moral legitimacy’.²⁰ The Charter is indeed a pivotal provision in terms of the EU’s democratic credentials and commitment to freedom. Nevertheless, in order to open its full reservoir of possibilities, in concert with the array of other provisions discussed above, the Union would have to build on its institutional framework and procedural capacity.

The uneasy relationship between state interest and political commitment to universal values and higher principles is behind the complex and sub-optimal decision-

¹⁹ The Charter of Fundamental Rights, Online: http://europa.eu.int/comm/justice_home/unit/charte/index_en.html, Last accessed: 14 Mar 2005.

²⁰ European Commission Communication, (COM/2000/0559) 13 Jul 00.

making structure that governs policies related to the area of freedom, security and justice. Provisions that are germane to the establishment of a common immigration policy, such as the rejected draft directive on the conditions of entry and residence for foreign workers,²¹ have faced the adamant scepticism of national governments.

In its final assessment of progress under the Tampere programme, the Commission makes the following conclusion: ‘The constraints of the decision-making process and of the current institutional context preclude the effective, rapid and transparent attainment of certain political commitments.’²² The efficiency of policy adoption in immigration-related matters is constantly undermined by the need to establish broad compromise through unanimity. The possibility of judicial review by the ECJ is also limited under the current provisions of the EC Treaty – this curbs the system of checks and balances and deprives the polity of its right to judicial remedy. The role of the European Parliament is narrowed down to consultation for most of the policies under Title IV – thus the democratic element in decision-making falters. These drawbacks are significant as they prevent efficiency and transparency in an area of EU competence that is of extreme importance to its citizens and has a direct bearing on human rights and fundamental freedoms.

²¹ EU's Area of Freedom, Security and Justice. Online: http://europa.eu.int/comm/justice_home, Last accessed: 15 Mar 2005.

²² ‘Assessment of the Tampere Programme and Future Orientations’, (European Commission Communication, 2 Jun 04), p.4.

2.5 What the Future Holds – a Constitution for Europe

The Constitutional Treaty provides the legal backbone for considerable advancement towards more efficient decision-making on issues of illegal immigration and asylum. It puts an end to the ‘three-pillar’ structure and extends the community method (co-decision and qualified majority voting) to all aspects of this field. While counteracting the current institutional constraints, the Constitution also provides the legal grounding for a common asylum policy (Article III-266) and a common immigration policy (Article III-267). In addition, it caters for specific procedural arrangements aimed to abet the practical side of the espoused commitments. The centrepiece of these provisions is ‘the gradual introduction of an integrated management system for external borders’.²³ Measures for common visa and residence permit policies are also included, while the possibility of creating common border-guard units is provided.

Perhaps the greatest increase of community competence and supranational decision-making is in the field of asylum. Article III-266 of the Constitution encompasses the concept of a ‘common European asylum system’ with the provision of uniform status and common procedures for the granting and withdrawing of asylum and subsidiary protection status.²⁴ This builds on available EU measures in the field of asylum, such as the directives on minimum standards of reception and minimum standards for the qualification and status of refugees. The union-wide recognition of granted refugee status is an essential factor for improving the human rights and social situation of those fleeing

²³ Draft Treaty of a Constitution for Europe, Section 2, Article III-265 c, Online: http://europa.eu.int/comm/justice_home/unit/charte/en/draft_constitution.htm, Last accessed: 22 Mar 2005.

²⁴ Ibid.

persecution. It is important that EU policies and legislation in the field are in line with standing legal instruments in the field, such as the European Convention on Human Rights, the 1951 Refugee Convention and the 1967 Protocol. By incorporating the European Charter of Fundamental Rights into the *acquis*, the Constitution provides a source of human rights legislation that is formerly subject to judicial review by the ECJ. Thus, the Union's judicial apparatus is poised to protect the fundamental rights of third-country nationals.

By enhancing the role of Parliament (co-decision) and Commission (sole right of legislative initiative), the Constitutional Treaty should bolster efficiency in decision-making on matters of immigration and asylum. Transparency and democratic control will be further reinforced by the competence accrued to national legislatures through the principle of subsidiarity and by the enhanced power of judicial review, vested in the ECJ by the abolition of the limitations and derogations laid down in Article 68 of the EC Treaty and 35 of the EU Treaty. Therefore, notwithstanding its overall cautious and circumvent approach, caused by state interest and sensitivity to provisions that might infringe national sovereignty, the Constitution for Europe, if ratified, should provide the necessary basis for a more concerted, efficient and functional policy on immigration at the EU level.

2.6 EU Enlargement and Immigration

Before discussing the aspects of EU enlargement vis-à-vis immigration, perhaps a brief historical overview of East-West migration in Europe would be pertinent for providing a better grasp of the current situation. Emigration from the CEE countries has traditionally been of a political or ethnic character, as opposed to the current predominance of economic motivation factors. During the Cold War, the West attained the political benefits of accepting and integrating Eastern European migrants who were automatically given refugee status on the grounds of political persecution in their home countries. Their numbers were kept at check by the pervasive restrictive policies of the Communist bloc – emigration was curbed by the sealed and heavily guarded frontiers, the strict visa and passport regulations and by an elaborate systems of disincentives for potential migrants, not the least of which being the potential threat to their families who were to remain behind the Iron Curtain. With the gradual decay of the Communist regimes in the 1980s, the emigration rates increased and the peak was reached in 1990 – right after the *annus mirabilis* that brought the fall of the Berlin Wall. This shift from non-mobility to a high-intensity migration regime²⁵ was brought by the opening up of external borders and a widespread desire among Eastern Europeans to explore the liberty of travelling West, i.e. migratory behaviour was seen as an expression of political freedom.

²⁵ Okólski M., 'Recent Trends and Major Issues in International Migration: Central and East European Perspectives', *International Social Science Journal: International Migration* 2000, LII, 3 (2000), pp.329-341.

It should be noted that a significant portion of the migratory flows from Eastern to Western Europe were caused by two specific events. First, the policy the newly-reunified Germany of granting citizenship, coupled with all the rights and benefits coming with it, to all people of German origin led to ethnic migration on a large scale. Estimates show that between 1989 and 1998, 2.6 million ethnic Germans made the sojourn to their historic homeland.²⁶ The main countries of origin were the ex-Soviet republics, Poland and Romania. The second significant movement towards the West took the form of involuntary ethnic migration and was spurred by ethnic cleansing within the former Yugoslavia. The chief destinations for Balkan refugees were Germany, Austria and some North European states, such as the Netherlands and Sweden. The number of asylum seekers to countries of the European Economic Area reached its highest point in 1993 when it made up one-third of the total flow. Overall, between 1991 and 1999 more than one million people from ex-Yugoslavia sought some form of protection in the West.²⁷

The 2004 EU enlargement was a milestone for the history of European integration and signalled the end of the ideological divide that partitioned the Old Continent for more than four decades. The accession of eight former Communist countries was the pinnacle of East European democratisation and political transition and shone the beacon of hope for the attainment of peace, freedom and multilateralism. On the other hand, the sheer scale of enlargement was impressive – the EU’s population was augmented by some 74 million and its size increased with a quarter. While cherishing the opportunities provided by enlargement – more dynamic and vigorous economy, greater say in global affairs for

²⁶ Okólski M., ‘Recent Trends and Major Issues in International Migration: Central and East European Perspectives’, *International Social Science Journal: International Migration* 2000, LII, 3 (2000), pp.329-341.

²⁷ Baucic I., ‘The Balkan Crisis and Refugees’, UNESCO/ISSC/University of Warwick Conference on International Migration: Towards the New Millennium. Global and Regional Perspectives, Coventry, 16-18 September 1999.

the EU, extending stability and democracy further East and improving security for the whole continent – numerous concerns were voiced, not the least of them dealing with issues of migration.

In order to assuage fears of European labour markets being flooded by cheap workforce from the East, the EU crafted restrictions for the movement of workers from the new Member States. The transitional arrangements follow the 2+3+2 scheme – dividing the regulatory regime in three phases. First phase lasts until 2006 when the Council will examine the situation and the old Member States will have to decide on an individual basis whether to apply unrestricted movement of workers or to extend the safety mechanism for another three years. In 2009, the EU-15 Member States will only be able to prolong the restrictive measures, for a period of two years, if they observe major disruption of their labour markets, or the threat thereof.²⁸

The labour market restrictions seem to be better aimed at placating popular apprehension among Western European workers than at precluding any real threat. Massive influx of cheap labour from the acceding countries is highly unlikely given the current realities. Indeed, while the income and living standards are lower in the new Member States (see Fig. 2.1), annual growth in Central and Eastern Europe (CEE) is considerably higher than the EU – 15 average (Fig. 2.2). Enlargement is likely to bolster the economies of acceding countries through the increase in trade, market liberalisation,

²⁸ The Charter of Fundamental Rights, Online: http://europa.eu.int/comm/justice_home/unit/charte/index_en.html, Last accessed: 14 Mar 2005.

investment and structural assistance.²⁹ The attainment of greater convergence between the ‘rich West’ and the ‘poor East’ curbs the propensity for migration as a profit-maximising tactic aimed at diversifying income and reducing risks. Research has shown that when the ratio of difference between income levels is at about 1 to 3, the economic incentive to move becomes so small that emigration begins to fall.³⁰ In addition, higher taxes, rents, stricter labour regulations and rising levels of unemployment increase the opportunity costs of migrating to Western Europe. This point is perhaps best illustrated by Marek Okólski's astute observation:

Before 1990, \$1,000 – a sum by no means exorbitant and transferable even on a monthly basis by a hard-working and hard-saving worker – could be equivalent to about 30 monthly salaries in CEE. Today, in a number of the countries of the region it would merely correspond to three to five months' earnings. For many this is already too little, considering the costs of migration.³¹

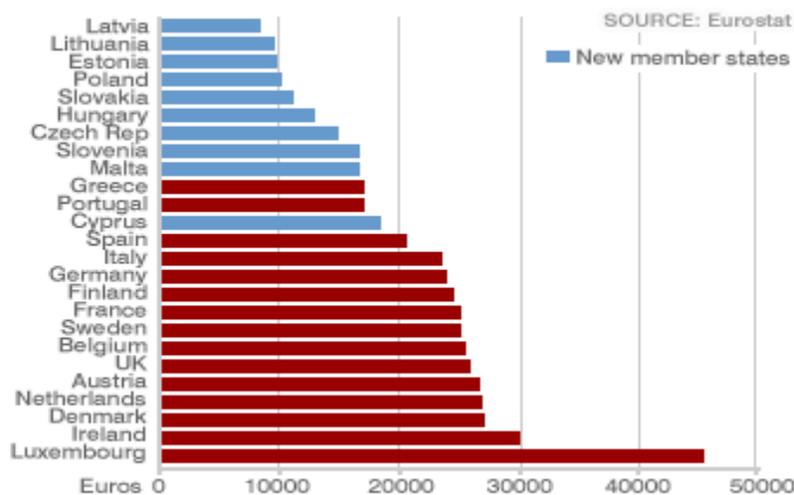


Figure 2.1 - There is a significant East-West gap in terms of GDP per capita – the standard measure of a country's wealth.

