

# PROLIFERATION OF MIGRATION TRANSITION

Selected New EU Member States



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# Proliferation of Migration Transition

Selected New EU Member States

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*Things of this world are in so constant a flux,  
that nothing remains long in the same state.*

*John Locke*

## **Editor's Introduction**

There are few issues that are of such significance to civilisation or so consistently present on international, European, state and local agendas as migration. International migration – either voluntary or forced – has become a very complex issue, not only in terms of the number of international migrants, but above all in terms of their multifaceted demographic, economic, social and cultural dynamics. Migration thus plays a significant role in the evolution of societies in countries of destination and origin alike. As part of a transnational shift, which is reshaping societies and politics around the globe, migration has clear benefits that could be enhanced and disadvantages that could be minimised.

Castles and his colleagues (2013) claim that we are, once again, living in the midst of an age of migration. Some would say that does not mean much, since migration has been a major activity of human beings throughout human history. However, if it is possible to say that migration was occurring in each and every age of humanity, it is critical to note that reasons driving people to move at any one time are largely related to the distinct features of each age under consideration.

Never in human history was the number of international migrants greater than now. According to the United Nations (UN), the total number of international migrants, usually defined as people living outside the country of birth for a year, increased from an estimated 175 million in 2000 to 232 million persons today. This appears to be a large figure, but actually represents merely 3.18 per cent of the world's 7.28 billion people as of December 2014. Thus, international migration has remained stable in relative terms, while the number of international migrants has grown only slightly more rapidly than the overall global population. However, due to improved infrastructure and possibilities of travel, non-migratory forms of mobility, such as tourism, business trips and commuting, have rapidly increased in the past fifty years. Still, most people remain in their home territories and internal movement is far higher than international migration; it is estimated at 740 million people and is closely linked to international migration and driven by the same transformation processes (Bell & Muhidin 2009).

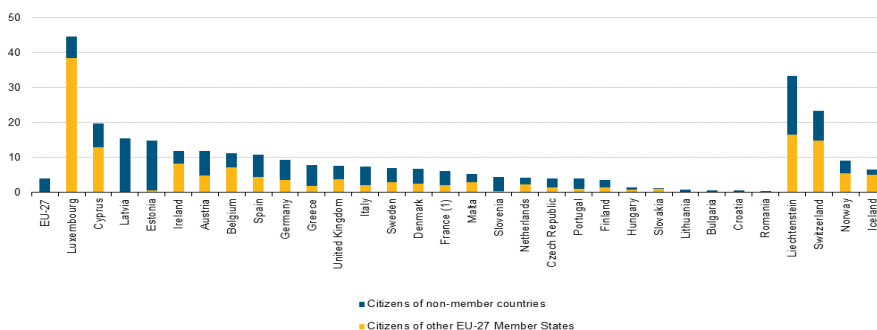
In response to these processes that manifest themselves in economic, political and cultural changes, but also in violent conflicts, new flows of migration are developing in parallel with long-standing

migratory patterns and their newly emerging forms. However, despite their diversity, there are certain general tendencies in contemporary migrations throughout the world, as identified by Castels et al. (2013: 16-17). Firstly, migration is becoming ever more globalised, as more countries are affected by international migration. Since the array of source countries of migrants is increasingly diverse, most countries of immigration host immigrants from a broad spectrum of economic, social and cultural backgrounds. Secondly, dominant migration flows are changing direction. In Europe, the long-standing outward movement aimed at conquering, colonising and settling foreign lands around the globe, reversed after the Second World War. Thus, for a continent that some 59 million people left between 1846 and 1939, immigration is a relatively new phenomenon. Thirdly, traditional countries of emigration become countries of immigration. The prelude to becoming a predominantly immigration country is often found in a growing transit migration. However, the proliferation of migration transition may also be reversed, as countries change from immigration to emigration. After 1945, virtually all countries of Western and Northern Europe became areas of labour immigration and subsequent settlement. Since the 1980s, Southern European countries, such as Greece, Italy and Spain, have also become immigration areas, although emigration has recently been increasing in response to the global economic crisis. More recently, Central and Eastern European states are experiencing significant emigration and immigration. Fourthly, most countries experience a whole range of types of migration and are increasingly less dominated by a single type of migration, such as labour migration, family reunion, refugee movement or permanent settlement. Differentiation of migration is reinforced by migratory chains, as one type of migration often continues with other forms despite – or often particularly due to – Government efforts to control or stop the movement. Fifthly, as women play an increasingly important role in previously mainly male-dominated labour migrations, it is also possible to identify a growing awareness of the feminisation of labour migration. Finally, politicisation of migration is growing, as national politics, bilateral and regional relationships and national security policies of states around the world are increasingly affected by international migration.

In the early twenty first century, Europe is confronted with an ageing population, stagnating or even declining native populations, high unemployment and, in most countries, slow economic growth. At the same time, Europe remains one of the prime destinations of global international migration. At the beginning of 2013, the population share

of immigrants in the European Union (EU-27) holding a citizenship of a non-member country, amounted to 4.1 per cent of the total population. In absolute terms, this means 20.4 million people. In addition, there were 13.7 million persons with the citizenship of an EU Member State living in another EU Member State. With the exception of Latvia, the Czech Republic and Luxembourg, people born abroad outnumbered foreign citizens in all other EU Member States. The share of people born outside the EU and living in an EU Member State amounts to 6.7 per cent of the population or to 33.5 million people. 17.3 million persons were born in a different EU Member State from their country of residence. The share of immigrants in the total population mainly reflects high immigration rates: during 2012, there were an estimated 1.7 million immigrants to the EU from third countries and an equal number of people previously residing in one of the EU Member States migrated to another Member State.<sup>1</sup>

**Figure 1** *Share of non-nationals in the resident population, 1 January 2013*



(1) Provisional.  
Source: Eurostat (online data code: migr\_pop1ctz)

Migrants’ motives and patterns of their movement are complex and channelled by ‘legal’ labels of their entrance: as students or asylum seekers, workers or family members, temporary or permanent migrants. Over the past decade or so, Europe has seen their numbers in each of these categories grow, particularly those of asylum seekers.

**Table 1** *Immigration by citizenship, 2012 (1000)*

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<sup>1</sup>Eurostat, Migration and migrant population statistics, [http://ec.europa.eu/eurostat/statistics-explained/index.php/Migration\\_and\\_migrant\\_population\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Migration_and_migrant_population_statistics)



	Total immigrants	Nationals	Non-nationals		
			Total	Citizens of other EU-27 Member States	Citizens of non-member countries
EU-27	1 693.9	:	:	:	:
Belgium	147.4	17.3	129.7	64.9	64.8
Bulgaria	14.1	5.0	9.1	4.1	5.0
Czech Republic	34.3	6.8	27.6	12.1	15.5
Denmark	54.4	18.6	35.8	19.8	16.0
Germany	592.2	87.2	503.6	298.5	205.1
Estonia	2.6	1.5	1.1	0.1	1.0
Ireland	54.4	16.5	37.9	22.3	15.6
Greece	110.1	42.6	67.6	24.8	42.7
Spain	304.1	31.6	272.5	100.3	172.2
France	327.4	115.8	211.7	90.8	120.9
Croatia	9.0	4.2	4.8	1.3	3.4
Italy	350.8	29.5	321.3	104.1	217.2
Cyprus	17.5	1.3	16.2	10.2	6.0
Latvia	13.3	9.6	3.7	0.5	3.1
Lithuania	19.8	17.4	2.5	0.7	1.7
Luxembourg	20.5	1.0	19.4	15.6	3.8
Hungary	33.7	13.4	20.3	10.4	10.0
Malta	7.1	1.8	5.4	2.5	2.9
Netherlands	124.6	36.4	83.0	51.2	31.8
Austria	91.6	8.3	83.2	51.9	31.4
Poland	217.5	135.9	81.5	24.4	57.1
Portugal	14.6	9.3	5.3	1.3	3.9
Romania	167.3	155.6	11.6	3.5	8.2
Slovenia	15.0	2.7	12.3	2.2	10.1
Slovakia	5.4	2.5	2.9	2.4	0.5
Finland	31.3	7.9	22.8	10.3	12.6
Sweden	103.1	20.5	82.3	25.3	56.9
United Kingdom	498.0	80.2	417.8	157.6	260.3
Iceland	5.0	2.3	2.7	1.8	0.8
Liechtenstein	0.7	0.2	0.5	0.2	0.3
Norway	69.9	6.7	63.2	36.8	26.4

(<sup>1</sup>) The values for different categories of citizenship may not be the sum to the total numbers due to rounding up and the exclusion of the 'unknown citizenship' category from the Table.

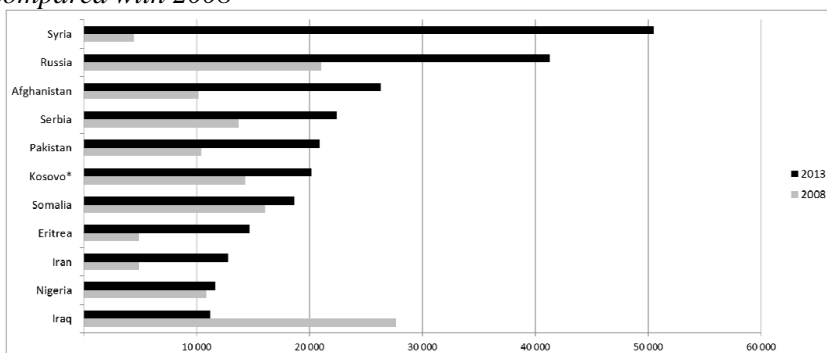
Source: Eurostat (online data code: migr\_imm1ctz)

Over the past five years, more than 570,000 asylum seekers were granted protection status in the EU.<sup>2</sup> In 2013, 435,000 asylum

<sup>2</sup> Eurostat News Release, Asylum decisions in the EU28, EU Member States granted protection to 135,700 asylum seekers in 2013, STAT/14/98, 19 June 2014, [http://europa.eu/rapid/press-release-STAT-14-98\\_en.htm](http://europa.eu/rapid/press-release-STAT-14-98_en.htm).

applicants were registered in the EU-28, well above the relatively low point of 200,000 applications in 2006.<sup>3</sup> During the first half of 2014, the UN Refugee Agency reports 216,300 registered asylum claims, a 23 per cent increase compared to the corresponding period in 2013.<sup>4</sup> Syrians and Russians accounted for nearly a quarter of all asylum seekers in 2013, ahead of citizens of Afghanistan, Serbia, Pakistan and Kosovo. A few old Member States receive the vast majority of asylum requests in the EU: Germany (127,000 applicants or 29 per cent of total applicants), France (65,000 or 15 per cent) Sweden (54,000 or 13 per cent), the United Kingdom (30,000 or 7 per cent) and Italy (28,000 or 6 per cent). New EU Member States have the highest concentrations of applicants coming from a single country: Poland (84 per cent of applicants come from Russia), Latvia (76 per cent from Georgia), Romania (68 per cent from Syria) and Bulgaria (63 per cent from Syria).<sup>5</sup>

**Figure 2** *Top citizenships of asylum seekers in the EU in 2013 compared with 2008*



\* Kosovo under UN Security Council Resolution 1244. Data from 2009 were used instead of those from 2008.

As presented in Figure 2, migrants come to Europe from an ever-wider range of countries, bringing diverse skills, values and experience, creating a multicultural society that only few envisaged. In contrast to demographic realities, many Europeans still do not see their countries as destinations for immigration, nor do they assume that immigration could turn into a permanent and possibly even necessary process. This contra-factual perception of migration realities became a major obstacle for the governance and management of migration and the

<sup>3</sup> Eurostat, *Key figures on Europe*, 2014 edition: 32-33.

<sup>4</sup> UNCHR, *Asylum Trends*, First half 2014, <http://www.unhcr.org/5423f9699.html>.

<sup>5</sup> Eurostat, *Key figures on Europe*, 2014 edition: 32-33.

implementation of liberal and proactive migration policies that support the free movement of people. Some politicians cling to national sovereignty, while the complexity and fragmentation of power and authority that result from European integration require Governments to cooperate with other organisations and institutions, both public and private, foreign and domestic. European integration challenged the sovereignty of national Governments from above and below, and the growth of supranational society gave rise to novel challenges and blurred formerly distinctive spheres of decisionmaking.

Furthermore, the effect of growing diversity and new communities defined by culture, ethnicity and faith on societies of immigration countries is another central issue. The societal meaning of diversity largely depends on the significance attached to it by populations and states of receiving countries. Some Governments move from policies of assimilation to policies of multiculturalism and integration, others may reject the idea of permanent settlement and often also oppose pluralism, which they see as a threat to national identity and unity.

Irrespective of official policies, immigration often leads to strong reactions from some segments of the population. People whose conditions of life are already changing unpredictably and have come to 'feel excluded' and 'left behind' at the time of economic restructuring and far-reaching social change may perceive immigrants and ethnic minorities as a cause of insecurity. By increasing the politicisation of immigration since the 1980s and trends contributing to the stabilisation of populist anti-immigration parties, migration related issues are now one of the key political issues in Europe with arguments becoming 'more hostile, blunt or outright offensive' (Sanderlind 2014: 2).

Challenges that migration poses to national identity and ideas of cultural as well as political unity embodied by the nation-state are perhaps even more fundamental. Such ideas of unity have often been fictitious – constructs of an imagined community by the ruling elite – but have provided powerful national myths (see Anderson 1991). Countries that place common culture at the heart of their nation-building process find it difficult not to link citizenship and naturalisation to cultural belonging (see Bauböck et al. 2009). It is commonly believed that an increasingly mobile world, growth of diversity and new forms of transnational connectivity, which have already called prevailing notions of the nation-state and citizenship into question, will shape the politics of many countries in the decades to come.