Source: 'Inside Europe', (BBC News Online, In Depth, 2004), Online: http://news.bbc.co.uk/1/hi/in_depth/europe/2003/inside_europe/default.stm, Last accessed: 27 Mar 2005.

²⁹ Baldwin R. et al., 'The Costs and Benefits of Eastern Enlargement', *Economic Policy*, 24, 1997.

³⁰ Rasmussen H.K., *No Entry: Immigration Policy in Europe*, (Copenhagen Business School Press, Copenhagen, 1997), p.168.

³¹ Okólski, M., 'Recent Trends and Major Issues in International Migration: Central and East European Perspectives', *International Social Science Journal: International Migration* 2000, LII, 3 (2000), p. 339.

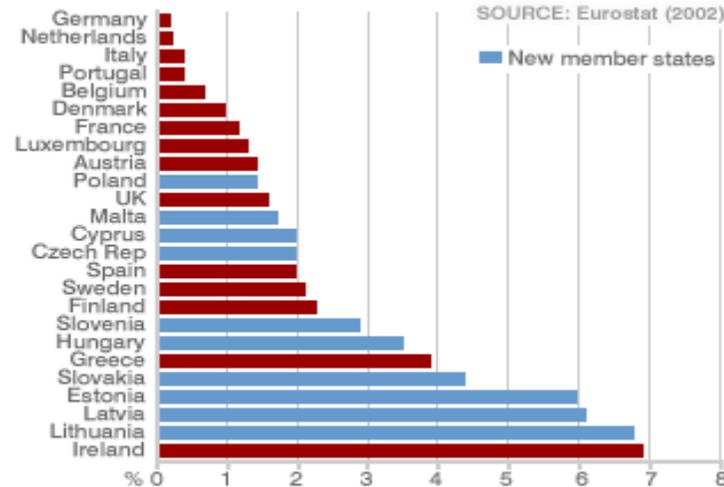


Figure 2.2 - The "old" EU averaged 1% growth in 2002, while most new members' economies were growing two or three times faster.

Source: 'Inside Europe', (BBC News Online, In Depth, 2004), Online: http://news.bbc.co.uk/1/hi/in_depth/europe/2003/inside_europe/default.stm, Last accessed: 27 Mar 2005.

Thus, while enlargement of the EU will give freedom of movement to Eastern Europeans, factual evidence and analysis seem to disprove the notion that its labour market will have to face a massive influx of cheap labour. Indeed, Western Europe stands to gain from the increased mobility of human capital. The CEE countries have a significant reservoir of well-trained scientists and professionals, which is a remnant of the high emphasis on research and development spurred by the desire to gain the upper hand in the Superpower competition. While benefiting from highly-skilled migrants, the European Union, however, should aim at maintaining a balance and avoiding brain drain. Harmonious development and greater convergence in the enlarged Europe should indeed be facilitated by increased mobility. The increased number of East European students

enrolled in educational institutions in the West is indicative.³² They have the opportunity of exploring different customs, traditions and mores and contributing to their home countries' political and economic development with high levels of expertise and know-how. When all is said and done, the increased freedom of movement of people is the only route available if Europe is to reconcile differences, repudiate the acrimony of hostile state interests, and embrace diversity as a potent generator of ideas and a catalyst of positive change.

2.7 Conclusion

The undertaken survey of the evolution of EU's regulatory regime and decision-making on immigration invokes three main observations. First, governments see matters of asylum and immigration as an area that may threaten sovereignty because of the impact wielded by these issues on the social contract between the citizens and the state. Second, progress in areas of 'low politics' – the single market, education, economic and monetary integration – has abetted considerations of state sovereignty and has brought the need for increased and wholehearted cooperation on freedom, security and justice. Third, the intergovernmental cooperation on immigration has clearly failed to deliver an adequate regulatory framework – supranational decision-making is better poised to yield tangible achievement in areas that cut across national borders and interests.

³² 'Five per cent of all first-year students in Germany are Bulgarians', Dnevnik Online Daily, Online: www.dnevnik.bg/show/Default.asp?storyid=152786&rubrid=400, (Bulgarian version), Last accessed: 28 Mar 2005.

Chapter 3: Europe and the Challenges of Immigration

3.1 Introduction

The demographic, economic and political disparities between the industrialised West and the impoverished global South act as a constant catalyst of migration forcing hundreds of thousands to take the excruciating journey to Europe every year in search of more dignity, peace and stability for them and their families. They are met by a curious contradiction – while there is a constant demand for foreign labour, governments are trying to reduce immigration levels as much as possible, espousing security and state sovereignty as paramount concerns. It is against this backdrop that balance is sought – between overly restrictive and *laissez-faire* policies, while juxtaposing human rights with security and economic constraints. The challenges for European Union decision-makers are rife at all levels – they need to find adequate ways for cooperation with and assistance to countries of origin and transit, they must try to extract the benefits of multilateral cooperation while defusing preoccupations over state sovereignty, and they are faced with the imminent need to provide the adequate framework conducive for settlement and integration of immigrants within the recipient societies.

3.2 Irregular Immigration and EU Policies – Developments and Shortcomings

3.2.1 Background perspectives and definition

Illegal immigration has been a magnet for media reports and public attention in recent years. On the one hand, society is being shaken by the appalling images of those who have perished – immigrant men, women, and children – on their quest for the ultimate and elusive dreamland – Europe. On the other hand, constant propaganda and rhetoric on the part of right-wing politicians have fuelled suspicion and hatred, portraying immigrants as criminals and indolent vagrants who have come to prey on Europe’s hard-earned wealth. There have also been genuine concerns, expressed by the public, over the challenges posed by governments’ incapacity to control the inflow and integration of work migrants. Indeed, irregular immigration is a highly controversial phenomenon, a ‘hot’ issue that generates constant debate between governments, civil society, political leaders, and representatives of the non-governmental sector. Nevertheless, it is by no means a novel occurrence – one can argue that as long as migration has existed, it has been in an uneasy relationship with laws and state sovereignty. The complications that arise from the ‘illegality’ of immigration, and the contradictions germane to it, can be better perceived if one heeds the case of Cold War political refugees. While embraced by the West as ‘freedom fighters’ and ‘champions of democracy’, they were shunned on the other side of the Iron Curtain as ‘traitors’ and ‘spies’ – i.e. their emigration was seen as an illegal act.

Having established controversy as an inherent characteristic of the surveyed phenomenon, a caveat providing some definitions seems poised to provide a stepping-stone for any further discussion. Thus, Convention No. 143 adopted by the 1975 ILO Conference labels clandestine or illegal migration movements as such where migrants find themselves ‘during their journey, on arrival or during their period of residence and employment in conditions contravening relevant international multilateral or bilateral instruments or agreements, or national laws or regulations.’¹ This definition pinpoints a fact that is often overlooked – the ‘illegality’ of most immigrants arises at a later stage during their stay in the country, after they have entered legally, but breach the law by not complying with residence and work regulations.

Furthermore, terms are not devoid of connotation and adjectives such as ‘clandestine’ and ‘illegal’ conjure images of crime and disorder, automatically creating a negative perception of immigrants. Therefore, UN General Assembly Resolution 3449 (XXX) of 9 December 1975 endorses the use of the term ‘non-documented or irregular migration’ instead.² This chapter utilises ‘illegal’ interjectionally as it commonly appears in reports and is not necessarily marred by negativism. In addition, one must recognise the fluidity of immigrants’ legal situations, which complicates the task of defining them even further. For instance, a tourist may become an ‘illegal immigrant’ by taking up employment that is not sanctioned by his visa. Conversely, someone who has entered a country surreptitiously may legalise his/her status through marriage to a national or by taking part in a regularisation programme.

¹ Tapinos G., ‘Clandestine Immigration: Economic and Political Issues’, in *Trends in International Migration: Continuous Reporting System on Migration*, (OECD 1999), p. 2.

² UN General Assembly Resolution 3449 (XXX), 9 Dec 1975.

3.2.2 The ‘industrialisation’ of illegal immigration – human trafficking and the European response

The increased public attention accrued by illegal immigration is closely linked to its growth in size and scope during the last decades of the twentieth century. Immigrants come to Europe following well-established routes from their homelands. Trafficking in humans has turned into a lucrative trade – the risks faced by smugglers are considerably lower than those associated with drug trade as legislations are less strict and opportunities for ‘co-opting’ officials are more easily available. The ‘industry’ generates multi-billion-dollar profits every year, according to UNHCR estimates.³ If one considers the sheer numbers involved, irregular immigrants do not seem to constitute a ‘wave’ or a ‘flood’ as they are often referred to by the media. Various reports estimate them at around 500,000 a year, which, however, seems diminutive when compared to the 1,7 billion annual legal crossings of the Schengen borders.⁴ Indeed, both the number of asylum seekers and the figure for immigration to the EU as a whole are witnessing a downward trend in recent years (See Fig.4.1 and 4.2) after their peak in 1992. The number of asylum applications, filed in EU countries in 2004, is down to 288,000, which points to a considerable decrease from the nearly 700,000 requests made in 1992.⁵

³ ‘Europe’s Next Challenge’, *Refugees*, UNHCR, 135, 2 (2004), p. 5.

⁴ Tapia S., *New Patterns of Irregular Migration in Europe*, (Council of Europe, Strasbourg, 2003), p.29.

⁵ ‘Europe’s Next Challenge’, *Refugees*, UNHCR, 135, 2 (2004), p. 7.