Thus, the movement of people has been a constant feature of

history, but the recent pace and breath of mobility have changed the face of Europe, bringing challenges and opportunities we have scarcely begun to address. In a quest for *Liberal Solutions for Europe*, the European Liberal Forum (ELF) embarked on a multi-annual project cluster focussing on 'New Concepts for Migration and Integration Issues'. The aim is to share knowledge and contribute to the on-going debate by highlighting areas of EU-wide importance and improve migration and integration related policies at the national and EU levels.

The initial idea for this book originated in another ELF-funded project entitled 'Migration: Europe's Challenge', which resulted in a series of seminars and the anthology that draws on experience gained by old EU Member States – Sweden, the United Kingdom, Italy, Germany and France – and Canada, as countries with a long history of migration, and attempts to provide solutions to better address the challenges and take advantage of many opportunities in the field of migration. The survey points to the need for complementing refugee and reunification immigration with clear channels for economic migration emphasising 'that less is more – not less overall migration and more state control, but less state dirigisme and more economic migration' (Murray & Ådahl 2010: 17).

Generally, migration studies emerged as an important discipline in colleges and universities across the world, with contributions from sociologists, anthropologists, geographers, political scientist, lawyers, economists, philosophers and others. There is also a growing interest in comparative research on migration and integration policies in major countries of immigration and, more recently, also on policies of emigration and intra-EU mobility both in Europe and overseas. However, most comparative studies are, in terms of their geographic scope, still limited to a small number of already well-researched countries. One of the basic rationales of this project was to look at new EU countries, which are rarely included in such studies.

In most new EU Member States, migration research seems to distinctly differ from that of Western Europe, especially before 2004. The early 1990s brought studies monitoring migration movements and new developments, mostly upon request of international organisations, such as the Council of Europe, the Organisation for Economic Co-operation and Development (OECD) and the International Organization for Migration (IOM), which, to some extent, reflected the fears of Western Governments regarding a sudden influx of Central and Eastern Europeans, enhanced by rapid political, social and economic changes in their countries. After 45 years of 'real Socialism', these countries, previously isolated by the Iron Curtain, were brought back into the

'migration continental system' (Drbohlav et al. 2009: 10-12). Until their accession to the EU opened new research opportunities, it was only the mid-1990s that saw the development of new research approaches and in-depth inquiries into causes and consequences of ongoing migration movements.

There were also other reasons for focussing on new EU Member States. The fifth and largest EU enlargement in 2004 was followed by the accession of Bulgaria and Romania in 2007. Subsequently, Croatia joined the EU in July 2013. This allowed us to study the ongoing impact of enlargement on concepts and policies of migration and integration. Furthermore, it also provided an insight into a wider context of migration as it has been evolving through space and time.

For states of Central and South-Eastern Europe, the past two decades or so have seen the most migratory movements since 1945. Migrations of this period may be identified in a number of ways, but at their heart, they are characterised by the dynamic relationship between geopolitical and economic changes and evolving patterns and processes of migration, normally traced back to 1989. This is associated to and symbolised by the fall of the Berlin Wall when decisions regarding individuals' mobility no longer belonged to the state. The wars of the Yugoslav succession dominated movements in the 1990s and brought sudden and massive forced movements, which affected flow regimes, created human rights difficulties and injected major uncertainties into the policymaking process. The second element consisted of undocumented and irregular migration, where smuggling of migrants and trafficking in human beings flourished. The third element includes several categories of migrants addressing labour market needs and shortages, family reunification and recently, in some countries, efforts to attract highly skilled economic migrants and address integration and cultural diversity. The fourth element is related to immediate considerations, including migration of people from across the Mediterranean Sea and the increasing intra-EU mobility often perceived as emigration and immigration proper rather than an exercise of the freedom of movement as one of the core liberal values constituting the very foundations of the EU.

Migration policies of new EU Member States have been partly shaped as a consequence of the process of integration into international organisations. In the 1990s, these countries acceded to the 1951 Geneva Convention for Refugees, with the exception of Slovenia and Croatia, which automatically became parties to the Convention on the basis of Yugoslav succession. After a timid start towards building an asylum system, migration policies have largely been shaped by

'Europeanisation' and the inclusion of these countries into the EU migration space, including transitional periods concerning intra-EU movement and mobility. Three EU enlargements to the East and South in a short span of time and the accession to the Schengen area fixed the EU's external border on the borders of new Member States. This creates a 'frontier region' located between the Schengen area and other areas in the immediate and farther vicinity. Inevitably, there are also differences in migration fields of individual new EU Member States, which reflect a range of historical links and geographical, particularly proximity processes and different policy approaches. These patterns and processes reinforce the diversity of migration experience and national debates across new Member States in relation to old EU Member states and the common EU agenda in this field.

In view of uncertainties brought about by the economic crisis, developments in the EU neighbourhood, particularly in Ukraine and Russia, the Arab World, especially Syria and the so-called 'Islamic State of Iraq and the Levant (or Syria)' (ISIL/ISIS), coupled with the observed weakness of liberal parties and movements in Central, Eastern and Southern Europe, rising xenophobia and populist debates predominantly focussing on identity politics, difficulties of border controls, problems of undocumented migration and immigrant integration, these countries are faced with rather complex migration prospects. This situation affects them either as countries of origin, transit or destination of regular and irregular migrants and accentuates individual issues in the context of challenges shared with other EU Member States in migration policymaking, as well as liberal ideas and values that have initially shaped regime changes in 'new' Europe.

This anthology provides a thematic overview of the topic and a better understanding of the various aspects of migration and policy concepts in new Member States and at the EU level.

With NOVUM (Slovenia) playing a coordinating role in this project and in partnership with FORES (Sweden), several ELF member organisations assisted in finding authors who contributed to this volume.

A general structure of country studies was suggested as a flexible guideline and the authors of individual country chapters were invited to provide a brief overview of the evolution and major changes in migration flows and stocks, policies and legislation, as well as political forces and rationales behind individual reforms of migration policies. They were also asked to address current political debates, views of political parties and other stakeholders, and suggest scenarios for future

developments from a liberal perspective. The result of this endeavour is an in-depth survey of migration flows, migration, asylum and integration policies in the following selected new EU Member States: Hungary, the Czech Republic, Poland, Slovenia, Croatia, Bulgaria and Malta.

The focus of contributions varies from country to country reflecting both the environment and context of the country from which authors come as well as authors' interests and expertise. Nevertheless, the topic of this book is mainly focussing on immigration from the outside of the EU or the so-called 'third countries'. In the seven countries included in this book, emigration played an important role in policy and integration reforms and debates until the present day. None of these countries enjoyed a continuous period of independence within the present state borders for more than 60 years. With the exception of Malta, all countries under discussion have undergone a transition from communist to democratic rule. They are 'young' democracies, three of them, i.e. the Czech Republic, Slovenia and Croatia, are post-partition states, if not 'new' nation-states in search of their own political and national identity. Immigration and integration of 'aliens', 'foreigners', 'third country nationals', 'non-citizens' and even certain citizens, either ethnic-kin or naturalised, including their participation in political community, is still closely linked to an ethno-cultural interpretation of nationality. Yet, 25 years after the fall of the Berlin Wall, and 10 years after the largest EU enlargement, new Member States are in a flux of migration transition from a 'sending' country to a transit country and finally an immigration country in its own right.

What are the aspects and perspectives of such transition? Is the proliferation of migration transition to new EU Member States an immanent component or more an outcome of political, economic and social transition and European integration?

In contrast to the state's triple essence expressed in post-communist transition – democracy, market economy and civil society – *Anna Krasteva*, contributing the 'Bulgarian migration profile', sums up the citizens' perspective of transition: migration, migration, migration. Indeed, every tenth person in Bulgaria chose to emigrate. As pointed out by *Krystyna Iglicka*, Polish analysts and policymakers are increasingly willing to acknowledge that the transition of Poland's migration status from net emigration to net immigration country is not, as it seemed twenty or even ten years ago, an obvious and even a quick change. As argued by *Attila Juhász* in the case of Hungary, this sometimes implies quite different concepts and perceptions of migration and migrants, promoting the immigration of ethnic kin (or

return of expatriates, emigrants and their offspring) in some countries where xenophobia and anti-immigration sentiment are growing strong in the absence of relevant political discourse and concrete experience with migrant populations. On the other hand, in contrast to the rather xenophobic majority population, the Czech Government is, according to *Tereza Blahoutová*, well aware of the need of immigration. The changes in demographic structure of the population have significant impacts on the pension and health care systems and migrants at the economically productive age are welcome as additional taxpayers.

Most analysed countries have been formulating and institutionalising their migration, asylum and integration policies by following the 'European logic' in the process of their European integration. Only Slovenia, as presented in my own contribution to this volume, adopted a declarative migration policy early in the pre-accession process, which, however, remains poorly implemented in some areas, most notably allowing the exploitation of migrant workers. As observed by *Julija Kranjec* and *Drago Župarić-Iljić*, migration policy in Croatia has been determined by higher political interests, the process of accession and the process of the Europeanisation of migration and asylum policy. In addition, it has been almost exclusively tied to administrative and legal aspects of migration, while specific economic, social, demographic, human rights and humanitarian aspects of migration and asylum trends are completely ignored. Similarly, *Ivan Sammut* explains how the EU membership and irregular immigration have framed recent debates about immigration in Malta. Drawing on fears that an island country as small and densely populated as Malta would not be able to adequately cope with the potential arrival of large numbers of immigrants from the EU and the South, i.e. North Africa and beyond, he concludes with an observation that 'ultimately, Malta's responsibility is the responsibility of the EU as a whole.'

This clearly demonstrates that Europe is currently faced with strongly different views on migration. On one hand, there is a general view that Europe could benefit from the increase in migration, while on the other hand, migration opponents express concerns about the security of EU's external borders and the burden that large immigration populations could place on countries' resources and welfare systems. The latter debate also refers to intra-EU mobility of EU citizens. Moreover, such debates are often polarising. In order to discuss the level of significance that can be attributed to a number of factors, the final Chapter of this book synthesises findings of this research project and aims to provide some policy recommendations.

This book is intended for anyone interested in the topic of



migration and particularly to members of the European Liberal Forum and the Alliance of Liberals and Democrats for Europe (ALDE) Party, experts, politicians, policymakers, public administrators and the general public. It is hoped that it will encourage more researchers to overcome the 'Western' bias that has shaped the field of migration and migration policy studies by including new Member States in their comparative studies. It is also hoped that it will contribute to further knowledge and liberal answers and solutions to migration challenges on national and EU policymaking, pointing out that distinct historic legacies and contemporary approaches to matters of migration and integration are increasingly challenged by the growing interdependence between states and people connected through mobility, migration and supranational integration.

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## **Hungary** *Attila Juhász*

### **1 Introduction**

From the point of view of migration, Hungary cannot be considered a destination country; it should also be pointed out that, with the exception of a relatively large Chinese diaspora, the vast majority of those settling in the country since the regime change are ethnic Hungarians.

After the regime change and even following its accession to the European Union (EU), Hungary did not become a major sending country. Compared to its size and especially to other countries in the region (Romania, Bulgaria and Poland), the rate of emigration from the country has been negligible. However, this trend has been showing signs of change in the past two years: an increasing number of Hungarians consider leaving the country and, in fact, they are leaving in larger numbers to seek work than before. The major immigration destinations are Germany, Austria and Great Britain.

Xenophobia and anti-immigration sentiment are strong in Hungarian society, even when compared internationally. This sentiment is extended not only to specific ethnic groups but to all ‘immigrants’, seen uniformly as alien and foreign. In the absence of relevant political discourse and concrete experience with migrant populations, social attitudes about immigration are shaped primarily by distant developments associated with migration and aired by the media, setting the tone of discussion about migration and migrants.

With the exception of prejudice, there is a scarcity of research on migration and migrants (especially emigrants) and migration policy in Hungary. While we now know more about migration trends, the integration of immigrants, their presence on the labour market and their contact with the majority population, also due to sporadic, mostly EU-funded research, there is a dearth of standard research on migration and professional teams focussing on these topics.

This offers a partial explanation of the fact that migration policies presented by successive Hungarian Governments are not supported by adequate background institutions and long-term policy strategies. Since the regime change, Hungary has lacked a migration strategy and since the majority of migrants to the country are ethnic Hungarians from neighbouring countries, the whole issue has been subsumed under national policy concepts promoted by successive Governments.

## 2 Historical background

Before the 1800s, mobility within Hungarian society was negligible, and it was all but inconceivable that average persons leave their ancestral home or take a job in a foreign country.

The first wave of migration in the ‘modern’ sense took place in the years following the 1848 revolution and war of independence from the Habsburg Empire. The revolution was followed by years of repression, during which many fled abroad and the majority of Hungarian freedom fighters found refuge in the Ottoman Empire and in some Western European countries. Over the years, many emigrated to overseas countries.

The first genuine mass migration took place at the end of the nineteenth and the beginning of the twentieth century. In a period of over 30 years, Hungary saw the largest exodus in modern history. Between the early 1800s and the beginning of the First World War, approximately four million people emigrated from the Austro-Hungarian Empire, 1,4 million from Hungarian territories. The authorities of the United States of America (USA) registered a total of 1,815,117 immigrants from Hungary. The discrepancy could possibly be explained by returnees, who eventually resettled in the USA.