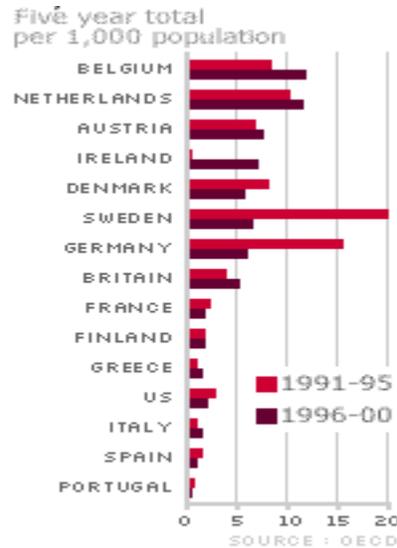


Fig. 3.1- Asylum-seekers in EU-15.

Source: BBC News Online, Online: <http://news.bbc.co.uk/2/hi/europe/2042779.stm>, Last accessed: 6 Apr 2005.

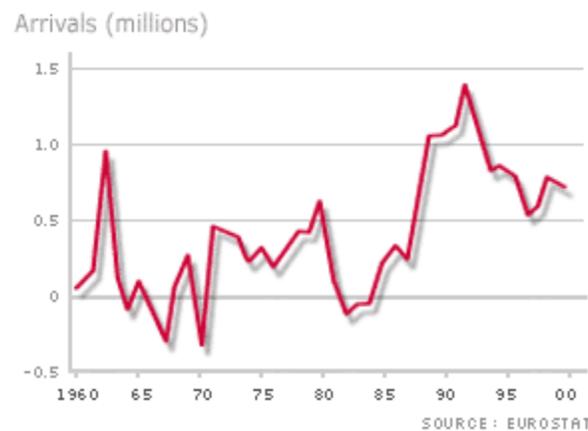


Fig. 3.2 – Net Migration, European Union 1960 – 2000.

Source: BBC News Online, Online: <http://news.bbc.co.uk/2/hi/europe/2042779.stm>, Last accessed: 6 Apr 2005.

What these statistics fail to deliver, however, is the gravity of the situation. The rise of illegal trafficking of migrants has severe repercussions for individuals, states, and the EU as a whole. First, aspiring immigrants have to pay sums, often as high as 10,000

dollars, for a one-way ticket to their promised land.⁶ The journey is treacherous – the stories of those who drowned in the Strait of Gibraltar or suffocated in a lorry inside the British Channel make headlines every week. A consortium of non-governmental organisations called United Against Racism has documented the deaths of more than 5,000 people who perished on their way to Europe in the last decade.⁷ The precarious nature of their undertaking exacerbates irregular migrants' suffering and engulfs them with uncertainty and omnipresent danger. They are affected once by the situation of their countries of origin – victimised by persecution, civil strife or war, economic crisis, environmental and health disasters, dismal living standards and collapsed welfare and education systems. The insecurity that awaits them in the countries of transit and destination - worsened by ruthless traffickers, corrupt officials, overburdened and inadequate administrative apparatus, excessively stringent procedures and hostility fanned by racism and xenophobia – seconds their victimisation and relegates them to the marginal end of society.⁸

The upsurge of human trafficking is detrimental to the EU as a whole – it generates huge profits that finance organised crime, maintains networks that can be used for smuggling not only people, but also drugs and counterfeit goods, stimulates corruption and undermines border and customs controls. The fight against human trafficking was recognised as a priority goal by the Tampere Council and has been high on the European agenda ever since. Measures for police and judicial cooperation at the EU level, such as the Trevi Network and Eurojust have been set up and developed.

⁶ Tapia S., *New Patterns of Irregular Migration in Europe*, (Council of Europe, Strasbourg, 2003), p.47.

⁷ 'Europe's Next Challenge', *Refugees*, UNHCR, 135, 2 (2004), p. 8.

⁸ Dimitrova M., Chairperson of the Assistance Centre for Torture Survivors – Sofia, personal interview, Sofia, 12 Jan 2005.

Nonetheless, the record has been marred by lack of sufficient funding, limited administrative and legislative basis and an emphasis on *ad hoc* projects instead of following a coherent approach. The European response to illegal immigration and human trafficking is underpinned by the absence of political commitment to genuine supranational cooperation. For instance, cross-border patrol initiatives between France and Belgium have failed due to disagreement over the right of policemen to bear arms. Each state has developed an individual strategy for policing its borders and harmonisation has been the exception rather than the rule. A particularly pungent issue is the lack of effective burden sharing mechanisms. Countries like Italy with its 7,600 km coastline and 20,000 illegal landings every year⁹, act as buffers for mainland Europe. The lack of resources and the pressure of migratory flows jeopardises commitment to human rights when dealing with asylum seekers. Thus, Italy has been more concerned with keeping refugees off its shores than with granting them humanitarian protection and assessing their applications for asylum.

The new Member States of Central and Eastern Europe (CEE) are especially affected by the smuggling of human beings. While being traditional transit countries, their entry into the EU has made them more attractive for settlement and they are increasingly becoming the destination for many migrants of predominantly Asian (Chinese, Pakistani and Bangladeshi) and African (Nigerian, Sudanese, Ethiopian) origin. Notably, contrary to the general trend of decline in the number of asylum applications (see Table 3.1 above), some of the CEE states, namely Poland, Slovakia, Cyprus and

⁹ Partos G., 'Europe's Asylum Trends', BBC News Online, Online: <http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/europe/4308839.stm>, Last accessed: 6 Apr 2005.

Malta saw a marked increase.¹⁰ This development is logical in view of the fact that the new Member States now form the outer border of the Union and are considered as ‘first safe countries’ – i.e. taking responsibility for refugees and preventing multiple applications – the so-called ‘asylum shopping’ – in response to the provisions of the Dublin II Regulations. The increase of inflows places considerable strain on the New Member states’ asylum systems. Their fragility is underpinned by lack of experience and know-how, institutional inefficiency and insufficient administrative capacity, and at the root of all – by a chronic lack of adequate funding.¹¹ The European Union has to face this challenge and provide Community-wide assistance, in accordance with the principle of solidarity, enshrined in the Constitutional Treaty. The Commission delineates EU commitment to burden sharing as such:

The EU is providing and envisages further technical and financial assistance under relevant Community instruments (Tacis, Meda, Eneas) to support these countries in their efforts to better manage migration, including an effective and preventive policy in the fight against illegal migration. In addition, the New Neighbourhood Instrument will include management of migration as one of the priority areas for cooperation.¹²

Nevertheless, funds available at the EU level are limited by voters’ concerns over spending and the ensuing reluctance of governments to build a comprehensive and far-ranging strategy for the prevention of human trafficking and regularisation of immigration. Currently, a window of opportunity for developing and testing concerted approaches exists as the numbers of asylum seekers are down to a level last seen some twenty years ago.¹³ Should a future crisis in a global flashpoint unleash a massive refugee

¹⁰ ‘Asylum Levels and Trends in Industrialised Countries’, UNHCR 2005, Online: <http://www.unhcr.ch>, Last accessed: 8 Apr 2005.

¹¹ Druke L., ‘Refugee Regimes in the Post-Communist States’, in *From Ethnicity to Migration*, ed. Krasteva A., (New Bulgarian University Press, Sofia, 2004), pp. 132-133.

¹² *Study on the Links between Legal and Illegal Immigration*, European Commission Communication, COM (4 Apr 2004) 412, p.15.

¹³ Partos G., ‘Europe’s Asylum Trends’, BBC News Online, Online: <http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/europe/4308839.stm>, Last accessed: 6 Apr 2005.

flow, Europe would be caught unprepared unless the present opportunity is seized and harmonisation measures are taken.

ASYLUM APPLICATIONS 2000-04	
2000	605,440
2001	655,130
2003	508,070
2004	396,380
Change 03-04: -26% (Requests to 50 industrialised nations)	

Table 3.1 – The Decline of Asylum Applications 2000-2004

Source: UNHCR, Online: www.unhcr.ch

Europe – ‘fortress’ or a beacon of hope?

While governments have been increasingly preoccupied with keeping irregular migrants away from Europe, restrictive measures have failed to act as a viable deterrent. There is a marked contradiction between rhetoric of ‘zero immigration’ and the actual demand for foreign labour. Immigration is dubbed ‘illegal’ because of the restrictive regulations aimed at preventing it. It is moulded by state policy – differences in national legislations lead to unbalanced migratory flows within Europe - while trafficking is actually abetted by incompetent and half-hearted measures.

The challenges posed by illegal immigration can be met most propitiously by coherent and well-thought strategies, involving different actors (governments, the public, law enforcement, the media, EU institutions, countries of origin and transit) and heeding

the multitude of factors involved. More often than not, greater attention is paid to border policing and enforcement than to assisting countries of origin and cooperating on a multilateral level. The paramount importance attached to security leads to futile attempts to tackle the consequences, instead of addressing the root causes. Thus, EU policy on immigration, while making modest progress, which was discussed at a greater depth in Chapter 2, is still impeded by state concerns of sovereignty and control of territory and population. This inevitably leads to decision-making at the lowest common denominator.

The emphasis on border policing threatens the Union's commitment to human rights and fundamental freedoms - reiterated by the EU Charter. Essentially, freedom of movement and the choice of residence are regarded as fundamental human rights. The need to conciliate immediate interests and political concerns on the one hand, with moral and humanitarian considerations on the other, constitutes a conundrum that needs to be unravelled by concrete measures. Claude-Valentin Marie puts the dilemma bluntly in his 2003 report for the Council of Europe:

The concern is no longer simply to ensure 'closure', but also to 'select' and to ensure 'rotation'. How can 'flows' be adjusted to 'demand' in terms of quality and quantity? ... In short: how can the best be attracted, those who have become useless be got rid of and the undesirables kept out?¹⁴

While a cost-benefit analysis may appear cynical, one must bear in mind that those who advocate the idea of sealing Europe's borders to refugees actually depict immigrants in a wholly negative light. Therefore, an appreciation of the potential economic, social and cultural benefits that the European Union may reap from regularised immigration may

¹⁴ Marie C., *Preventing Illegal Immigration: Juggling Economic Imperatives, Political Risks and Individual Rights*, (Council of Europe, Strasbourg, 2003), p.81.

effectively challenge popular misconceptions and provide a breakthrough for synchronised action in the field.

The main shortcomings of the recent developments in European asylum policy, as seen by representatives of the civil sector and international institutions, are inextricably connected to the dichotomy between the need to uphold human rights (protection of refugees as the paramount goal) and the predominance of border policing on the EU cooperation schemes (effective checks on immigrant flows being the aim). Most notably, decision-makers have been criticised for their excessive reliance on the principle of ‘manifestly unfounded applications’¹⁵ and ‘safe third country’, which is seen as overly-restrictive and potentially dangerous for genuine asylum seekers who may be forcefully sent back to persecution in their countries of origin. The UN High Commissioner for Refugees, Ruud Lubbers, illustrates the lack of unequivocal commitment on the part of the EU as follows:

The number of asylum seekers has dropped sharply and will continue to do so. There is no need to focus so single-mindedly on reducing standards and trying to deter or deny protection to as many people as possible¹⁶

While the EU governments spent 10 billion dollars on immigration policy alone last year, most of these funds were dedicated to strengthening administrative and enforcement capacity rather than to cooperation with third countries. Governments of countries of origin and transit often view immigration as Europe’s problem and expect

¹⁵ Manifestly unfounded applications – most of the European government have adopted provisions aimed at speeding up the process of evaluation of asylum requests. There are a number of ‘shortcuts’ now in place that allow for the immediate rebuttal of ‘manifestly unfounded’ applications. For example, immigration authorities have drafted lists of safe countries whose nationals are automatically denied humanitarian protection.

¹⁶ ‘Europe’s Next Challenge’, *Refugees*, UNHCR, 135, 2 (2004), p. 7.

greater assistance. The asylum systems of countries such as Ukraine and Belarus, at the eastern land frontier of the Union, and Morocco, Libya and Tunisia, in the south, are plagued by permanent under-funding, lack of adequate training and expertise, corruption and inefficiency. In addition, their human rights credentials need to be bolstered in order to ensure the fair and humane treatment of refugees. It should be noted that many of the states bordering the EU are simultaneously countries of origin and transit. Thus, Europe needs not only to focus on buttressing their asylum systems but also on providing financial assistance and development aid targeted at improving their economic situation and thus reducing propensity to emigrate.

EU policies vis-à-vis irregular immigration are confronted by a plethora of challenges to which no easy answers are present. While the need to develop a concerted and streamlined approach seems imminent, considerations of state sovereignty and domestic interest prevent genuine commitment and full-fledged policy building. While all aspects of illegal immigration are subject to debate, the attainment of human rights and dignity should be prioritised in accordance with commitments expressed by the Constitutional Treaty. In addition, the best strategy needs to be comprehensive and multi-faceted, considering the numerous implications of illegal immigration. The EU would benefit from reassessing its asylum system and taking concrete steps in order to curb corruption and inefficiency while reinforcing administrative capacity. In the field of security, the fight against organised crime and trafficking can be facilitated by better communication and joint operations and training undertaken by Member States and countries of origin and transit. Finally, the European Union is obliged by its intrinsic commitment to human rights, democracy and the rule of law to set the example for other

countries by ensuring fair treatment of refugees, in line with international law instruments.

4.3 Integration

The arrival and subsequent settlement of significant immigrant populations has had a multi-faceted impact on the social, political, economic and cultural milieu of Europe. Immigrants are characterised with their ‘otherness’ – they share certain features that distinguish them from other members of society. On the theoretical plane, the challenges posed by the need to include foreigners within the basic framework of society have been met by two rivalling approaches. First, the ‘melting pot’ model – implemented by the traditional countries of immigration such as the United States, Australia and Canada – calls for complete integration of newcomers and their gradual assimilation by the established society. While immigrants are entitled to the same treatment and opportunities as everyone else, they are responsible for taking the right steps in order to fit well in the recipient community. Thus, specifically tailored programmes such as citizenship and language courses are provided for them. More importantly, the ability to integrate is a core requirement for admission of potential immigrants.

On the other hand, the concept of ‘multiculturalism’ advances the tolerance of diversity, equal treatment and acceptance of the cultural differences of immigrants. It was used either as a descriptive term (depicting multicultural societies) or as a prescriptive

concept (encouraging societies to embrace the multicultural model).¹⁷ As opposed to the melting pot model, multiculturalism is deployed by states that do not explicitly consider themselves as countries of immigration. Therefore, it possesses a degree of flexibility, allowing for the equal treatment of temporary migrants who may not wish to settle permanently and would rather retain strong ties with their home cultures.

The relevance of these models and the necessity to integrate immigrants are underpinned by two of the basic principles characterising democracy. The notion of democratic participation postulates that all members of a political community should have a share in the decision-making processes that decide on that community, its governance and its future.¹⁸ Another key feature of Western democracies is respect for differences in culture between individuals and groups, and respect for their beliefs and identities.¹⁹ Thus, European governments have to ensure participation of immigrants and their endowment with certain political and civil rights, if democratic deficit and under-representation are to be avoided.

The current political and legal situation in Europe leaves third country nationals disenfranchised – despite being resident and paying taxes in their countries of origin, they do not have a say in decision-making. This leads to democratic deficit, which undermines the immigrants' sense of belonging to the recipient community. Since they have fewer rights than other members of society, they may feel that they should have fewer

¹⁷Niessen J., *Diversity and Cohesion: New challenges for the integration of immigrants and minorities*, (Council of Europe Publishing, Strasbourg, 2000), p.37.

¹⁸ Entzinger H., 'Immigrants' political and social participation in the integration process', in *Political and Social Participation of Immigrants through Consultative Bodies*, CE Directorate of Social and Economic Affairs, (Council of Europe Publishing, Strasbourg, 1999), p.9.

¹⁹ *Ibid.*, p.11.

responsibilities as well. In addition, the view of European societies has to be taken into consideration. Notably, native citizens may oppose the rapid enfranchisement of foreigners who have not yet proven their willingness to follow the rules and respect the customs of the host society. Recent developments in Community legislation, such as the Directive on Long-term Residents, aims to invest immigrants with more rights and provide for fuller participation and social inclusion. Nonetheless, the distribution of civil and political rights remains a prerogative of national governments. Their measures directed against the lack of full-fledged democratic participation face two alternatives – extending voting rights to foreign immigrants or encouraging naturalisation.²⁰

The benefits of integration strategies can be assessed both on the individual and on the state level. On the individual plane, adequate provisions and measures may improve the economic situation of immigrants by providing language and skills training which would make them more competitive on the job market and may facilitate upward mobility. Legislation that aims to induce integration is characterised with the extension of economic²¹ and social²² rights to third country nationals. On the state level, host countries may accrue social, political and economic benefits by advancing practical projects related to improving cohesion within the society and facilitating integration.

²⁰ Entzinger H., 'Immigrants' political and social participation in the integration process', in *Political and Social Participation of Immigrants through Consultative Bodies*, CE Directorate of Social and Economic Affairs, (Council of Europe Publishing, Strasbourg, 1999), p.15.

²¹ Economic rights include the right to private property, the freedom to work, the right to trade, and the right to provide or receive services.

²² Social rights include the right to equality (of opportunity and/or outcomes), the right to education and health care, and the right of employment.

Integration initiatives – theoretical models and approaches

European governments have faced the need to draft adequate strategies for integration ever since it became apparent, in the late sixties and early seventies, that the great majority of ‘temporary’ workers were to settle permanently and bring their families along. This paradigm shift is shrewdly illustrated by a Swiss official’s statement, as quoted by Hans Rasmussen – ‘we asked for workers and got people instead’.²³ Thereby, the presence of a significant foreign population, endowed with a ‘baggage’ of cultural traditions, religious rites, social norms and linguistic distinctness, was seen by many as a direct affront to the nation-state and its traditional concern with state sovereignty. The need for genuine commitment to integration came to the fore when it turned evident that the second generation of immigrants, people born and brought up in the host country, often faced alienation and suspicion. They resided in predominantly urban areas, forming ethnic and linguistic enclaves, characterised with poor living conditions, high unemployment rates, sub-standard health care and scarcity of educational opportunities. In sum, immigrants were caught in a vicious circle of poverty, discrimination, and ignorance, which resulted in their marginalisation and exclusion from society.

The integration instruments, adopted by European governments, can be defined along two sets of characteristics. The first one is the duration of the desired outcome - whether it is permanent or temporary. Naturalisation seems as the most permanent and decisive strategy for integration as it automatically grants citizenship and invests immigrants with equal rights and obligations, drawing them within the social contract.

²³ Rasmussen H.K., *No Entry: Immigration Policy in Europe*, (Copenhagen Business School Press, Copenhagen, 1997), p. 90.

The failure to recognise the specific conditions and needs of migrants may challenge the success of this approach. Thus, if immigrants are granted citizenship within a short timeframe, they may be unable to meet the greater expectations in terms of contributions to society. Perhaps, an extension of specific integration measures (state-sponsored language courses and vocational training, allowance for refugees, job counselling, etc.) may offset the negative effects of rapid naturalisation. Measures with more transient effect are those that target foreigners and attempt to extend certain rights to them, while avoiding the granting of citizenship. A possible drawback is the uncertainty of immigrants' situation – they are made dependent on specific policies and their rights and privileges may be revoked at any time, the extreme to this being expulsion. The second pair of defining features impinges on the scope of the approach – i.e. whether the measures taken target individuals as such or as part of a general community.

There are two main theoretical models that focus on integration as a strategy designed to operate at the individual level – the *individual rights* model and the *multi-cultural* model²⁴, which was mentioned above. The first of these approaches is the most individualistic of all – it posits total incorporation of immigrants within society and their direct communication with state institutions, without using intermediary organisations. The multi-cultural model, however, recognises the development of immigrant communities, albeit being aimed at individuals as well. It commits state and non-state actors to equal treatment and accommodation of diversity, while endorsing the formation

²⁴ Entzinger H., 'Immigrants' political and social participation in the integration process', in *Political and Social Participation of Immigrants through Consultative Bodies*, CE Directorate of Social and Economic Affairs, (Council of Europe Publishing, Strasbourg, 1999), pp. 21-25.

of intermediary groups that facilitate two-way communication between immigrants and the government.

The *corporatist* model differs from the other two in that it develops a group approach. Integration and social participation is provided to immigrant groups as coherent entities and not to individuals per se. Belonging to the group is defined according to ethnic, religious and linguistic characteristics and subjects immigrants to specific rights and policy measures. They are tailored to improve social standing or to protect and uphold certain cultural traits. Similar to the individual rights paradigm, the corporatist model adopts a top-down way of social integration, i.e. individuals and groups are subject to rules and regulations and have a limited consultative role.²⁵ On the other hand, multiculturalism gives a greater say to each social member, be it a group or an individual, and endorses diversity and cohesion by heeding public feedback and consultation – this effectively adds checks and balances to decision-making.