The USA, a land of opportunities at the time, was the primary destination, although, somewhat surprisingly, not only the North but the South of the continent also attracted immigrants. As a result, aside from the USA, a large number of migrant groups settled in Brazil and Argentina as well. However, the New World was a disappointment to many. Immigration authorities found the majority of Hungarian migrants fit for work and only 0.5 per cent were denied entry into the country, which was considered an extremely low rate at the time.<sup>6</sup>

In the following period, emigration to the USA slowed to a trickle. For the most part this is explained by a struggling US economy and the US Government’s attempt to keep a distance from European conflicts, its isolationist policies and measures aimed at limiting immigration. Approximately 25 per cent of emigrants returned to Hungary. The achievements of the returnees showed a rather mixed picture. While after a few years in the USA many earned enough to buy 20-30 ‘holds’ of land, many others returning from America were less fortunate. In a letter dated 2 December 1913 and addressed to municipal authorities, the interior minister stated: ‘Many thousands returned to their homeland

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<sup>6</sup> Kerner Zs., ‘Elérkezett az új kitántorgás kora [The Age of New Emigration has Arrived], [www.index.hu](http://www.index.hu) [Hungarian news website], 23 November 2012 (Consulted on 1 February 2013; <http://index.hu/gazdasag/2012/11/23/kivandorlas/>).

broken in body and soul, in a state of destitution'.<sup>7</sup>

In terms of immigration to Hungary, the end of the nineteenth century brought major changes. The murder of Tsar Alexander II in the spring of 1881 set off a wave of pogroms in Russia and a large number of Jews fled to Hungary. The majority of them considered Hungary as a temporary refuge on their way to permanent settlement in America, Western Europe or Palestine. Even so, the appearance of foreigners raised popular fears of a 'Jewish invasion'. Moreover, some of the refugees came from Orthodox and Hasidic communities wearing traditional black kaftans, hats and earlocks, and spoke a language unintelligible to Hungarians. All this led to the spread of anti-Semitism in Hungary and the birth of political anti-Semitism. On 1 April 1882, a 14-year-old Christian girl disappeared in the village of Tiszaeszlár. Word quickly spread that Eszter Solymosi was killed by Jews to use her blood in their Passover rituals. While all anti-Semitic blood libel charges were refuted in court, the case had disastrous social and political fallout, leading to several violent anti-Jewish attacks across the country. Riding the wave of anti-Jewish sentiment, the National Anti-Semitic Party was established in October 1883. The new political formation attracted former governing party and opposition representatives alike. In the 1884 general election, the party gained several seats in Parliament.<sup>8</sup>

The outbreak of the First World War and its destructive impact on Hungary isolated the country for many years and opportunities for travel were severely curtailed. Nonetheless, due to the ravages of war Hungary suffered perhaps one of the largest population losses in its history when, following the Versailles Treaty, some 30 per cent of the country's ethnic Hungarians were stranded outside the state borders. The fact that a large part of the Hungarian community was cut off from their home country has left an indelible mark on Hungarian migration patterns and policies.

The Second World War and the preceding decade represent the next major phase in the history of migration. During that period, migration was motivated primarily by political instead of economic considerations. The revision of state borders, the spread of fascism and

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<sup>7</sup> Kollega T. I. (ed.) (1996), *Magyarország a XX. században /II. Természeti környezet, népesség és társadalom, egyházak és felekezetek, gazdaság [Hungary in the Twentieth Century/ II. Natural Environment, Demography and Society, Church and Sects, Economy]*. Szekszárd: Babits Kiadó (Consulted on 1 February 2013; <http://mek.oszk.hu/02100/02185/html/207.html>).

<sup>8</sup> Deme A. & G. Kádár 'Vérvádak, zsidóellenes zavargások, atrocitások és pogromok 1881-1885 [Blood Libels, Anti-Semite Unrests, Atrocities and Pogroms 1881-1885]', *Társadalmi Konfliktusok Kutatóközpont [Social Conflicts Research Centre]*. [www.konfliktuskutato.hu](http://www.konfliktuskutato.hu) (Consulted on 1 February 2013).

the approaching winds of war led to a surge in politically motivated emigration. Jews, Roma and members of the communist opposition tried to escape increasingly harsh conditions and subsequently to save their very lives. Accordingly, one cannot even talk about migration in the 'classical' sense in this instance. The phenomenon is more accurately described as flight and forced or impelled migration. There are no precise data on the exact number of people leaving Hungary by the end of 1930s. Some were forced to leave due to their political convictions by the authorities, while others left to escape the war. Due to an annual quota, the USA admitted few immigrants and, following 1938, Germany and Austria no longer offered refuge. South America, Australia and Canada remained the only options.

The deportation of Hungarian Jews is a milestone in the demographic shift attributed to the Second World War. The first deportations took place in the summer of 1941 under German pressure, although Jews felt relatively safe in Hungary up to that point. However, following the country's occupation by German forces, Jews were herded into detention camps and ghettos, and those living outside Budapest were deported.

After the war, the majority of emigrants were Nazi collaborators. The number of destination countries remained essentially the same, with South America and Australia topping the list. This led to the surreal situation where once persecuted Jews and their former pro-Nazi persecutors found refuge in the same country.

In the history of migration the third largest wave came after 1956. Hungary's tempestuous twentieth century history is well illustrated by the fact that for the third time in a century the country faced a situation where large masses were forced to emigrate. Following the defeat of the 1956 Revolution, when the last hope of victory died, tens of thousands took off in the direction of Austria. On the whole, close to 200,000 people left the country.

However, in 1957 the borders were closed and migration came to a virtual halt for many years and remained insignificant until the years preceding the regime change in 1989. For the most part of the second half of the twentieth century, when Europe became one of the world's largest immigration regions, Hungary essentially watched migration trends from the sidelines (Lukács & Király 2001).

### 3 Current migration

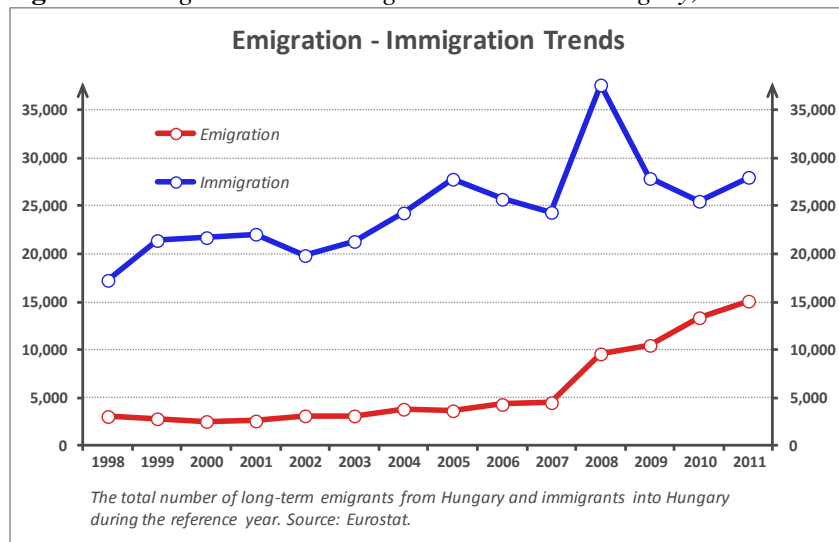
Somewhat surprisingly, the period following the regime change did not bring about a major difference in respect to migration. Even as the borders were thrown open, an anticipated mass exodus did not follow right away. The country's economic and mainly political landscape transformed thoroughly. To some degree Hungary, historically a country of emigration, became a destination and transit country, especially for ethnic Hungarians living in neighbouring countries. Nevertheless, even though Hungary lies in the path of migration used by people primarily arriving from the Balkans, South and East Asia, the Near East and the successor states of the former Soviet Union, who are hoping to settle in Europe, it is not considered a destination country and has not become one even after its accession to the European Union in 2004, despite previous expectations.

Hungary is not a destination country even for refugees. Each year Hungary accepts between 50 and 160 refugees, an extremely low number by international standards. After the turn of the millennium, the number of submitted asylum applications declined steeply and very few asylum seekers arrive to Hungary in comparison with other Western countries of similar size. For instance, some 2,104 asylum applications were submitted in 2010 and 1,693 a year later. In 2011, 47 people received refugee status and 110 people some other form of legal protection (98 subsidiary protections and 11 protections from refoulement on the basis of tolerated stay), while 632 applications were abandoned, in most cases due to the departure of applicants from the country to destinations in Western Europe (UNHCR 2012: 4). The rest did not and could not have stayed in Hungary, and were either deported or could alternatively opt to return to their country of origin through the Assisted Voluntary Return Programme operated by the International Organisation for Migration (IOM).

Irregular migration from third countries occurs mostly along major transportation routes from Serbia, the Ukraine and Romania. In 2008, the number of apprehended migrants at Hungarian borders was 3,251, which represented a slight increase compared to 2,598 in the previous year. The main countries of origin of these migrants include Serbia, Kosovo, the Ukraine, Moldova, Turkey, Pakistan and Somalia. When apprehended, most migrants typically apply for asylum. They obtain the right to free movement in Hungary for the duration of the administrative procedure for asylum, and it is estimated that some 60 per cent of them use this opportunity to further cross the EU internal borders in order to reach Western destinations (Futó 2010).

Until recently, it appeared that this state of affairs would stabilise over the long term, but new opportunities offered by Hungary's EU accession, the country's deep economic crisis starting as early as 2006 and political developments led to yet another wave of emigration. As shown in Table 1, the annual net migration rate remained below 20,000 persons with the exception of 2006. Even so, a positive balance of migration has helped to offset the country's population decline for a long time. However, in the European context, Hungary and its small migration surplus, had, until recently, more in common with Western and South European receiving countries than with East European countries characterised by net emigration. This may change in the near future. As the resettlement of ethnic Hungarians from neighbouring countries slows to a trickle, the rate of population decline could even accelerate in the foreseeable future. Moreover, a growing number of working-age Hungarians leave to seek work abroad, creating a labour shortage in Hungary primarily in professional fields and positions requiring skilled labour. The political elite look at the issue of migration with increasing urgency recognising that, following a short interlude when the country acted as a net receiver, it is likely to turn into a sending country again.<sup>9</sup>

**Figure 1** *Emigration and immigration trends in Hungary, 1998–2011*



Source: Eurostat: Emigration, <http://bit.ly/1aLSWvR>, Immigration: <http://bit.ly/19NJ94V> (extracted on 22 November 2013)

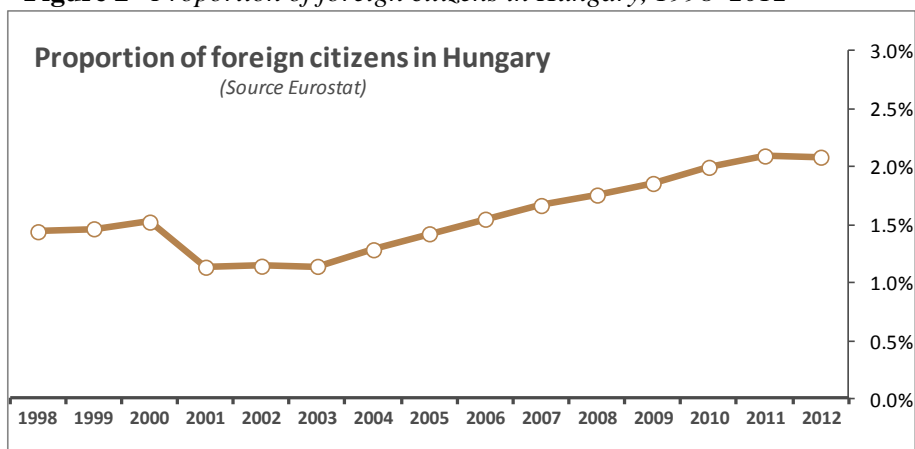
<sup>9</sup> J. Juhász, 'Hungary: Transit Country Between East and West, *Migration Information Source*. [www.migrationinformation.org](http://www.migrationinformation.org), November 2003 (Consulted on 1 February 2013).



### 3.1 Immigration

Currently, the proportion of foreign citizens in Hungary stands at 2 per cent of the entire population, which is considered insignificant by international standards.<sup>10</sup> The overwhelming majority are ethnic Hungarians from neighbouring countries, primarily Romania, the Ukraine and successor states of former Yugoslavia. There are roughly an additional 200,000 immigrants who are Hungarian citizens born abroad, the majority of them ethnic Hungarians from across the border. As a result, the percentage of foreign-born citizens currently stands around 4 per cent, a rate well below that in countries of similar size and geographic position (5 per cent in the Czech Republic, 8.2 per cent in Slovakia and 15.3 per cent in Austria). This means that roughly two-thirds of foreign citizens residing in Hungary and over 90 per cent of those who were granted citizenship are ethnic Hungarians coming from neighbouring countries (mainly Romania, the Ukraine, Serbia and Slovakia).

**Figure 2** *Proportion of foreign citizens in Hungary, 1998–2012*



Source: Eurostat table migr\_pop1ctz (extracted on 22 November 2013): <http://bit.ly/IjINMP>

Non-Hungarian immigrants form an extremely heterogeneous group representing over 170 countries. With the exception of a few groups (Chinese, Vietnamese, Turks and Arabs), no specific ethnic groups or communities can be identified. For instance, among the 800 to 1,000 Africans living in the country one finds citizens of more than 40 different countries. A large share of immigrants (40 per cent) live in the capital city, although in some groups this rate is significantly

<sup>10</sup> Eurostat News Release, 'Foreign citizenship made up 6.5% of the EU-27 population in 2010'. Eurostat, [www.ec.europa.eu/eurostat](http://www.ec.europa.eu/eurostat) (Consulted on 4 July 2011).

higher; 80 per cent and 90 per cent of the Chinese and Vietnamese, respectively, live in Budapest. The majority of European and American immigrants are 'expatriates' who often have relatively well paying jobs in higher positions, such as in diplomacy, business or education institutions. They typically come to Hungary for a limited time, and hence do not form distinct ethnic groups (Örkény & Székely 2010).