Public opinion – perceptions of otherness

Public opinion is a direct determinant of integration policies as European governments always heed voters' concerns in view of their vested interest to get re-elected. The need to dispense limited resources within the state forces decision-makers to seek a balance between specific and general integration measures.²⁶ The public usually

²⁵ Entzinger H., 'Immigrants' political and social participation in the integration process', in *Political and Social Participation of Immigrants through Consultative Bodies*, CE Directorate of Social and Economic Affairs, (Council of Europe Publishing, Strasbourg, 1999), pp. 21-25.

²⁶ Niessen J., *Diversity and Cohesion: New challenges for the integration of immigrants and minorities*, (Council of Europe Publishing, Strasbourg, 2000), pp. 50-59.

perceives specific policies negatively as they allot funds for projects that benefit immigrants only – examples include vocational training, assistance to refugees, job quotas (affirmative action), readmission and resettlement support. It should be noted that certain European societies, namely the Scandinavian countries, are accustomed to a history of immigration and integration policies and thus are less likely to voice concerns over specific measures. On the other hand, general policies serve society as a whole and target migrants only as an added value. Such projects often focus on reducing poverty and marginalisation across the populace, regardless of ethnic origin.

Many Europeans perceive the ‘otherness’ of immigrants, in terms of skin colour, language, religion, customs, tradition, as a potential threat. Attitudes towards foreigners can reflect concerns about localised ‘threats’ focusing on issues such as crime and job insecurity. Already present social scourges are thus seen as being exacerbated by the inflow of immigrants. *Conflict theory* is used to elucidate ethnic exclusionism – the desire to keep those who are different away from society. Its central notion is that competition for scarce resources between people generates conflict and the drive to exclude others. Hence, when majority groups are confronted with non-national ‘outsiders’, they tend to react to perceived competition by constructing obstacles against minorities’ incorporation into society.²⁷

Nevertheless, negative attitudes and suspicion are not set in stone and the citizens of Europe are provided with many opportunities to understand the benefits of diversity

²⁷ *Majorities’ Attitudes Towards Minorities: Key Findings from the Eurobarometer and the European Social Survey*, Coenders M., et al., EUMC, Online: <http://www.eumc.eu.int/eumc/index.php>, Last accessed: 12 Apr 2005, p. 21.

and multicultural dialogue – through personal encounters, EU-wide information campaigns, responsible and tolerant media discourse, and multi-ethnic education. The 2003 Eurobarometer survey ‘Justice and Home Affairs’²⁸ reveals that two-thirds of the Europeans across the old Member States support the view that legal immigrants should have exactly the same rights as national citizens. If adequately appreciated and enunciated at Community level, positive attitudes can add momentum to European policies on immigration and integration initiatives.

Immigrant Women and Integration

The avoidance of generalisations and stereotypes, alongside the consideration of immigrants’ identity and individuality must be the cornerstone of any auspicious integration strategy. Sensitivity to gender is a crucial point in hand – not only women have special needs but their situation as immigrants is complicated by their sudden ‘insertion’ into a milieu of novel cultural, moral and social values, some of them contradictory to their own traditions. In the post-war decades - when immigration to Europe was seen as a temporary import of workforce from abroad – the gender perspective was virtually non-existent. The profile of the average immigrant was ‘male, single, between the age of twenty and thirty’.²⁹ The feminisation of migration, as recognised by international institutions and expert bodies, is a relatively new phenomenon. The number of female migrants has been on the rise over the last two decades and women currently constitute just over fifty per cent, according to OECD

²⁸ *Justice and Home Affairs*, Eurobarometer Survey, (European Commission, Brussels, 2004), pp. 16-23.

²⁹ Rasmussen H.K., *No Entry: Immigration Policy in Europe*, (Copenhagen Business School Press, Copenhagen, 1997), p.90.

estimates. There are two main reasons for this. First, refugees fleeing war and communal violence are mainly women and children as the men are usually involved in combatant activity (males are often forcefully conscripted and separated from their families). Second, women immigrants increasingly arrive at host countries alone or with their children but without the husband. Thus, their situation is compounded by assuming the role of a head of family and having to raise children, while making a living.

The Council of Europe recognises five main obstacles that need to be faced by integration schemes for immigrant women:³⁰

- the legal status of immigrant women, which depends too often on overly restrictive regulations of family reunification;
- language difficulties, especially for primary immigrants and first generation women – mothers;
- the lack of job qualifications or, particularly in the case of refugees, failure to recognise existing qualifications due to the lack of a system for the recognition of degrees and diplomas;
- the isolation of women with large families, whose time is taken up by household responsibilities and childcare;
- the problems posed by rural background and illiteracy, which are particularly manifest in urban societies, where competition for jobs is severe and certain skills (computer literacy, understanding of communication technology, language proficiency) are seen as the necessary minimum.

The implications that arise from the need to conciliate integration strategies with the special needs and peculiar situations of women are in a way illustrative for the general relationship between host societies and immigrants. The contradiction of cultural

³⁰ *Immigrant Women and Integration*, Council of Europe, Directorate of Social and Economic Affairs report, (Council of Europe Publishing, Strasbourg, 1995), pp. 7-8.

values, religious beliefs and social norms is at the core of the debate among rivalling models of assimilation, multiculturalism, or corporate consociationalism. Sometimes the expression of identity is seen as a direct threat to the fabric of society – such was the case with the ban on Muslim women to wear headscarves in France. Numerous dichotomies (cleavages) arise from the juxtaposition between immigrants and European societies: religious-secular, traditional-innovative, indigenous-foreign, Christian-Muslim among others. Immigrant women's role is particularly complex as they are subject to traditional schemata (social constructs) to a greater extent than men – i.e. they are often part of patriarchal communities whose values contradict those of modern European states. Therefore, they are often relegated to 'invisibility'³¹ and isolation from host societies, while at the same time a lot is expected from them – raising and children (often teaching them their native language and familiarising them with traditions of the community), doing domestic work, taking care of elderly relatives.

Integration strategies must face the challenge of immigrant women's social exclusion and provide the opportunities for participation in terms of work, societal groupings, cultural activities, vocational and language training, adequate access to healthcare facilities, etc. Importantly, integration needs to take place within the context of multi-cultural dialogue, while often facing suspicion on the part of the families and confronting the underprivileged socio-economic status of many immigrants.

4.4 Conclusion

³¹ Costa-Lascoux J., 'Immigrant Women: out of the shadows and onto the stage', in *Immigrant Women and Integration*, (Council of Europe Publishing, Strasbourg, 1995), pp. 17-21.

Illegal immigration is a multi-faceted phenomenon that is inherently difficult to define, measure and analyse. The construction of adequate strategies that could curb human suffering and political complications associated with it is a challenging task that provides no easy solutions. Considering the size and scope of the phenomenon, it is evident that unilateral decisions and temporary designs can only exacerbate the situation further. The current state of divergent national legislations on the matter induces the illegal element of immigration and allows human trafficking networks to operate propitiously – spurring growth of crime, corruption and undermining security. Currently, EU policy-making on immigration looks like an equation in which governments and supranational actors are trying to find the balance between state sovereignty considerations and the necessity to adopt comprehensive strategies that cut across national borders.

This equation is compounded by the need to craft solutions targeting all stages of migration – departure, transit, arrival and settlement. Without adequate emphasis on the integration of immigrants, all policies will be incomplete. All integration strategies would eventually operate on three levels: community of the recipient country, government, and the individual immigrant. Ensuring adequate commitment by all actors involved seems to be the only way to resolve the challenges and harness the opportunities.

Chapter 4: Immigration – a Source of Opportunities?

4.1 Introduction

Controversy is an inherent characteristic of immigration – different standpoints, often opposed to one another, influence policy-making in the field. Nevertheless, if one adopts a less emotive and more technical perspective, it would become evident that immigration can indeed have a positive role to play in recipient countries. Benefits should not be assessed solely as a cost-benefit economic equation, but rather in a more multidisciplinary fashion – paying due attention to social, cultural and political aspects. Undoubtedly, the increase in work migration inflows is not a win-win situation for all. The negative sides of it need to be adequately appreciated by all the actors involved. Overall, it should be recognised that so far the flow of immigrants from poorer towards richer countries has proven to be a lasting phenomenon unaffected by increased security measures. It could be argued that the EU needs to focus on ways of coping with the problems and channelling them towards more positive outcomes instead of paying lip service to the impossible task of maximum border security and enforcement. Having said that, there are no easy solutions and the creation of a coherent immigration policy is an immense endeavour. Perhaps, a fairly impartial discussion of some of the issues at stake could facilitate a greater understanding of the opportunities posed by immigration.

4.2 An Ageing Europe – The Grey Revolution

The twentieth century has been a period of considerable demographic transformations in Europe – the interplay of various factors determined the outlook of population change. The decline of traditional high fertility societies, the devastating world wars and the constant migration outflows were counteracted by the drastic fall of infant mortality, the advance of medical science, and the ongoing increase of the average lifespan. Ironically, the greatest political, social and economic advancements achieved by Europe currently provide the most significant challenge to its continued prosperity. The increasing affluence brought by auspicious post-War reconstruction led to a rapid increase in the number of births during the 1950s and early 1960s. This generation of ‘baby boomers’ is currently at the zenith of its active life, given the average age of retirement that currently stands at fifty-nine. While the post-War generation has contributed immensely to the economic ascendancy of the EU, its retirement is seen as an imminent threat to a continent with a shrinking workforce. Indeed, one of the main feats of ‘social Europe’ - the welfare state - complicates matters further – generous pension and social security schemes need an increasing active population able to sustain them.