### *The Chinese community*

The Chinese are the largest non-European immigrant group in Hungary. Their numbers peaked in the early 1990s at approximately 40,000; the community's size began to decline after Hungary reinstated visa requirements for Chinese citizens in 1992. There are currently an estimated 20,000 to 30,000 Chinese living in Hungary including undocumented immigrants. The official number, which includes only legal immigrants, is 12,000 to 17,000. The majority of Chinese immigrants are men. A third of all migrants moved to Hungary on family reunion visas. More than 75 per cent live in Budapest. Those who do not reside in the Budapest metropolitan area have usually settled in large cities and county administrative centres, especially Szeged and Debrecen (Nyíri 2010).

Some 75 per cent of the Chinese work in the service sector, particularly the retail and wholesale trade. More than 80 per cent of them are active in the labour market, which is remarkably high compared to other immigrant groups and Hungarians themselves. From an economic perspective, the Chinese community can be described as part of the 'middleman minority', the ethnic-based network of traders that supply Europe with Chinese products. This network is supported by the Government in Beijing (Várhalmi 2010). According to Várhalmi (2010), Hungary has the most populous and oldest Chinese community in Central and Eastern Europe. Chinese migrants in neighbouring countries very frequently arrived through Hungary, which means that Hungary's Chinese have an influential network that spans over the entire region. In fact, both the Budapest and Beijing Governments want Hungary to become the distribution hub for Chinese exports to Europe.

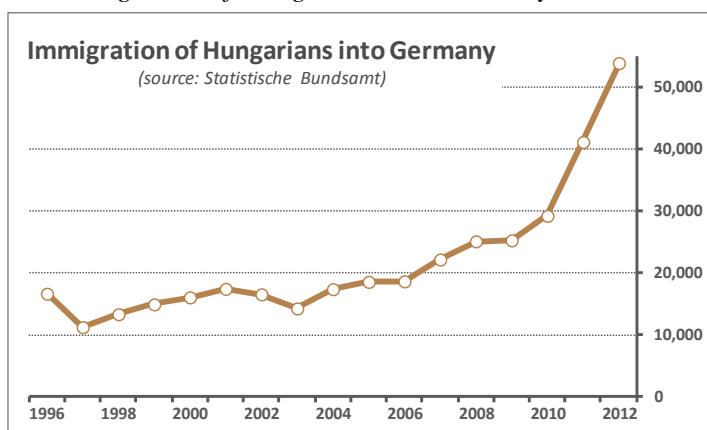
The Chinese have a strong sense of ethnic identity. They tend to form closed communities and more than 70 per cent of them keep their Chinese citizenship. The majority considers Hungarians to be xenophobic. Chinese migrants usually maintain much tighter relations with each other than with Hungarians, indicating a low degree of 'social embeddedness' or integration into the larger society.

### 3.2 Emigration

The current wave of emigration can be compared primarily to the exodus at the end of the nineteenth century; for the most part, it is also economic in nature as people leave in the hope of improving their living standards and not to escape political persecution. However, this time, instead of the USA, the primary destination is Western Europe, mainly Great Britain, Austria and Germany due to their relatively high average wages, high living standards and the advantages offered by the EU's legal environment. If the trend persists, the size of the current emigration may reach and even surpass the level reached over a period of 30 years between 1880 and 1910. True, it is difficult to predict what will happen at this point, as favourable economic or political developments may result in a major shift.

Today, EU Member States register close to 200,000 Hungarian citizens living abroad, twice the 2005 figure. According to the statistical almanac of Germany, one of the most popular Hungarian emigration destinations, 82,760 Hungarians lived in the country in 2011, their average age was 38.8 and they lived in the country for an average of 9.7 years. The number of Hungarians moving to Germany is clearly on the rise: there were only 3,000 Hungarians in 2009, while their number grew to 8,000 in 2010 and 17,000 in 2011. In October 2012, a whopping 19,049 Hungarian citizens stated their intention to settle in Germany.<sup>11</sup>

**Figure 3** *Immigration of Hungarians into Germany, 1996–2012*

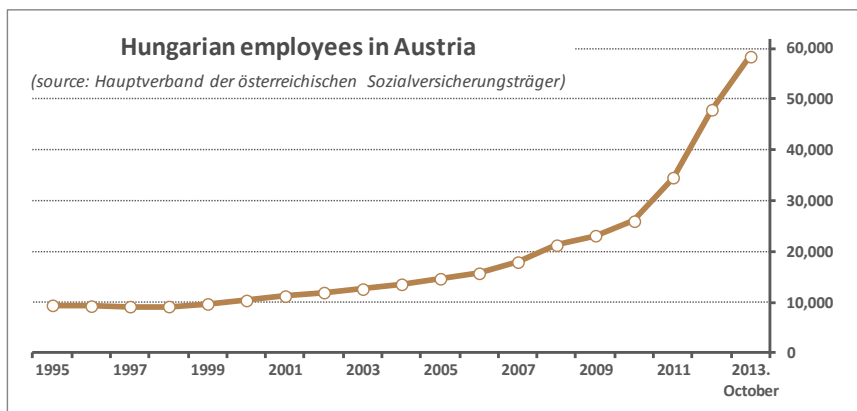


Source: Statistisches Bundesamt (Federal Statistical Office), <http://bit.ly/15vMRUA> (extracted on 22 November 2013)

<sup>11</sup> Destatis Statistisches Bundesamt [Federal Statistical Office, Germany] (2012), 'Zuwanderung nach Deutschland steigt im 1. Halbjahr 2012 um 15 % [Emigration in Germany Rises to 15 Per Cent in the First Half Year in 2012], [www.destatis.de](http://www.destatis.de) (Consulted on 1 February 2013).

According to the Austrian Labour Office, 58,411 Hungarians worked in the country in October 2013. This amounts to a 22 per cent increase in one year, and a 125 per cent increase compared to 2010, the largest rate of migration to Austria from any country. This number is boosted by a group of commuters representing around 700-800 people per day.<sup>12</sup>

**Figure 4** *Number of Hungarian employees in Austria, 1995–October 2013*



Source: Hauptverband der österreichischen Sozialversicherungsträger (Federation of Austrian Social Insurance Institutions). Extracted on 22 November 2013. <http://bit.ly/18d6rHo>

Some 120-150 thousand Hungarians, including their family members, live in the United Kingdom. Today, London is commonly referred to in Hungarian media as the fifth largest Hungarian city.<sup>13</sup> On average, 15,000 Hungarians apply for an official work permit and tax number each year, a clear indication of a strong influx.<sup>14</sup> According to the latest annual report by the UK Department for Work and Pensions, 24,668 Hungarians registered for a National Insurance Number (NINo) in the 2012/2013 fiscal year, which is 36 per cent higher compared to the previous year.<sup>15</sup>

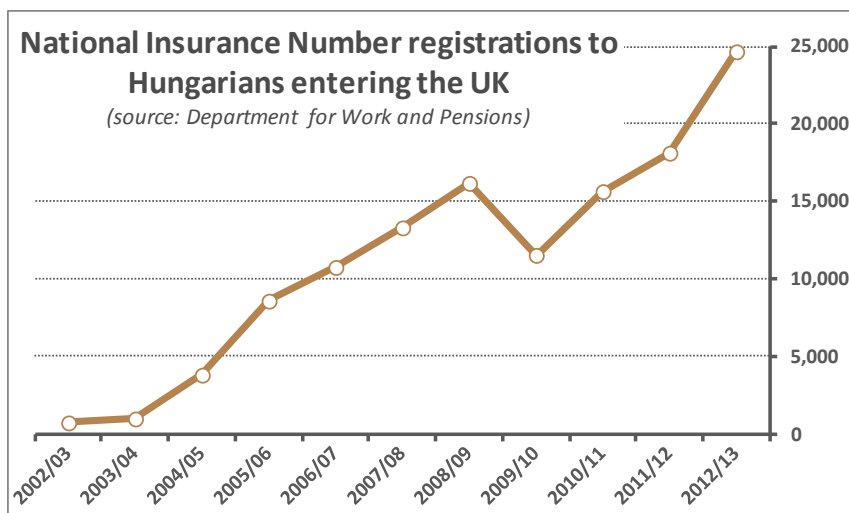
<sup>12</sup> Hauptverband der österreichischen Sozialversicherungsträger [Main Association of Austrian Social Insurance Institutions] (Beschäftigte Ausländer nach Staatszugehörigkeit), [http://www.hauptverband.at/portal27/portal/hvbportal/channel\\_content/cmsWindow?action=2&p\\_menuid=58267&p\\_tabid=2](http://www.hauptverband.at/portal27/portal/hvbportal/channel_content/cmsWindow?action=2&p_menuid=58267&p_tabid=2) (Consulted on 22 November 2013).

<sup>13</sup> Á. Stiller, 'London, az ötödik legnagyobb magyar város [London, the Fifth Largest Hungarian City],' *HVG* [Hungarian weekly magazine], [www.hvg.hu](http://www.hvg.hu), 7 February 2013 (Consulted on 13 February 2013).

<sup>14</sup> Department for Work and Pensions. NINo registrations to adult overseas nationals entering the UK from EU Accession Countries by Quarter of Registration and Nationality. [http://research.dwp.gov.uk/asd/asd1/niall/index.php?page=nino\\_allocation](http://research.dwp.gov.uk/asd/asd1/niall/index.php?page=nino_allocation) (Consulted on 1 February 2013).

<sup>15</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/233032/nino-statistical-bulletin-aug-13.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/233032/nino-statistical-bulletin-aug-13.pdf)

**Figure 5** *National Insurance Number registrations to Hungarians entering the UK, 2002–2013*



Source: UK Department for Work and Pensions. Extracted on November 22 2013.  
<http://bit.ly/1i1Aaat>

While in 2005 one per cent of the Hungarian population left to make a living in a foreign country, this indicator has by now increased to two per cent representing over 180,000 people. This trend, at least in terms of its scale, evokes memories of the great 1880-1910 exodus.

Then as now, the majority of emigrants do not come from the most destitute segment of society. For the most part, emigration is an option for the middle class, especially skilled workers and lately recent college graduates who, in most cases, are not held back by a lack of language skills either. Of course, Hungarians migrating to foreign countries again give different accounts of their experience. Many manage to find adequate jobs and living conditions, while numerous others face disappointment. In many cases, immigrants must accept jobs well below their qualifications ('washing dishes in London'), while others either fail to find work or fall victim to unscrupulous employers.

Aside from jobs in the catering business, most emigrants, young and old alike, find work in the construction industry. Healthcare workers and doctors also emigrate in significant numbers, which has already led to serious difficulties in Hungarian health services. After protracted haggling, the Hungarian Government gave in to medical interns' wage demands last year. However, it remains to be seen how long this can keep home healthcare workers who can multiply their

income several fold performing the same job in older EU Member States.

While skilled workers typically leave for a few months or maximum one to two years and many commute back and forth, the emigration of young professionals fresh out of school may lead to permanent settlement. Even younger emigrants enrol in local schools to obtain a diploma and increase their chances of entering a higher education institution abroad. Unsurprisingly, one of the major demands of Hungarian student demonstrations that started at the end of 2012 was the cancellation of student contracts proposed by the Hungarian Civic Alliance (*Fidesz – Magyar Polgári Szövetség*) Government, which required university students to make a loyalty pledge and commit to stay in Hungary and work for a number of years in the country's labour market in return for the state-funded education they receive. Simultaneously, the students also made clear their intention to stay in Hungary, adding the caveat that Government reforms must offer adequate education and employment opportunities.

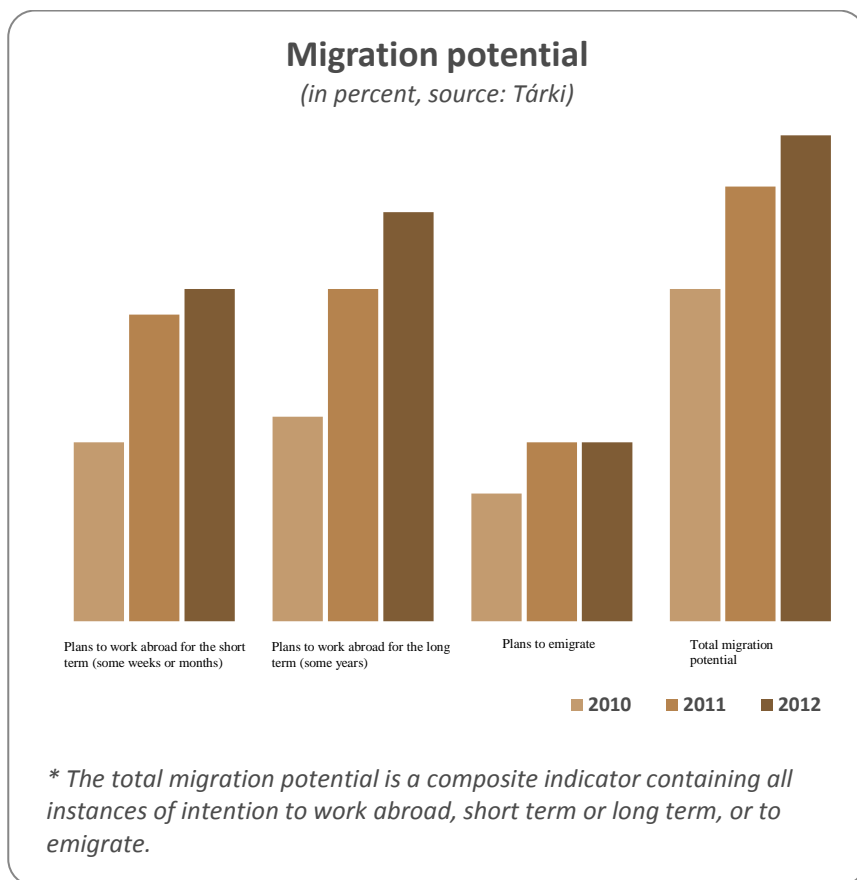
A survey commissioned by the Empirical Social Research Institution (TÁRKI) showed a whopping increment in the willingness to migrate in the past two years, rising from 13 per cent in 2010 to the current 19 per cent, which is probably one of the spectacular results of Hungarians' weak belief in the economic upturn of their own country.<sup>16</sup>

Such a high migration potential as currently observed in Hungary poses several threats to society. The long-term demographic effects are also not something to cheer up those who stay behind: the migration willingness was polled to be the highest among young Hungarians, as 48 per cent of those under 30 plan to leave the country.

In the Hungarian media, many commentators attribute the migration potential to developments following 2010, general dissatisfaction with the current Government and a sense of malaise. However, as suggested by the data presented above, the acceleration of emigration must be seen as part of long-term processes and the result of numerous, deep-rooted social and economic causes.

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<sup>16</sup> E. Sik (2012), Csúcson a migrációt tervezők aránya [The Rate of Wannabe Emigrants is at Peak] *TÁRKI [Hungarian Empirical Social Research Institution]*. [www.tarki.hu](http://www.tarki.hu) (Consulted on 1 February 2013) or *TÁRKI Monitor és Omnibusz felvételek, 1993–2012*. [http://www.tarki.hu/hu/news/2012/kitekint/20120523\\_migracio.html](http://www.tarki.hu/hu/news/2012/kitekint/20120523_migracio.html)

**Figure 6** *Migration potential in Hungary, 2010–2012*

Source: Hungarian Empirical Social Research Institution (TÁRKI), 2012

Firstly, social conditions in a number of areas reached a level conducive to more mobility for the first time since the regime change. In Hungary, a generation was born and came of age in an open society, a generation more likely to speak foreign languages and consequently not so averse to the idea of migration. Secondly, Hungarian society has come to accept and take for granted the right to free movement promoted by the European Union. Thirdly, Hungary has been in an economic crisis since 2006/2007, as already indicated above, and the population has been hit with painful austerity measures. After years of economic stagnation, there are few new jobs, living standards are declining and a large segment of the middle class is threatened with the prospect of losing its positions. Data show that migration has been on the rise at an accelerating rate since 2007. Finally, the rising number of

emigrants has created immigrant networks that may also accelerate the emigration process.

### 3.3 Anti-immigrant prejudice

Anti-immigrant prejudice and welfare chauvinism is high in Central and Eastern Europe (CEE), even though the percentage of foreign-born residents is but a fraction of foreign-born resident rates in Western Europe. These negative attitudinal tendencies are demonstrated by Political Capital's Demand for Right-Wing Extremism Index (DEREX). The theoretical model of DEREX comes from European Social Survey data, a biannual examination of values and attitudes, which have been narrowed down to the following eight countries: Slovakia, Poland, the Czech Republic, Romania, Bulgaria, Croatia, Slovenia and Hungary. The overall data shows that more than 30 per cent of people in every CEE-8 country oppose immigration (except in Poland and Slovenia).

In comparison to the twenty European countries surveyed in 2010, Hungary is in the lead in respect of prejudice (48 per cent of people) and far-right value orientation (32 per cent) (Table 1). When it comes to prejudice, there has been a slight improvement since the 2009 survey. At the same time, right-wing value orientation has increased, recently reaching its highest level, and the drift to the right in party politics observed in the past few years has been followed by a value shift to the right as well. On one hand, this is due to the fact that an increasing number of people position themselves at the 'far right' of the political spectrum, while on the other hand Hungarian society has adopted more 'law and order' values over the years. The parallel presence of hostile prejudiced attitudes, fear (19 per cent of respondents) and the high degree of right-wing value orientation provides fertile soil for the politically and ideologically motivated conspiracy theorising in Hungary.

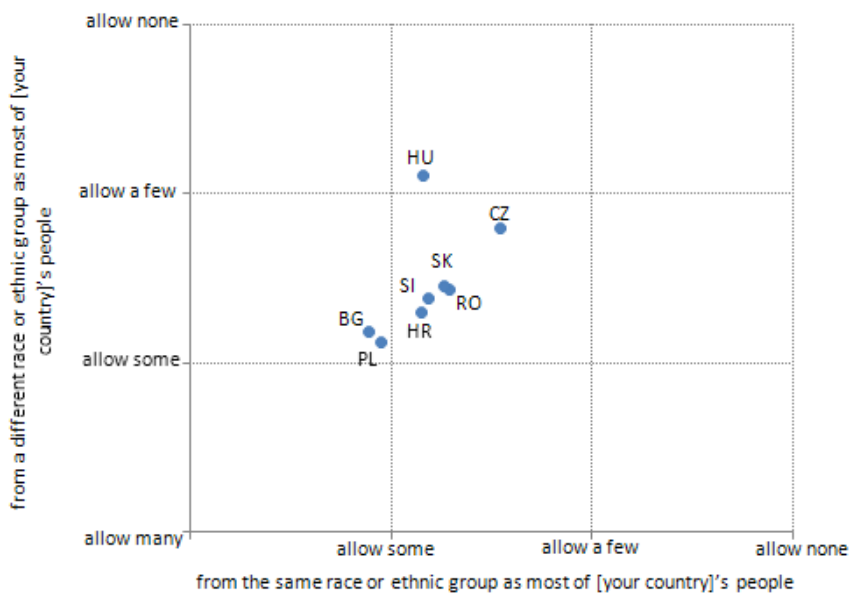
Survey data show that people are less opposed to immigrants who are members of the same ethnic group as themselves. Rejection levels in all CEE-8 countries were higher towards 'outsiders' (migrants who are ethnically different from the national majority). The difference is especially stark in Hungary. On a four-point scale, Hungarians' antipathy towards all immigrants is nearly one point higher than it is towards ethnic-Hungarian immigrants. Hungarians would accept 'a good number' of their ethnic kinfolk from other countries, while only allowing 'a few' non-Hungarian migrants to settle.



**Table 1** *The ‘champions’ of demand for right-wing extremism (DEREX), 2011*

<i>DEREX</i>	<i>Prejudice</i>	<i>Anti-establishment</i>	<i>Right-wing value orientation</i>	<i>Fear</i>
Bulgaria (18%)	Hungary (48%)	Bulgaria (45%)	Hungary (32%)	Bulgaria (39%)
Hungary (11%)	Estonia (41%)	Portugal (37%)	Bulgaria (30%)	Hungary (19%)
Portugal (11%)	Czech Republic (36%)	Slovenia (35%)	Poland (30%)	Portugal (19%)
Slovenia (8%)	Bulgaria (29%)	Poland (22%)	Spain (20%)	Czech Republic (14%)

Sources: ESS Round 5: European Social Survey Round 5 Data (2010-2011). Data file edition 1.0. Norwegian Social Science Data Services, Norway – Data Archive and distributor of ESS data.

**Figure 7** *To what extent should foreigners be allowed to settle in your country?*

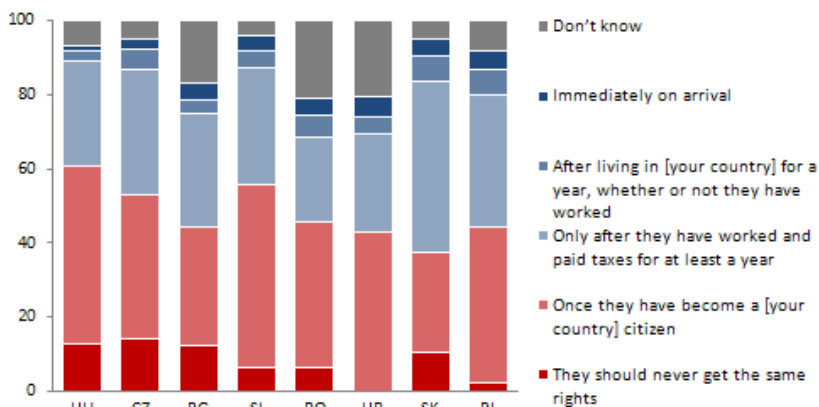
Sources: ESS Round 5: European Social Survey Round 5 Data (2010-2011). Data file edition 1.0. Norwegian Social Science Data Services, Norway – Data Archive and distributor of ESS data.

Hungary is the most hostile towards ethnically dissimilar immigrants out of all CEE-8 countries. Nearly one third of respondents older than 15 say they would not allow non-Hungarian migrants to settle at all. Czechs also dislike newcomers. Croats, Poles and Bulgarians are the most open to immigration.

Anti-immigrant prejudice generally has two main sources: economic anxiety (fear of losing one's job) and cultural anxiety (fear of immigration's impact on the national way of life or aversion to unfamiliar customs and religions). In the CEE-8, the economic component of anti-immigrant sentiment far outweighs the cultural component. These feelings are clearly rooted in the fear of the unknown: Attitudes cannot be based upon actual experience with immigrants because the number of foreign-born people living in CEE countries is still insignificant. Hungarians show the greatest aversion to immigrants' economic impact. This is not surprising: Hungarians traditionally have a strong fear of unemployment. People are therefore more wary of how immigration affects the economy than of how it affects culture.

Welfare chauvinism is strong across the CEE region. Some 60 per cent of Hungarian respondents say immigrants should not be entitled to the same types of benefits that native-born workers receive, or that these should be granted to them only after they become citizens. Welfare chauvinism is also prevalent in the Czech Republic and Slovenia.

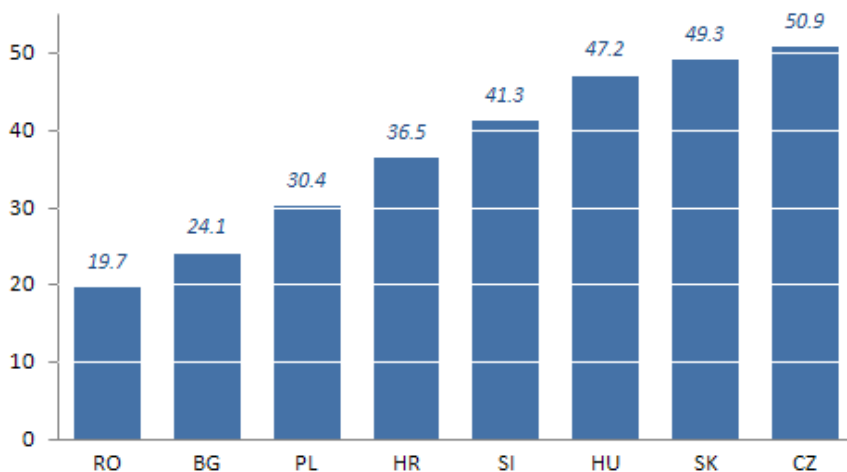
**Figure 8** *When should people who immigrate to our country be entitled to the same social benefits and services as native-born citizens?*



Sources: ESS Round 4: European Social Survey Round 4 Data (2008-2009). Data file edition 4.0. Norwegian Social Science Data Services, Norway – Data Archive and distributor of ESS data.

The prevalence of welfare chauvinism is also evident in the fact that a significant portion of CEE-8 respondents thinks immigrants already receive too many social benefits. In the survey, the following question was posed to participants: ‘A lot of people who come to live in [country] from other countries pay taxes and make use of social benefits and services. On balance, do you think that people who come to live in [country] receive more than they contribute, or contribute more than they receive?’ Figure 9 shows the percentage of people who provided answers between zero and four on an eleven point scale, whereby zero stood for ‘immigrants take much more from the system than they contribute’ and ten meant ‘immigrants contribute much more to the system than they take’. Hungarians have one of the most extreme viewpoints: 47.2 per cent of people think immigrants take ‘much more’ from the system than they contribute. If one looks at the entire pool of respondents who think that immigrants take ‘more’ than they contribute (people who answered 0 to 4 on a scale of 0 to 10), welfare chauvinism is strongest in the Czech Republic (50.9 per cent) and Slovakia (49.3 per cent), while Romanians are the most liberal on this question.

**Figure 9** *Do immigrants take more from the social-welfare system than they pay in?*



Sources: ESS Round 4; European Social Survey Round 4 Data (2008-2009). Data file edition 4.0. Norwegian Social Science Data Services, Norway – Data Archive and distributor of ESS data

There is a clear relationship between the question about immigrants’ impact on the economy and the question about their contributions to state social systems. All countries show a positive correlation between

the two questions, which means that strong economic anxiety and strong welfare chauvinism go hand in hand. This correlation is strongest in Bulgaria (0.357), the Czech Republic (0.363) and Hungary (0.350) (Juhász 2010).<sup>17</sup>

## 4 Political debates and policies

### 4.1 Discursive framework

While in traditional host countries, primarily the USA, Canada and Australia, widely accepted migration narratives have positive connotations as exemplified by myths such as ‘the American dream’ or stories of ‘rags to riches’, in Europe, and especially in Eastern Europe, including Hungary, the term ‘migration’ is more often associated with a sense of threat, loss, failure and enemy images that, understandably, generate a negative perception of the entire phenomenon. In essence, the Hungarian tradition is devoid of a positive migration story.