The ageing of Europe’s population is a cause of concern for EU policy-makers. Immigration is generally seen as potential resource that may to a certain degree offset the negative implications of the demographic decline. Eurostat¹ estimates, envisaging an annual inflow of 450,000 work migrants, predict a decline in the EU-25 working age population from 303 to 297 million by 2020, and to 280 million by 2030. In addition, the

¹ European Statistics Office. Online: <http://epp.eurostat.ec.eu.int/portal/>. Last accessed: 12 Apr 2005.

number of people over sixty-five will increase from 71 in 2000 to 93 million in 2020, and up to 110 million in 2030 – accounting for about one-fifth of the total EU population (see Fig. 4.1 below).² These figures are alarming, especially when heeded against the backdrop of a general lag in growth rates for the Eurozone, labour shortages in sectors such as research and development and IT, a constant rise in oil prices, and increasing competition from the buoyant economies of China and the US. The current demographic downfall has a direct impact on European economic growth, as recognised by Constantinos Fotakis in his report for the Commission:

The period of the 70s and 80s, where the low volume of job creation and the poor levels of GDP growth were the limiting factors for providing adequate employment growth for the fast growing EU working age population is giving way to a new policy environment, where the stagnation and decline of working age population may now become a limiting factor for GDP growth³

One may argue that the need for policy adaptation is urgent, given the EU's commitment to longstanding growth and prosperity for its citizens. Despite of that, any adjustments in an area as sensitive to European societies as the welfare state are bound to proceed carefully and in consideration of public opinion. There is no single way out of the crisis, but rather a multitude of potentially favourable factors that could be harnessed by adequate policy building. At present, immigration policies are still not tailored to Europe's current situation and economic needs. There is an emphasis on security and state interest, as discussed in other chapters, which precludes the maximisation of benefits at community level. It has become evident that Europe's gates cannot be closed and 'zero immigration' has been rendered unfeasible. The reason for this is the rise in

² *Communication on Immigration, Integration and Employment*, European Commission, COM (6 Jun 2003) 336, p.12.

³ Fotakis C., 'Demographic ageing, migration and the challenge for labour market and pensions', *The Economic and Social Aspects of Migration – Conference jointly organised by the European Commission and the OECD*, Brussels, 21-22 January 2003, (OECD 2003), p.3.

illegal immigration, which defies tightened border security. Thus, a coherent immigration policy may achieve a two-fold effect in relation to Europe's current malaise. On the one hand, it would regulate the inevitable inflow of migrants and curb the growth of human trafficking – i.e. reinforcing the rule of law and enhancing security. On the other hand, the management of immigration, in line of Europe's needs and economic, political and social outlook, may act as a tonic for sustaining and even augmenting growth and development.

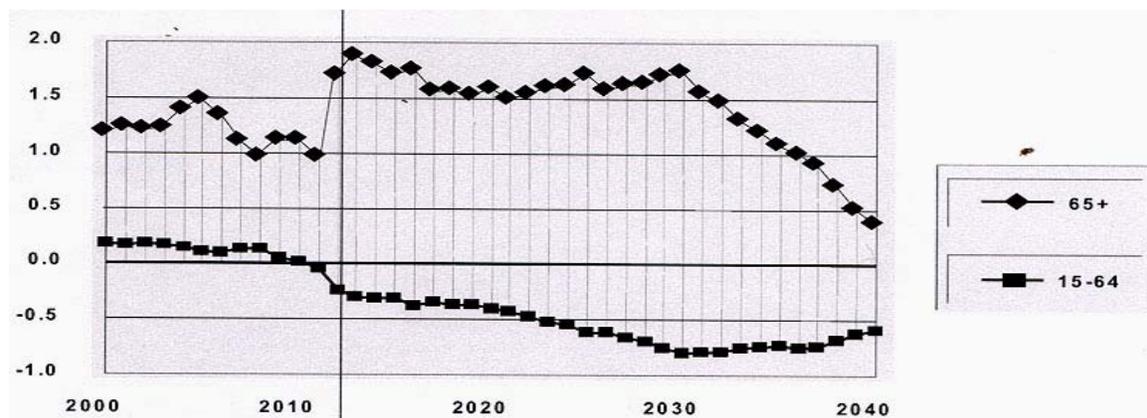


Fig. 4.1 – Annual rate of growth of population aged 65+ and 15-64, EU 25, period 2000-2040.

Source: 'Communication on Immigration, Integration and Employment', European Commission, COM (6 Jun 2003) 336.

4.3 Regulating Immigration

It should be recognised that immigration alone cannot reverse the demographic decline and eliminate the strain on the welfare system. Eurostat estimates that even if immigration levels were to triple, there would still be labour shortages in certain sectors. Therefore regulated policies need to be applied in tandem with structural reforms of the welfare system and a gradual course of increasing the average age of retirement. In

addition, the EU economy can benefit from greater mobility within the internal market. The Lisbon Agenda espouses growth and increased employment (up to 70 percent) as priorities for Europe. The way to achieve them necessarily includes greater investment in science, education, research and development. While improving the prowess of its own workforce and keeping it abreast of twenty-first century technological developments, the European Union needs to take a more decisive stance in ‘the battle for brains’ with other industrialised economies. In order to attract the required migrants, whether being highly educated or having specific skills, the EU would benefit from reassessing its admission policies and reducing administrative burdens that arise from divergent national legislations. There are several specific areas, discussed briefly below, that merit special attention due to their central role in the management of immigration.

4.3.1 Access to employment

In order to fully tap the potential of migrant workers, the EU needs to improve its regulatory mechanisms, reducing bureaucratic constraints and administrative burdens. Currently, unemployment levels for immigrants are higher than those for natives (see Fig. 4.2 below). In line with the European Employment Strategy (EES), the utilisation of employment resources must be a priority for EU policy. Restrictions regarding residence and employment prevent the effective mobility of foreign labour. For example, a highly skilled professional legally working in one Member State would have to go through the same rigorous selection procedures if he/she is to apply for the same position elsewhere in the EU after the initial contract has expired. For low skilled workers and illegal

immigrants mobility within the Eurozone is practically impossible. As a result, immigrants accumulate at certain areas (mostly urban), boosting supply of cheap labour, which results in over-saturation of the local job market. In addition, the Community Preference rule – that sets a certain timeframe during which a job vacancy must be reserved for EU nationals – often precludes immigrants who have the required skills from taking up work. The EU Commission has expressed the needs for greater harmonisation between domestic labour markets – hence workforce reserves in one country could be used to fill out shortages arising in another Member State. Therefore, improved convergence between labour legislations and national initiatives (quota agreements with third countries, selective immigration, seasonal work) is instrumental for the full utilisation of immigrant contributions.

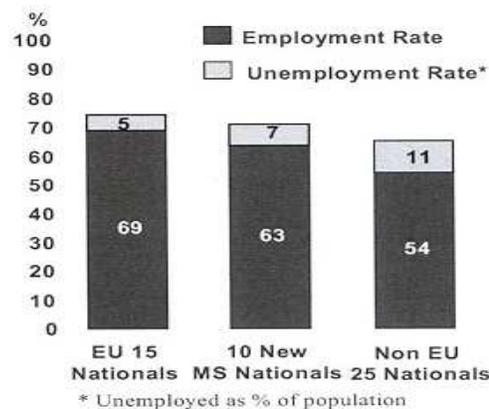


Fig. 4.2 – Employment rate and unemployment rate, 25-64 age group.

Source: ‘Communication on Immigration, Integration and Employment’, European Commission, COM (6 Jun 2003) 336.

4.3.2 Training and skills

The EU’s espoused commitment to life-long learning has the potential to bring greater flexibility in terms of job occupations and to increase the average retirement age.

If non-nationals are allowed to take part in vocational training, this may increase their participation both within the job market and society in general. The issue of financing arises, as European taxpayers are not likely to endorse considerable public spending on training work migrants. Therefore, immigrants can contribute to tuition themselves, perhaps by flexible schemes, such as payment in rates. Immigrant women need to be targeted specifically as in many cases their skills cannot be readily adapted to the EU labour market due to their rural background or particular indigenous cultural rites (e.g. women in many agrarian societies marry at a relatively early age and take up household responsibilities, which precludes them from obtaining formal education).

The acquisition of job-specific abilities for immigrants is a necessary step towards the reduction of unemployment levels among them. It could also serve as a selective process aimed at protecting native workers from ‘social dumping’ by unskilled cheap foreign workers. The argument is that if immigrants invest in their qualifications in the country of origin, they could value the cost of their labour more and avoid working for sub-minimal wages. In addition, certificates issued by vocational institutes would equate non-nationals’ qualifications with those of locals and certify a certain level of expertise.

4.3.3 Education and recognition of qualifications

Immigrants, asylum-seekers in particular, are often stereotyped as people with low educational attainment. In fact, many of them are members of their countries’ intelligentsia and upper classes and have been forced to flee due to their political

persuasions.⁴ Unfortunately, the lack of proper system for the recognition of degrees and certificates forces them to work the so-called 3-D jobs (dirty, dangerous and demanding work).⁵ Europe could benefit from the skills and expertise of such individuals only if a proper system of educational equivalents is put in place. In addition, common misperceptions portraying immigrants and refugees as ignorant and illiterate need to be counteracted by measures aiming to increase public awareness and promote equal treatment.

4.3.4 Integration within the recipient society

Improved social cohesion and the provision of equal opportunities for immigrants are instrumental for the effective integration of foreign workers and their families. However, as discussed elsewhere, the approximation of rights between foreigners and EU nationals needs to be complemented by sharing responsibilities if governments are to avoid popular backlash. Specific induction measures, such as language courses and familiarisation with the host society's cultural values and customs, need to be coupled with special interest in second-generation immigrants. Indeed, the social exclusion of people who are usually born in the host country (second generation) is alarming and points to a serious social problem. The European Charter of Fundamental Rights calls for the treatment of non-nationals on an equal footing with citizens in spheres such as access to education, health care and certain political and economic rights.

⁴ Dimitrova M., Chairperson of the Assistance Centre for Torture Survivors – Sofia, personal interview, Sofia, 12 Jan 2005.

⁵ *Study on the Links between Legal and Illegal Immigration*, European Commission Communication, COM (4 Apr 2004) 412, p.9.

EU policy in the field of integration distinguishes between immigrants on the basis of the duration of their stay and their status (seasonal or contract workers, statutory refugees, persons granted temporary humanitarian protection). Therefore, short-term migrants are denied certain rights such as family-reunification. From a humanitarian perspective this may be wrong – family as a social institution is protected under international human rights case law and the European Convention on Human Rights. Nevertheless, if foreign workers who are in the EU with short-term contracts were allowed to bring in their families they would be most likely to settle. Thus, it becomes evident that the efficient regulation of migration is sometimes in opposition to human rights standards. Once again, the question of balancing between freedom, democracy and security arises. Out of purely economic concerns, there is a manifest need for greater flexibility in determining the status of non-nationals. For example, temporary workers who may be able to fill out labour shortages after the expiry of their contract are currently not allowed to do so.⁶

4.4 Selective Immigration

Traditional immigration countries, such as the United States, Australia and Canada, deploy different strategies for the attraction of foreign workforce. Along the lines of neoclassical economic theory, selective immigration is underpinned either by supply or by demand. Demand-driven immigration policies are essentially temporary and seek to recruit foreign labour for specific gaps within the domestic job market. Thus, integration is not considered and what matters are the immediate costs and efficiency of

⁶ 'Assessment of the Tampere Programme and Future Orientations', (European Commission Communication, 2 Jun 04).

the guest workers. The supply-based approach focuses on long-term aspects, i.e. the value of human capital, present and future employability, and the prospects of integration within the recipient community.⁷ When supply is the driving force behind immigration, the selection process is much more holistic as opposed to the narrow job-specific requirements espoused by the demand-based strategy. Consideration of education levels, age and language proficiency are assessed as factors that influence an individual's potential for integration. Admission processes may include a points system (as in Australia and Canada) or programmes targeted at specific groups (IT-Personnel: H-1B visas in the US, Green cards in Germany, the shortage occupations list the United Kingdom and Australia).⁸ While selective immigration may appear as a viable tool for counteracting labour shortages, it is a highly contested policy and its overall merit is questioned in terms of its effects both on the recipient country and on the country of origin.