#### *Threats*

Hungarian perceptions of migration have been shaped by migration- and migrant-images that in the past two decades led to widespread prejudice against migrants across Europe, where the interpretation of migration as a threat and a tightening of refugee and immigration regulations have become legitimate political demands.

#### *Losses*

Essentially, Hungarian public’s perceptions have shaped the Hungarian migration narrative around the concept of loss. Emigrant Noble laureates of Hungarian descent, those forcibly resettled following the First World War, political refugees emigrating after 1956 and the current wave of young people leaving the country are all considered as losses. The departure of ethnic Hungarians from neighbouring countries and their resettlement in Hungary, which completed the slow process of abandoning formerly Hungarian territories, are also perceived as a loss.

#### *Failures*

As part of the widespread public perception of migration and migrants, Hungarian public’s perceptions also tend to define migrants as a group of unsuccessful and marginalised individuals. This negative attitude is not shaken by the stories of successful Hungarians abroad; their success

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<sup>17</sup> Juhász, A. (2010), Anti-Immigrant Prejudice in Central and Eastern Europe, *Riskandforecast*, [http://www.riskandforecast.com/post/france/anti-immigrant-prejudice-in-central-and-eastern-europe\\_581.html](http://www.riskandforecast.com/post/france/anti-immigrant-prejudice-in-central-and-eastern-europe_581.html) (Consulted on 1 February 2013).

is seen as proof of their failure in Hungary and explains why they had left the country in the first place.

### *Enemy images*

Finally, the discursive framework most conducive to stoking prejudice should also be mentioned. After 1990, no immigrant group arriving in Hungary could avoid the enemy labelling, not even Hungarians arriving from neighbouring countries who, despite their Hungarian ethnic background and depending on the country of their origin, were regularly referred to as nothing but ‘Romanians’ or ‘Yugoslavs’. However, this attitude has even older and deeper roots in public discourse. It is sufficient to refer to the classic anti-Semitic enemy concept in the current far right rhetoric blaming mainly Galician Jews immigrating to Hungary in the nineteenth century for the tragedies befalling Hungary throughout its history. In another peculiar migration narrative following this logic and based in part on this concept, the rhetoric of the Hungarian far right prefers to establish a correlation between migration and the pervasive adverse consequences of globalisation. For the most part, immigrants represent the enemy in the eyes of the far right, although not the arch enemy; immigrants in general are described as the stooges of (Jewish) groups controlling the country’s political and economic life. Through a deliberate strategy to inundate the country with migrants, these groups are said to have conspired to break the spirit of the Hungarian nation and ‘dilute’ its population.

All of these phenomena and the Hungarian population’s extreme xenophobia, even in comparison with the international situation, are partly explained by the fact that the Hungarian media paints a negative image of migrants without offering any evidence, as shown by a 2011 Helsinki Committee survey. In most cases, the local media covers foreigners in the crime section, describing migrants and refugees essentially as criminals posing a national security threat. On the other hand, ‘human interest’ stories on migrants, their successful integration or difficulties are regularly ignored.<sup>18</sup>

## 4.2 Politics

Within the above described discursive framework, migration as a political issue first emerged in Hungarian public discourse in the early 2000s, initially in connection with the local interpretation of mainly

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<sup>18</sup> Prischetzky R. & Szabó E. (2011), *Migránsok a magyar médiában [Migrants in Hungarian Media]*, Hungarian Helsinki Committee. [www.helsinki.hu](http://www.helsinki.hu) (Consulted on 1 February 2013).

foreign political developments and related media reports.

This is even more intriguing as migration developments in the early 1990s would have offered more justification for such reactions. It was a time when Hungary encountered the first major wave of Southern Slav refugees fleeing the war, the rising resettlement of ethnic Hungarians from the region and the first major influx of Chinese immigrants. While these migration topics received regular coverage in the Hungarian media at the time, they were never placed at the centre of political discourse.

At this point, the Hungarian political elite consider the topic of migration as a marginal issue. While problems associated with immigration appear to be a distant threat for the moment compared to older EU Members States, recent emigration leading to increasing labour and social problems may make it a campaign issue along the lines of ‘how to bring our young people home’.

At the same time, politicians will sooner or later have to take a political stance on immigration as well in order to respond to the increasingly evident need to replace working-age adults lost to migration. In this context, positions opposing immigration are all but certain to dominate. Recent developments also point in that direction, since political actors have regularly appealed to popular fears over migration in the past few years. The first major political move aimed at generating anti-immigrant sentiment occurred in 2002 when the Hungarian Socialist Party (MSZP), in opposition at the time, envisioned the arrival of 23 million Romanian job-seekers, and in 2004 when the same party, which was in Government by that time, again campaigned against foreign workers during the preparations for a double referendum.<sup>19</sup> For some time, the right-wing forces had the habit of scaring the population with non-European, primarily Chinese immigrants. However, this line of rhetoric has all but disappeared in the past few years only to be replaced by the far right’s more aggressive, conspiracy-inspired theory envisioning primarily Jewish immigration.

Therefore, it is not surprising that a majority of the Hungarian population is biased against migrants when it comes to public safety,

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<sup>19</sup> In winter 2004, the Hungarian Workers Party (in Hungarian) collected signatures for a referendum against the privatisation of the public health service in Hungary. Half a year later, the Hungarian World Union (Magyarok Világszövetsége) also initiated a referendum to decide whether ethnic Hungarians in adjacent countries could apply for Hungarian citizenship through a simplified procedure. The two issues were presented together in a double referendum on 5 December 2004. Despite the fierce political campaign, which evolved around the citizenship issue, the public was generally confused whether the granting of citizenship to ethnic Hungarians was desirable or not. Finally, the results of both referenda were declared invalid due to low participation rates.

labour and cultural issues. A 2011 survey, conducted by Péter Krekó and Attila Juhász (2011), that was based on personal interviews clearly shows that aside from some socio-demographic factors, such as education, political preferences also play a crucial role in reinforcing prejudice.

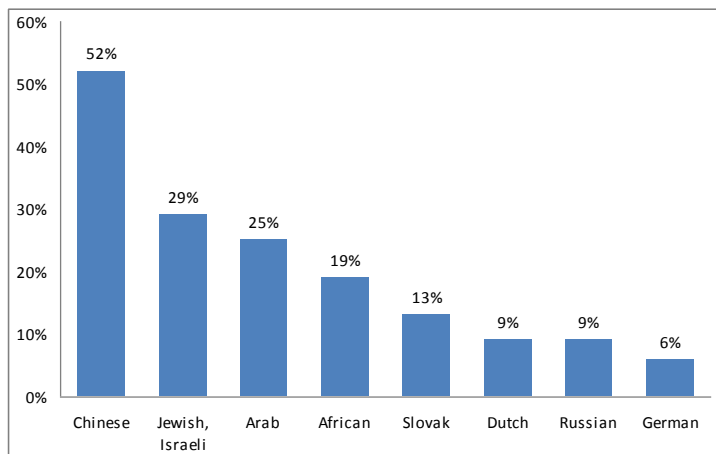
Fears of mass immigration, which are wholly unjustified by actual migration trends, are rampant in Hungarian society: over 50 per cent of the voting age population expects to see mass immigration primarily involving the Chinese and Jews, as well as Africans and Arabs. In the case of the first two groups, such anticipation is accompanied with a stronger aversion, and political activism reinforces fears related to the expected influx of Chinese and Jewish migrants. Here again, one can observe major differences in respect to party preferences. In contrast to the supporters of other parties, an overwhelming majority of the far-right 'Movement for a Better Hungary'- Jobbik (*Jobbik Magyarországért Mozgalom*) voters anticipate the arrival of Israeli Jewish migrants, a fear fed by Jobbik's political anti-Semitism promising identity formation and universal answers. A similar assessment of the Chinese and Jews in respect to mass immigration is also noteworthy. This hypothesis, which is worthy of further research, may be related to analogous stereotypes associated with the two groups described as 'imperialistic' and 'envious', essentially claiming that these 'cunning' and 'calculating' people 'keep pushing' bent on 'buying up everything'.

With regard to support for authoritarian policies, one can say that they are popular among respondents: 69 percent agreed with at least two of the mentioned restrictions (i.e. stricter migration rules; the implementation of criminal records that show the perpetrator's ethnic origin). The more one fears mass immigration, the more one supports these ideas. This fear is fed by the widely shared migrant-criminal stereotype and by the view that migrants take Hungarians' jobs away. The most tolerant cohort is the young adults' group (24-29 years old)<sup>20</sup>.

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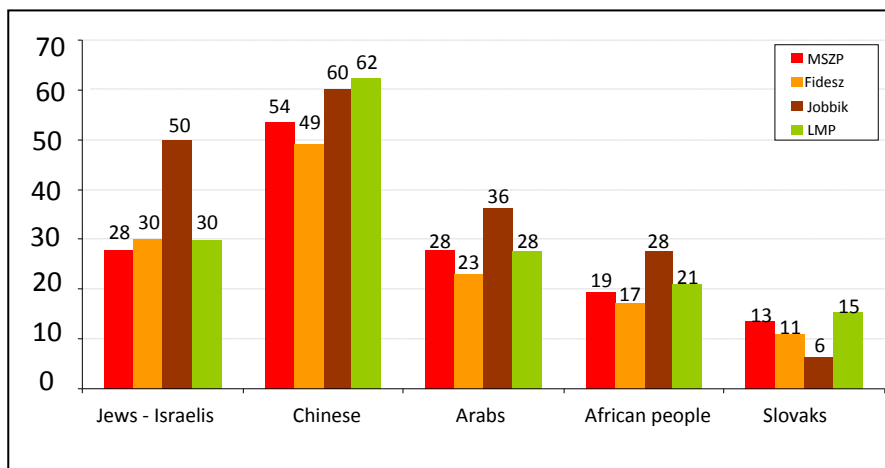
<sup>20</sup> Krekó, P. & Juhász A. (2011), Honnan jönnek, hányan vannak, mit csináljunk velük? [Where Do They Come From, How Many Are They, and What Shall We Do With Them?]' in Sik E. & Simonovits B. (eds.): *Abena, Sára, Chen és Ali esélyei Magyarországon. Migráns esélyek és tapasztalatok [Chances of Abena, Sarah, Chen and Ali in Hungary. Chances and Experience of Migrants]*. [www.tarki.hu](http://www.tarki.hu) (Consulted on 1 February 2013).

**Figure 10** *Do you think that we can expect that a large number of [...] people will settle down in Hungary in the future? – The graph shows the percentage of those who agreed.*



Source: Krekó & Juhász 2011: 17.

**Figure 11** *Assumptions on mass immigration by party preference – the rate of those who expect mass immigration (in percentage)*



Source: Hungarian Empirical Social Research Institution (TÁRKI).



### 4.3 Policies

Global migration needs long-term public policy decisions that lie beyond the reach of Governments preferences in four-year election cycles. In this respect, there are risks due to the fact that Hungarian Governments have been unable to develop a long-term migration strategy since the regime change, with the exception of a parliamentary draft resolution approved in 2004. The absence of such a strategy is not remedied by the acceleration of mandatory migration legislation primarily due to EU legal harmonisation. At the public policy level and aside from the lack of a comprehensive strategy, there are serious law enforcement problems as well, especially in the area of refugee policy. In this context, Hungary has repeatedly been censured by the international community.

#### *An overview of the legal and institutional frameworks*

Hungary's migration regulations (insufficiently supported by clear policies) and case histories may be roughly divided into five major phases separated by often overlapping issues.

The first phase is represented by the partial regulation of the initial influx of ethnic Hungarians from Transylvania (and other Romanian regions) as well as other Hungarians arriving from neighbouring countries and Chinese migrants, the opening of state borders and the country's accession to the Geneva Convention relating to the Status of Refugees. The regulation was in force from the late 1980s until 1993/94, when new citizenship and immigration acts were adopted.

The second phase involved the consolidation of lessons learnt during the first phase and the repercussions of the Balkan conflict in Hungary. This phase lasted through 1997, until the enactment of the first comprehensive refugee regulation.

The third phase, running through 2004, involved preparing Hungary's accession to the European Union. In that period, Hungary gradually became part of global migration trends, while growing pressure to adjust to the EU forced the continuous amendment of migration regulations and the reform of institutional structures (Nagy 2012).

The Office of Immigration and Nationality (OIN) was established on 1 January 2000 as an autonomous national agency under the competence of the Ministry of Justice and Law Enforcement. The establishment of OIN created the opportunity for the development of an integrated migration structure throughout the country. The national Office's local institutions and regional directorates opened on 1 January

2002, and they are responsible for the issue of residence permits and (certain) visas, as well as for processing naturalisation and asylum claims in Hungary.

The phase starting in 2004 can be described as dichotomous. On one hand, it was a period of legal harmonisation within the EU and preparations for joining the Schengen Area. On the other hand, following the 2004 referendum on granting citizenship to ethnic Hungarians under alleviated conditions that eventually failed due to a low turnout, Hungary fell into a spiral leading to national isolation where migration policies became subservient to an ethnically based national strategy and naturalisation policy.

The fifth phase, starting in 2010, represents the integration of these concepts into Hungary's migration policy. The right-wing Government enjoying a two-thirds majority in parliament has fully submitted migration regulation to the concept of ethnicity-based nation building. The act on aliens was further tightened and the Government reiterated that the immigration of foreigners is not an option for solving the problem of population decline. At the same time, the naturalisation of Hungarians living outside the country has been eased considerably and, with the reform of the election system, the voting right has also been extended to non-resident Hungarians. These measures should not be seen as merely symbolic gestures, but as part of a migration policy concept hoping to remedy Hungary's demographic problems with the migration of ethnic Hungarians from neighbouring countries, while simultaneously making every effort to stem the influx of non-Hungarian ethnic groups.

### *Asylum policy*

Hungary's asylum policy has been criticised by international human rights organisations, such as the UNHCR. Major points of criticisms concerned prolonged periods of detention on one hand, and insufficient social integration measures on the other.

The current Hungarian asylum law makes it possible to keep asylum-seekers together with illegal migrants in detention centres for as long as twelve months while the asylum claimants' cases are pending at courts<sup>21</sup>. Detention centres have originally been designed for criminals or people who entered or exited the country illegally. But many asylum seekers do not have valid visas and documents upon their arrival in

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<sup>21</sup> Act CXXXV of 2010 on the Legal Harmonisation of Certain Migration Related Laws was adopted by the Parliament on 22 November 2010 and was supplemented by the Government Decree 290/2010 (XII.21.).

Hungary because they have had to flee in duress or in a hurry, and could not have been able to leave their country legally in the first place. Despite this, an overwhelming majority of asylum seekers in Hungary are placed in prison-like detention centres, because Hungary does not invest sufficiently into the refurbishment and extension of reception centres, which are facilities conventionally upheld for asylum seekers. According to the UNHCR (2012: 15), some 1,102 asylum seekers were reported to have applied for asylum while in detention in 2011, which represents two-thirds of the total number of applicants. The study also highlights the humiliating conditions asylum seekers had to endure while detained, such as systematic verbal and physical abuse by prison guards or the fact that they were handcuffed, which is a measure normally used for the accused in criminal proceedings, and escorted on leashes to other outings (such as post offices or banks).

In terms of social integration, the fact that the Government has so far failed to work out a planned integration strategy, which would equip refugees with the skills and competences required for these purposes, represents the biggest problem. Since Hungary has witnessed a double digit unemployment rate<sup>22</sup> and high level of poverty rates<sup>23</sup> for several years, many recognised refugees try to move on to other European countries. If they are returned to Hungary, they often become homeless and particularly vulnerable to deprivation and violence. The UNHCR (2012: 23) reports cases of homeless Somali refugees choosing to return to their country of origin, despite facing the threat of prosecution and torture, because their living conditions were deficient and their life and dignity were at immediate risk in Hungary. Recent developments have done little to change these prospects. The municipality of Budapest, home to the largest Hungarian migrant community, passed legislation in 2011, which criminalises homelessness by imposing fines on people 'living rough' on the streets.

The lack of language skills is one of the major barriers of migrant's integration in Hungary. Language training opportunities are offered to asylum seekers only after they have been granted international protection. At that time, however, the lengthy process of learning a language already competes with their time to find work and receive training. After spending six months at the Bicske Integration Centre, many refugees leave the facility without sufficient language

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<sup>22</sup> In January 2013, the unemployment rate in Hungary was 10.7 per cent. Central Statistical Office. [www.ksh.hu](http://www.ksh.hu) (Consulted on 11 February 2013).

<sup>23</sup> According to Eurostat, as much as 30 per cent of people were at risk of poverty or social exclusion in Hungary in 2010. See Eurostat News Release, 'At risk of poverty and social exclusion in the EU27.' *Europa Press Release RAPID*. [www.europa.eu](http://www.europa.eu) (Consulted on 8 February 2012).

skills and detailed knowledge about employment conditions. In the absence of planned Governmental policy, integration is taken up by under-funded project-based NGOs, such as Artemisszió, which, for instance, offers language training, career counseling or secondary school degree obtaining opportunities for migrants in Budapest.

*'Trans-border' dual citizenship in Hungary*

In 2010, the incoming Fidesz Government initiated a vast number of legislative reforms, among which it also changed the citizenship law of the country.<sup>24</sup> The 2010 Law introduced a simplified procedure of naturalisation – or in Government's terms – the 're-naturalisation' of people of Hungarian descent in neighbouring countries. The simplified (or preferential) naturalisation process means that members of kin-minorities who never lived in Hungary are eligible to obtain Hungarian citizenship in just a three month period, while third country nationals (TCNs) can do the same after having lived in Hungary for eight years. When the citizenship law was being amended, it was not clear whether voting rights would also be granted together with dual citizenship for kin-minorities. Members of the Government sent conflicting statements to the media and there was relatively little political debate in this respect. On 23 December 2011, however, voting rights were also granted to non-resident Hungarians, which represented the culmination of Fidesz Government's symbolic 'national reunification beyond borders' mission. According to the final version of the reformed Electoral Law, non-resident Hungarians – those living as members of national minorities in the Carpathian basin, as well as expatriates elsewhere – will be able to vote and run for office in the forthcoming national elections in Hungary.

The extension of dual citizenship to kin-minorities serves two main purposes in Hungary. The first one is linked to a short-term political interest. A considerable part of Hungarian kin-minorities is supportive of the political right-wing forces, as they find the Budapest's affirmative nationalist rhetoric towards their host-states, in which they enjoy a minority status, appealing. Needless to say, this tendency is even more prevalent among those who regard 'Hungarianness' as an integral part of their identity, and have hence applied for Hungarian citizenship. By rewarding kin-minorities with citizenship, Fidesz probably hopes to extend its electoral base beyond the borders of the Hungarian state.

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<sup>24</sup> Act XLIV of 2010 amending Act XLV of 1993 on Hungarian Nationality was passed by the plenary session in May 2010 and came into effect on 1 January 2011.

The second purpose pertains to demographics and serves a long-term interest. Just as elsewhere in Europe, the population of Hungary has been declining since the 1980s, for increasingly fewer births than deaths occur year by year.<sup>25</sup> Although this has never been clearly articulated and despite the fact that the Fidesz Government's official rhetoric continues to support the maintenance of Hungarian communities in their homelands, the dual citizenship law also serves to somewhat facilitate the flow of ethnic Hungarian migrants from the neighbouring states to Hungary. This is particularly true for Serbia and the Ukraine, which are not members of the EU, and to a lesser extent also for Romania, where living standards are still lower than in Hungary. Kin-minorities represent a readily available social capital for Hungary, since their employment on the national labour market requires minimal or no integration efforts at all due to their common linguistic and cultural background.

The fact that the institute of dual citizenship represents common practice elsewhere in Western democracies was one of the major arguments that Hungary advanced when justifying the introduction of dual citizenship. While this statement is true on the face value, there is a fundamental difference in the nature of dual citizenship practices in West and East-Central Europe (ECE). While dual citizenship in the West is usually initiated by left-wing politics in order to extend equal citizenship status and integrate immigrants into their host-countries, in ECE countries it is typically promoted by right-wing politics with a view to extend citizenship to ethnic kin-minorities beyond state boundaries. In other words, while dual citizenship in the West is part of a larger liberal project seeking to decouple ethnicity from citizenship, the opposite happens in ECE countries; dual citizenship serves the purposes of nation-building ambitions to re-link citizenship to ethnicity. Such practices in the East can be also observed in Romania, Turkey or Croatia – countries which have similar sizable kin-minorities beyond their borders. For this reason, some scholars prefer to refer to these latter instances as cases of trans-border citizenship, rather than merely that of dual citizenship.<sup>26</sup>

Since the introduction of the new citizenship law, as much as 363,000 ethnic Hungarians have applied for preferential naturalisation, of which some 320,000 have already taken their oath of allegiance to

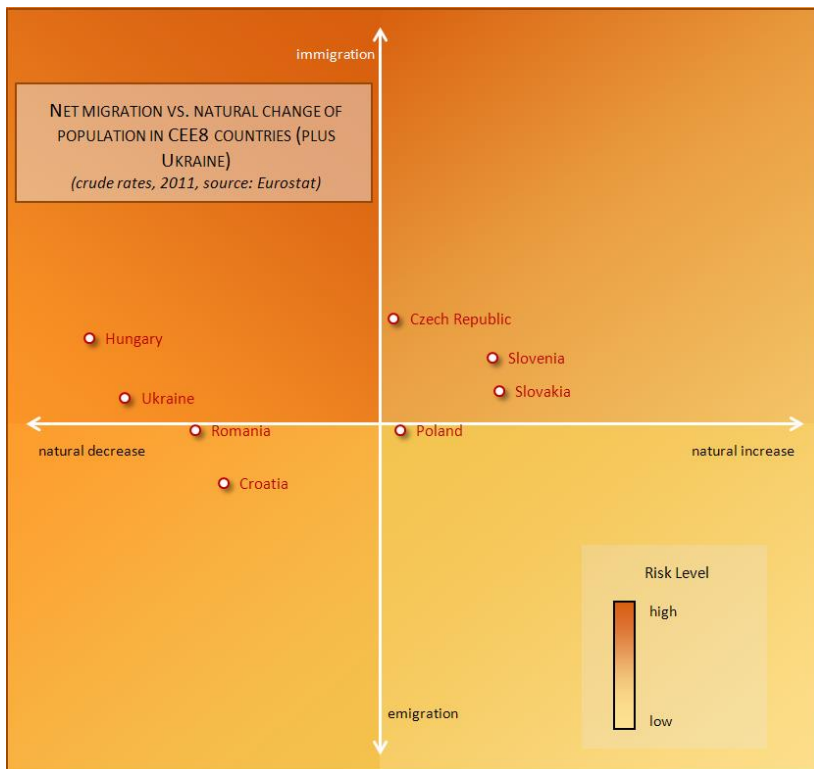
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<sup>25</sup> Rate of natural decrease of total population in 2012: – 40,000 persons. Central Statistical Office. [www.ksh.hu](http://www.ksh.hu) (Consulted on 11 February 2013).

<sup>26</sup> See Kovács & Tóth, 2009, on a Hungarian case study, and Pogonyi, Kovács & Körtvélyesi, 2010, on a comparative case study in the ECE region.

Hungary by now.<sup>27</sup>

**Figure 11** *Net migration vs. natural change of population in CEE-8 countries (plus the Ukraine) in 2011*



Source: Eurostat table demo\_gind (extracted on 29 November 2012)

## 5 Conclusion

In terms of migration to Hungary, there is the short-term risk that the reserve for replacement is shrinking as Hungarian immigration from neighbouring countries is slowing down. This means that the rate of population decline may accelerate even as parts of the economy requiring professional and skilled labour are bound to face labour shortages.

<sup>27</sup> MTI (Hungarian Press Release), 'Majd félmillió honosítási eljárás indult [Almost Half a Million of Naturalisation Procedures have been Initiated],’ in *Népszabadság Online* [Hungarian daily], [www.nol.hu](http://www.nol.hu), (Consulted on January 2013).

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As a result, Hungary may face the same social conflicts as older EU Member States, should immigration pick up in the future, due to rampant and uncontrolled xenophobia.

Political actors have clearly failed to recognise that migration trends cannot be regulated by administrative measures alone and that a country's immigration policy can merely influence the consequences of successive migration waves at its best. However, in the absence of a well-conceived strategy, incoherent immigration policies could lead to events, which may, according to the evidence gathered in Western Europe over the past 50 years, be accompanied by severe economic and social consequences.

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## Czech Republic: Towards a Restrictive Migration Policy

*Tereza Blahoutová*

### 1 Introduction

The Czech Republic is characterised as a parliamentary democracy based on market economy. However, only a few decades ago it was part of the socialist Czechoslovakia with completely different social and economic institutions and structure. The transition from a socialist into a democratic state and the parallel process of partition of the Czech and Slovak Federative Republic (completed in 1993) had a significant impact not only on the constitutional organisation of governance, but also influenced the mindsets of the Czech population considerably. Sociologists have been observing substantial social changes in terms of Czechoslovak society's features after the breakdown of the socialist regime in 1989, such as the increasing rate of postmaterialism, lack of social cohesion or changes in family behaviour patterns (Tuček et al. 1998; Rabušic 2000).

The political and economic direction of the country was undisputed: the Czech Republic wanted to be integrated into all relevant political, economic and military structures in order to become an acknowledged European state. The series of accessions started in 1995, when the Czech Republic became a member of the Organisation for Economic Cooperation and Development (OECD), followed by its accession to NATO in 1999, the European Union (EU) in 2004 and the Schengen area in 2007. Integration into international structures and free flows of goods, services, capital and labour triggered many social phenomena which were absolutely new for the country and its population. One of such phenomena involves the flow of migrants into and out of the country.

Despite the gradually changing demographic picture of the Czech society, the topic of immigration did not deserve any greater attention either by politicians or by the media. The related social phenomena, such as xenophobia and racism, have always been discussed in relation to the Roma minority in the country and immigrants were usually left out of such discussions. Migration policy is not included on the agenda of Czech political parties and voices of non-Czech citizens in the political arena are simply non-existent. Since the political agenda usually reflects the interests of the electorate, it is obvious that the topic of migration is not perceived as a central issue to be considered within a broader public discussion.

Foreigners represent approximately four per cent of the total population, which is still a relatively low proportion of the population compared to other European countries. Most immigrants are coming from the former Soviet Union countries and are thus 'invisible' for the Czechs because of their physical appearance. There is a significant number of Vietnamese residents who generally do not attract any public attention and are considered to be well integrated.

After this rather simplified picture of the Czech society, one could claim that the topic of migration remains marginalised by the political parties and by the general public. Only a closed community composed of researchers, non-profit sector workers and state administration experts continues to analyse Czech migration and integration policies and compare them to trends and practices from abroad.<sup>28</sup>

## **2 History of migration before 1989<sup>29</sup>**

The history of statehood in the territory called the Czech lands (Bohemia, Moravia and Silesia) dates back to the ninth and tenth centuries. Since then, the country has witnessed different migration waves from and to the territory, which was characterised as a traditional country of emigration (Horáková 2000) until it has transformed into a transit country and, finally, into an immigration country over the last two decades.