J. M. Ritzen and H. P. van Dalen (1992) provide some well-founded insights on the impact of selective immigration.⁹ The overall conclusion of their two-country economic growth model is that investment policy in human and physical capital is more conducive to optimal growth than a strategy of selective immigration. The authors see two main adverse implications for the recipient country. First, selectivity cannot be complete and legislative measures such as family reunification have a significant impact on it. Second, adaptation costs have to be included within the calculus. Furthermore, the

⁷ Muus P., 'The Economic and Social Aspects of Migration', OECD synthesis report, The Economic and Social Aspects of Migration – Conference jointly organised by the European Commission and the OECD, Brussels, 21-22 January 2003, (OECD 2003), pp.8-9.

⁸ Ibid.

⁹ Van Dalen H.P. and Ritzen J.M.M., *Economic Growth in a World of Divergent Populations*, Discussion Paper No. 8809/P, (Institute for Economic Research, Erasmus University Rotterdam, 1988), p.231.

study sees the shortcomings for the country of origin as more significant – ‘brain drain’ and loss of foreign investment (the model shows that physical capital investment by rich countries in poor countries declines with the increase of immigration). Under the assumptions that costs of training and education are relatively high and identical, the country of immigration benefits from ready-available qualified migrants, while the sending country compromises its investment in human capital. Ritzen and van Dalen’s macroeconomic model shows that in case that training and education expenses are low and differ, the reverse is true and the country of origin actually gains from emigration. This relationship leads to a potential ‘free rider’ effect for the recipient country – ‘a migration flow of skilled labour from the poor country to the rich country leads to a considerable saving in the training efforts for the rich country.’¹⁰

In this context, ‘brain gain’ can be interpreted as a way for rich countries to obtain the net benefits of highly skilled labour while avoiding the significant costs of its training and education. In response to that, the EU has reiterated the need to closely cooperate with countries of origin in its Tampere and Hague programmes. The needs of developing countries, which act as sources of emigration, can be met by strategies emphasising training and education for the indigenous workforce as opposed to ‘tied’ aid and outsourcing, which tend to capitalise on the economic discrepancy and wage differences. The Commission has advanced ideas about investment in education – i.e. Europe could cover some of the costs of training for potential migrants, thus ameliorating the effects of ‘brain drain’.

¹⁰ Van Dalen H.P. and Ritzen J.M.M., *Economic Growth in a World of Divergent Populations*, Discussion Paper No. 8809/P, (Institute for Economic Research, Erasmus University Rotterdam, 1988), p.231.

Selective admission policies can play a positive role in regulating flows and precluding the growth of undocumented migrants. Logically, illegal immigration cannot exist in a vacuum – its property of ‘illegality’ arises out of the apparent contradiction between the restrictive admission policies introduced by the EU since the early 1970s and the actual demand for foreign labour within the low-skilled and low-paid sectors of the economy. Thus, if Europe did not provide a constant demand for foreign workers there would be no work migrants and flows would be constituted exclusively of refugees whose numbers, as we have seen in Chapter 3, are relatively small and declining even further. The necessity of work migrants was recognised, as early as 1994, by the director of the Italian Chamber of Commerce who was quoted saying: ‘We need foreign labour. There is no competition between Italians and immigrants on the labour market.’¹¹ Many employers throughout Europe have reiterated this view, while politicians have prevaricated. Concerns with re-election set the tone for anti-immigrant rhetoric, as a right-wing wave swept across Europe.

Immigration is often used as a propaganda tool, playing on popular concerns for the unstable economy in the Eurozone, the difficulties faced by Member States’ welfare systems, and increasing unemployment rates. Nonetheless, it should be noted that immigrants are usually paid lower wages than the native workforce and thus engage in a form of ‘social dumping’. This is mostly true for low-skilled or seasonal labour such as construction, fruit picking, catering. Thus, blue-collar European workers perceive a direct

¹¹ *Le Monde Diplomatique*, No.478, January 1994, p.21.

threat from migrant workers – their inflow may lead to reduction of wage levels in specific sectors. The OECD analyst Philip Muus delineates the situation:

There are winners and losers in the host country. The winners are people who employ or use immigrant services and achieve economic goals at lower costs. The losers are the people who compete with immigrant workers in the labour market and experience a corresponding reduction in their income (low-wage workers).¹²

It is important to avoid the temptation of forging a direct link between immigration and the characteristics of the labour market in the Eurozone. While unemployment levels have increased in recent years, the inflow of immigrants has dropped after its peak in 1992 (see Chapter 3). In addition, the current unemployment outlook is described as structural – certain sectors and regions are plagued by inability to find the appropriate workforce and vacancies cannot be filled.¹³ Hence, while there is a high competition for certain jobs in certain areas, there are other occupations and regions whose demand for labour cannot be met by the available workforce resources. Perhaps this is where regularised migration inflows (selective immigration) may step in – if the EU develops a coherent Community-wide approach, the supply of foreign labour may be distributed in accordance with the structural demand. Such dispersal could avoid ‘social dumping’ as migrant workers would target specific niches in labour markets. In addition, immigrants could benefit from the added value in terms of higher wages, social security and up-to-standards working conditions once they are employed legally. Such a scenario, however, is not very likely under the current circumstances. The creation of streamlined

¹² Muus P., ‘The Economic and Social Aspects of Migration’, OECD synthesis report, *The Economic and Social Aspects of Migration* – Conference jointly organised by the European Commission and the OECD, Brussels, 21-22 January 2003, (OECD 2003), p.8.

¹³ Marie C., *Preventing Illegal Immigration: Juggling Economic Imperatives, Political Risks and Individual Rights*, (Council of Europe, Strasbourg, 2003), p.65.

EU-wide strategy vis-à-vis work migration needs a wide consensus between all the actors involved – governments, supranational institutions, host societies and immigrants.

4.5 Brain Drain vs. Brain Gain

As ‘brain drain’ is a relatively new term and thus subject to varying interpretations, it seems like a good idea to heed its definition as a point of departure in a discussion of the subject. Therefore, the IOM defines ‘brain drain’ as ‘Emigration of trained and talented individuals from the country of origin to a third country, due to causes such as conflict or lack of opportunities’.¹⁴ This is a definition loose enough to provoke debate and to leave room for a wide spectrum of diverging views. Brain drain vs. brain gain is actually a win-lose model that could be used to explain some of the repercussions of international migration. According to its logic, recipient countries benefit from highly skilled non-nationals, making use of the ‘free rider’ effect discussed in the sub-section above. On the other hand, countries of origin are sapped out of their best and brightest who are lured by the promise of greener fields abroad. The problem of this explanation of migration is that it is overly simplistic and fails to take into account several important factors.

First of all, there is the possibility of remigration that should feature in any serious analysis of the effects of brain drain. While little research on returning migrants has been conducted in Europe, OECD data shows that eventually 25 percent of immigrants to the

¹⁴ International Migration Law: Glossary on Migration. International Organization for Migration (IOM) 2004.

United States return to their countries of origin.¹⁵ Significantly, returning migrants have a positive impact on home economies – they have gained experience and skills that could serve as catalyst of growth and development. In addition, they would often invest their savings or use them to set up their own businesses, thus helping to curb balance-of-payments deficits.

Then, there is an important aspect of the ‘brain drain’ phenomenon that is often overlooked. More often than not, the ‘brain drain – brain gain’ dichotomy is seen as an extension of the traditional North – South disparity, i.e. it is the industrialised West that deprives the poor Third World, of its much-needed human resources. In reality, that is not quite the case. The biggest brain drain occurs between countries at the same general levels of development. The EU Commission has officially recognized curbing the brain drain to the US as one of the key priorities on its agenda.¹⁶ Its research shows that seventy-one percent of EU-born doctorate recipients who graduated in the US between 1991 and 2000 had no specific plans to return to Europe. On the other hand, OECD reports reveal that Chinese and Indian professionals display a greater propensity to return home after obtaining a degree and work experience in the United States. This remigration has been induced by incentives provided for them by their home governments – higher salaries, equipment, research funding and possibilities for rapid academic advancement. Therefore, the ‘brain drain’ challenge looms large before the enlarged EU in view of the Lisbon Strategy and the bid to build a dynamic knowledge-based economy.

¹⁵ Coppel J. et al., *Trends in Immigration and Economic Consequence*, OECD 2001, Economics Department Working Papers No. 284, <http://www.oecd.org/eco/eco/>.

¹⁶ *Weakening growth in investment and increasing brain drain: two major threats to the European knowledge-based economy*, EU Commission Communiqué, 25 Nov 2003. Online: <http://europa.eu.int/comm/research/press/2003/pr2511en.html>, Last accessed: 15 Mar 2005.

The European Union has another reason to worry. While it is fighting to curb the trans-Atlantic flight of its scientists and researchers, it is so far lagging behind in the ‘battle for brains’ from third countries. As evident from Figure 4.3, the traditional immigrant countries have succeeded in their ‘brain gain’ policies and in the case of Australia and Canada a hundred percent of the foreign-born workforce is highly skilled (with tertiary education).¹⁷ For Europe, however, the figures are more diverse and while some countries are benefiting from educated foreign labour, others are employing immigrants as a cheap and therefore unskilled workforce.

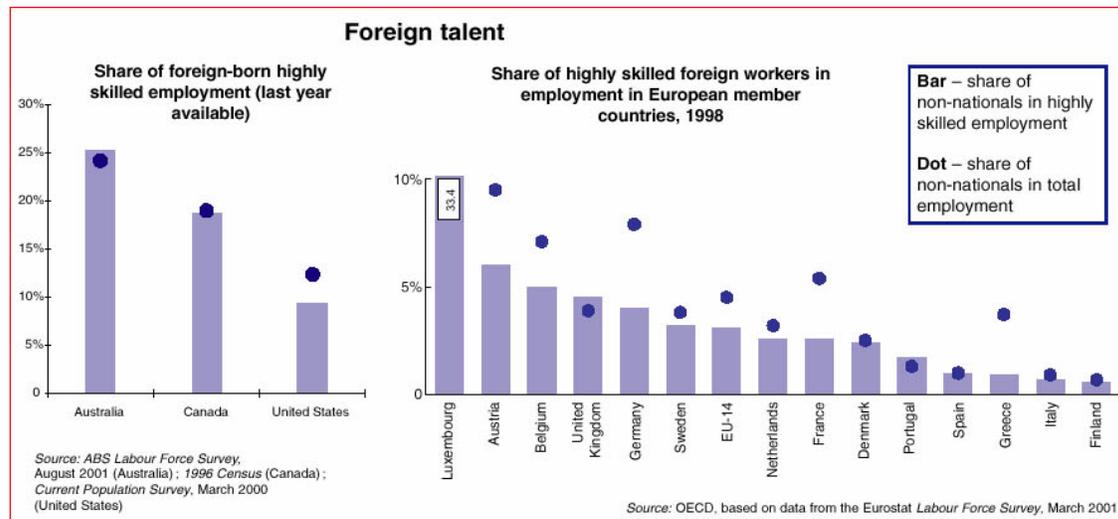


Fig.4.3- Labour Force Survey

Source: Eurostat *Labour Force Survey*, March 2003. Online: www.oecd.org, last accessed: 16 Mar 2005.

Finally, the brain drain can be seen as a natural function of wage differences between source and recipient countries. This is in line with the H.C. theory discussed in Chapter 1. Therefore, full-scale economic development is expected to alleviate income

¹⁷ Coppel J. et al., *Trends in Immigration and Economic Consequence*, OECD 2001, Economics Department Working Papers No. 284, <http://www.oecd.org/eo/eo/>.

disparities and reduce brain drain. However, various factors have to be taken into consideration, as people with high levels of educational attainment are usually concerned about a plethora of conditions, such as differences in the quality of life, equal opportunities for their children and job security¹⁸, in choosing a place of work and residence. Furthermore, despite J. N. Bhagwati's reiteration on the notion that 'brain drain is a disequalising force in a world with already high income disparities'¹⁹, the phenomenon is not inherently detrimental to the economies of countries of origin. A 'circulation of brains' – i.e. facilitated mobility of migrants between Europe and the countries of origin – may have a two-pronged effect and induce inter-state cooperation and economic transactions. Thus, immigrant workers, regardless their skill level and educational qualifications may benefit from their experience abroad and contribute to their home economies upon return. Greater economic prosperity in countries of emigration may act as an incentive for people to stay and seek employment at home. The circulation of migrants, students and researchers has the potential to make Europeans more familiar with other cultures and less prone to prejudice and bigotry.

4.6. Conclusion

Public perceptions of immigrants are often marred by negativism – people express fears of increased unemployment, cultural incompatibilities, rise of crime rates and increased strain on the welfare system. The positive contributions of immigrants to host societies are sometimes neglected by the politicians, the media, and the society in

¹⁸ Carrington W. J. and Detragiache E., 'How Extensive is the Brain Drain?', in *Finance & Development* 2 (36) Jun 1999, IMF, Online: <http://www.imf.org/external/pubs/ft/fandd/1999/06/carringt.htm>, Last accessed: 18 Mar 2005.

¹⁹ Bhagwati J. N. (ed.), *The Brain Drain and Taxation, Theory and Empirical Analysis*, Vol. II, (North-Holland, Amsterdam, 1976).

general. As Europe is currently facing a demographic crisis and a rise of labour shortages in certain areas, migrants could provide the necessary impetus for growth. Undoubtedly, immigration is not a panacea for all problems and needs to be coupled with legislative and administrative reforms that meet the challenges of ageing, unemployment, stagnating economic growth and inefficient welfare systems. Perhaps integration is the necessary prerequisite for successful immigrant participation within the EU. It should be seen as a two-way process – while immigrants are expected to make certain contributions, they must be treated as an integral part of society.

Conclusion

The discussion of immigration to the European Union in its current context, but also taking into consideration the theoretical and historical background, has arrived at certain findings that are structured along two main lines. First, this study argues that a coherent and streamlined European common policy on immigration has emerged as a better alternative to unilateral, state-centred approaches. Nevertheless, there are complex difficulties and imminent challenges that should be addressed. A common immigration policy should not be pursued at all costs but rather after a consideration of all aspects and divergent perceptions within the context of a broad and comprehensive public dialogue. Second, migration per se has been found to pose specific challenges and provide certain opportunities that are inherent to it and can be evaluated most propitiously from a multidisciplinary perspective.

The establishment of a common policy at the EU level seems suited to provide a feasible answer to challenges posed by immigration for several reasons. First, migration is highly fluid and defies state borders – i.e. even if the final destination is only one state, other countries are involved during transit. Then, according to the principle of solidarity, the Union has to provide concerted assistance to those countries most affected by immigration – mainly the border states in the Mediterranean and the new members of Central and Eastern Europe. Third, the current state of differing national legislations actually stimulates illegal immigration and leads to highly uneven refugee flow distribution. Immigrants, sometimes acting on the advice of human traffickers, benefit

from the more liberal admission regimes of certain countries, finding loopholes in their legislations, and thus flee to them en masse. One may argue that each government should have discretion over the admission rules as a matter of state sovereignty. However, the nature of migratory movements is such that they inevitably have an impact on other states as well.

The creation of common policies on immigration occurs against the backdrop of the European Union's commitment to human rights and fundamental freedoms. This places certain limits on the capacity for management of migratory inflows. Humanitarian concern, as provided by legal instrument such as the 1951 Refugee Convention, is paramount to security or economic contingencies. Therefore, the EU is obliged to allow the admission of certain types of immigrants – the minimum would be asylum seekers and family members of legal residents – even if it may be unwilling to do so for practical reasons. The attainment of certain minimum standards for the admission and treatment of immigrants is an added value of decision-making at Union level. The dialogue and debate among Member States, supranational institutions and civil society act as a reassurance for the fair and humane treatment of migrants. The possibility of judicial review by the European Court of Justice and the role in co-decision of the European Parliament place checks and balances within policy-making, which, in turn, provides for greater transparency and accountability.

The drafting and operation of concerted approaches for the management of immigration, however, is complicated by deeply engrained concerns of state sovereignty.

Indeed, migration impinges on the traditional vestiges of nation states – territory, citizenship, language, culture and tradition. Governments and citizens alike often see supranational decision-making in such a sensitive sphere as erosion of national sovereignty and independence. In addition, the public often poses vociferous concerns over their states' diminished ability to limit the flow of work migrants and refugees. It should be noted that governments often point the blame for increased migratory pressure at regulations and agreements at the EU level. This is usually a form of adept political manipulation aimed at placating public opinion. The negative effect of it is that it exacerbates society's hostility towards supranational decision-making on immigration and reaffirms its scepticism towards the potentially beneficial role of migrants.

The recognition of possible opportunities for Europe, provided by well-managed and regulated immigration, is a key point of this study. While the challenges are serious and defy easy solutions, they should not be allowed to diminish the potential benefits of migration. Within the context of an ageing continent and structural demand for labour in certain spheres, this study suggests that immigration may be part of the answer. Furthermore, the EU faces the need of qualified scientists and researchers if it is to achieve progress in the Lisbon Strategy and augment its economy on the base of knowledge. Thus, attracting highly skilled migrants through certain schemes and admission agreements could build on the examples set by the USA, Canada and Australia. Considering the fact that the economy is a community-wide preference, perhaps selective immigration measures could be most propitious if decided at the EU level. Finally, the undertaken study accentuates that immigration alone cannot be a cure-

all for Europe's problems. It could only work in tandem with measures such as reform of the welfare system, augmented investment in research and development, the increase of the average age of retirement and improved cohesion between the regions.

This study argues that harnessing the benefits provided by immigration cannot be achieved without an emphasis on well-thought and comprehensive integration policies. On the theoretical plane, economic models of migration posit that adequate participation in the labour market and fully-fledged contribution to the economy are precluded by the lack of adequate integration of immigrants. The lack of integration also has manifest social costs – research suggests that even second-generation immigrants often face alienation and suspicion, which relegates them to inferior positions and marginalizes their role within the recipient society. The integration approaches deployed by the EU can be characterised as being short-term or long-term. Short-term approaches focus on the reception of immigrants and their initial interaction with the recipient society impinging on their need to communicate with institutions and seek education, health care, employment and housing. Long-term measures include naturalisation on the one hand and the extension of certain rights to non-nationals.

While this study has discussed integration as a *sine qua non* for the successful management of immigration, it has also pointed out the inherent contradictions met by initiatives in the field. Therefore, integration strategies have to seek a social consensus, as broad as possible, that would prevent a backlash against immigrants by Europeans who

may feel that foreigners are given an unfairly large proportion of public goods and are favoured by the state.

The need for a comprehensive approach to immigration - involving many actors and heeding divergent points of view – has emerged as a recurrent motif within this work. Importantly, the EU has recognised the need to closely cooperate with third countries. Considering that migration is often portrayed as an equation of ‘push’ and ‘pull’ factors, it becomes evident that any strategy aimed at managing some of the issues involved should necessarily include a consideration of the main reasons that make an individual leave his home and family. As Euripides has posed in the 431 B.C. – ‘There is no greater sorrow on earth than the loss of one’s native land.’¹ – thus the millions that every year take the quest of hope that migration is are often faced with no other options. Therefore, immigration cannot be considered in isolation of its root causes. The dramatic disparities within the global system, interstate and domestic war and conflict, the uneven economic development and social rift in Third World countries, poverty, disease, natural and man-made disaster are poised to fuel the constant exodus of millions of desperate people. Accordingly, all attempts to regulate immigration on the part of the EU will be seriously complicated by the generation of continuous migratory pressure in a milieu of dramatic global disparity.

¹ Refugees and Immigrants – the View from Anthropology, a round table discussion within the framework of the ‘Work in Progress’ seminar series, chaired by Mr. R. Fsadni, University of Malta, 23 Feb 2005.

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