In the nineteenth century, when the Czech lands were first part of the Austrian Empire and then became part of the Austro-Hungarian Empire in 1867, many inhabitants decided to leave their native country to start a better life in the United States, Canada, Argentina, Brazil, Austria, Russia, Hungary and the Slavic parts of the former empire. Most of these were craftsmen, agricultural and industrial workers who left the country because they felt frustrated with the economic situation and wanted to live in political and religious freedom. 1.6 million persons are estimated to have emigrated during the 1850-1914 period (Drbohlav 2005).

The first Czechoslovak independent state was established after the First World War in 1918. Among its approximately ten million inhabitants, Germans represented 30.6 per cent or 3.06 million persons. Other nationalities declared in the 1921 census included Ruthenians,

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<sup>28</sup> The national website of the European Migration Network run by the Ministry of the Interior ([www.emncz.eu](http://www.emncz.eu)) and MigrationOnline.cz, a specialised website dedicated to a critical discussion about migration and administered by the Prague Multicultural Centre are the two information hubs where migration policy documents and analyses can be found.

<sup>29</sup> The historical background of the Czech migration policy is based on Blahoutová 2012.

Poles, Jews and Slovaks (CZSO 2007). Following the establishment of a new state, many Czechs and Slovaks returned to Czechoslovakia from Austria (especially Vienna), Germany and the United States. At the same time, over a half a million Czechs and Slovaks continued to leave the country due to economic reasons and family reunification (Horáková 2000). Thus, the population of Czechoslovakia decreased in the interwar period due to emigration.

The annexation of Czechoslovakia's border areas, the occupation of Bohemia and Moravia, and the ethnic cleansing process carried out by Nazi Germany had substantial consequences for the Czechoslovak population. During the Second World War, nearly every family in the country was affected. Many people, particularly the youth, were deported to Germany as forced labour. Many Jews and the Roma died in Nazi camps and only limited numbers of people were able to save their lives by escaping to other countries.

After 1945, the country witnessed massive population resettlements, which were often managed by the state. In a short period of two years (1945-1946), approximately 2.8 million Germans were expelled from the country, while Czechs and Slovaks were encouraged to move to the border regions that were previously inhabited by the German population. During this period, Bulgarians and the Roma from Slovakia also came to these border regions (Ševčík 2007).

It is estimated that up to 220,000 Czechs and Slovaks returned from abroad in the 1945-1950 period; these were mainly displaced persons and emigrants who returned after the end of the Second World War.

The communist *coup d'état* that took place in 1948, had a significant influence on the social, economic and political development of Czechoslovakia in the following forty years. The communist regime strived for the country's isolation from 'the enemy's capitalist Western bloc'. It was illegal to leave the country; emigration was considered a criminal offence with serious consequences for everyone that tried to emigrate, their families and relatives. Migration activities and trends were thus limited to 'illegal' or undocumented emigration (Drbohlav 2009).

Despite the aforementioned risks, many Czechs and Slovaks, particularly those highly skilled, fled the country seeking freedom, democracy and better living standards in Western countries where they were accepted as refugees. The two main emigration waves occurred immediately after 1948 and in 1968 following the Soviet Union's invasion of Czechoslovakia. In the 1950-1989 period, more than

550,000 people emigrated from Czechoslovakia to Western Europe and to traditional immigration countries, such as the United States, Canada and Australia (Drbohlav 2005).

Immigration was limited to cooperation that was established with other socialist countries in the framework of mutual economic assistance. Socialist Czechoslovakia was a member of the Council for Mutual Economic Assistance (Comecon) founded in 1949 by the Soviet Union, Bulgaria, Czechoslovakia, Hungary, Poland and Romania<sup>30</sup>, and cooperated with these countries in the framework of special study and traineeship programmes. Based on interGovernmental agreements, students and temporary workers from Poland, Vietnam, Hungary, Mongolia, Cuba, Angola, Democratic People's Republic of Korea, Cyprus and Laos came to Czechoslovakia to gain skills and experience. These special programmes were precisely planned and implemented by both countries concerned and considered as a form of mutual economic assistance. Due to the strictly planned conditions underpinning these programmes, temporary workers were almost invisible and kept rather isolated from the majority population. Workers, students and trainees returned back to their home countries after a defined period of time, which lasted several years and was agreed by both countries involved in a programme.

By the end of 1989, 35,198 foreigners were registered in the territory of Czechoslovakia, out of which 27,000 held a permanent residence (Ševčík 2007). However, a substantial number of Slovaks lived in the territory of today's Czech Republic during the communist period of Czechoslovakia (1948-1989). The Czech-Slovak mixed marriages were (and still are) common. When the political decision-making process of the so-called 'Velvet Divorce' was completed and the subsequent dissolution of Czechoslovakia (into the Czech and Slovak Federative Republic) came into effect on 1 January 1993, Slovaks living in the Czech Republic were able to acquire Czech citizenship by complying with a set of provisions, including the possibility to exercise the right of option, enshrined in the Citizenship Act that facilitated their naturalisation, and/or by declaration.<sup>31</sup> During the 1990s, several thousands of Slovak citizens applied for and acquired Czech citizenship every year (Baršová 2010).

Due to closed state borders and planned programmes of temporary migration, Czech and Slovak societies became mostly ethnically

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<sup>30</sup> Other socialist countries joined Comecon later; Vietnam, which became its member in 1978, was the last one to join. Comecon was disbanded in 1991.

<sup>31</sup> Act No. 40/1993 Coll., on acquiring and losing Czech citizenship.

homogeneous and most people hardly had any experience with meeting or speaking to a foreigner before 1989.<sup>32</sup>

### 3 Flows and stocks of migrants after 1989

The situation changed completely after 1989 and the fall of the communist regime, when first foreigners started coming to Czechoslovakia. Some of them were driven by curiosity, others attracted by the positive economic development. The Czechoslovak, and later Czech, Government did not have any experience with the management of migration flows and, most importantly, it had to deal with completely different political priorities, such as economic liberalisation and the democratic transformation of various institutions.

Immigration was not regulated in any significant way and the number of immigrants was greatly correlated with economic development. As a consequence, the number of foreign nationals more than doubled during the 1990s. Their number increased from 70,000 foreigners who held permanent or long-term residence in 1993 to 229,000 foreigners of the same category in 1999. Their number stabilised by the end of the 1990s due to the economic recession, monetary crisis and legislative changes. In 2000, the number of foreigners decreased for the first time since 1989. This year was also crucial in terms of legislative changes as the conditions of entry and stay of foreigners were made more restrictive and the visa requirements for nationals of the most important countries of origin, i.e. Ukraine and the Russian Federation, entered into force.

The next milestone was the country's accession to the EU in 2004. Since then, there are two categories of foreign nationals in the Czech Republic: EU citizens and non-EU citizens or third country nationals, who do not enjoy the same rights as the former category. As a supranational political and economic entity, the EU could not avoid migration issues and a number of migration policy principles and measures were codified in the *acquis communautaire* by the time the Czech Republic became its member. The Czech Republic, being a new Member State, was committed to respect the legal enactments regulating the issues of migration, integration and asylum.

The number of foreign nationals, both EU and non-EU citizens, began to grow rapidly until it reached its peak of 439,000 in 2008

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<sup>32</sup> It has to be noted that autochthonous national minorities traditionally residing in the territory of Czech and Slovak lands, such as the Polish, Hungarian, Ukrainian, German or the Roma, were not numerous. The most numerous Polish national minority usually represented 0.7 per cent of the total population in the 1948-1989 period.

which marked the beginning of the worldwide economic crisis. The economic crisis became evident in the Czech Republic with a slight delay, and a year later, the number of newly arrived immigrants decreased by 46 per cent. With respect to this rapid intra-annual decline of immigrants, the Czech Republic ranked first among the OECD countries (OECD 2011).

### *From a transit to a destination country*

As shown by this brief overview, the Czech Republic has transformed from a transit country into a destination country over the course of its democratic existence after 1989. Migrants who used to pass through its territory in the 1990s are now coming in order to settle in the Czech Republic. In 2011, the total number of foreign nationals amounted to 434,153. This figure includes nationals of other EU Member States (151,276 persons or 34.8 per cent) and non-EU citizens (282,877 persons or 65.2 per cent). The main countries of origin are Ukraine, Slovakia, Vietnam, Russia and Poland (CZSO 2010). The reasons for immigration from these countries vary from geographical, cultural and linguistic proximity, which have an important role, to economic growth, job opportunities and a higher living standard, including the high quality of education and health care. In addition, a nexus of co-nationals already settled in the country also plays a significant role.

The ethnic structure of the Czech society has been slightly changing and it is directly related to the immigrants' major countries of origin. In the latest census that took place in 2011, 6,732,104 persons declared themselves to be of Czech nationality, which corresponds to 64 per cent of the population. It is worth noting that the number of people who did not declare themselves to be of any nationality is very high and amounts to 2,742,669 (26 per cent of the population). The remaining nationalities were ranked in the following order: Slovak (149,140 persons; 1.4 per cent); Ukrainian (53,603; 0.5 per cent); Polish (39,269; 0.4 per cent); the Vietnamese (29,825; 0.3 per cent); German (18,772; 0.2 per cent); and Russian (18,021; 0.2 per cent).

In the past few years, the net migration was positive, as the total number of immigrants always outbalanced the annual number of emigrants, including both citizens and noncitizens. In 2011, the number of country's inhabitants increased by 16,889 due to immigration. The Czech Republic is slightly above the EU average with respect to the relative number of immigrants coming to the country. According to data from 2009, 7.2 persons per 1,000 inhabitants came to the Czech Republic, which is more than to Germany (4.2), its neighbour and a traditional immigration country, and to other post-communist countries,

such as Slovakia (2.9), Hungary (2.8), Lithuania (1.9) or Latvia (1.2) (Eurostat 2012).

With respect to the most frequent citizenship held by foreigners residing in the EU, the Czech Republic became a host country for a significant number of citizens of Slovakia, Ukraine, Poland, Russia, Romania, Germany, Bulgaria and China (World Bank 2010; Eurostat 2012). Contrary to the old EU Member States, there are hardly any citizens of Turkey, Morocco, Albania, Algeria or India in the territory of the Czech Republic, mainly because the Czech Republic has no historical bonds with these countries.

Czech citizens leaving the country are both men and women (54.5 per cent and 45.5 per cent respectively); the average age of emigrants is around 30. Czech citizens tend to move to Central European countries (Slovakia, Poland, Germany, Austria), traditional immigration countries in Europe (United Kingdom, France, Switzerland) as well as outside Europe (United States, Canada, Australia). However, the annual number of emigrants is not high; for example, there were 3,233 persons in 2011 (CZSO 2012a). The protectionist fears expressed by some old EU Member States in 2004 claiming that workers from Central and Eastern Europe will overwhelm their labour markets did not materialise. Transition periods (of maximum seven years) for workers from Central and Eastern Europe elapsed and labour markets of the old EU Member States are now opened for job-seekers from countries that joined the EU in 2004. Czech workers are rather less flexible as, for example, their Polish counterparts, who do not mind moving to other countries for work. However, the younger generations of Czech citizens are increasingly willing to study and work abroad, especially in Germany, France, the United Kingdom and Spain.

## **4 Immigration policy and legislation**

### **4.1 Normative framework**

#### *Migration*

The crucial legal norm regulating the entry and stay of migrants in the Czech Republic is the so-called Aliens Act.<sup>33</sup> Since its adoption in 1999, the Aliens Act was amended almost every year.

The latest amendment entered into force on 1 January 2011 and brought some significant substantive as well as institutional changes. It

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<sup>33</sup> Act No. 326/1999 Coll., on the Residence of Aliens in the Territory of the Czech Republic, *Sbírka zákonů České republiky* (Collection of Laws of the Czech Republic), available in English on the website of the Ministry of the Interior, <http://www.mvcr.cz/mvcren/article/asylum-and-migration-legal-framework.aspx>.



introduced new requirements with respect to applying for a long-term visa, long-term or permanent residence. The stricter requirements are related to the fact that applicants are now obliged to present proof of accommodation, proof of travel health insurance and proof of subsistence funds for duration of their stay. In order to lodge an application for obtaining a residence permit, a foreign national is obliged to visit a regional office of the Ministry of the Interior in person. Moreover, the newly issued residence permit cards contain biometric data, which makes the application procedure longer than before. The latest amendment also introduced further changes for foreign nationals who move to the country for the purpose of employment and entrepreneurship. Frequent abuse of the system used for issuing business authorisations to third country nationals during the previous period led to new restrictions. If foreign nationals' status changes and they wish to perform a business activity, they have to comply with the requirement of having a minimum two-year legal residence in the country (Ministry 2011). The EU Blue Card Directive and the Directive on Employer Sanctions have been transposed into the Czech legal order (OECD 2011).

At the institutional level, the extensive agenda regarding long-term stays and long-term visas was transferred to new regional offices of the Department for Asylum and Migration Policy operating within the Ministry of the Interior. The agenda was taken over from the Alien Police Service, which is now mainly responsible for performing controls with respect to the legitimacy of stay in the national territory or, in other words, for monitoring irregular migration.

### *Asylum*

The need for a prompt reaction to the non-existence of asylum legislation was triggered by the relatively high numbers of asylum applications after the fall of Communism. The Czech Republic ratified the Convention relating to the Status of Refugees in 1991, including its New York Protocol of 1967. The national Refugee Act was already passed a year earlier.<sup>34</sup>

Due to an increasing number of persons seeking asylum in the 1990s, the Czech Government wanted to reduce the number of asylum applications and to establish an integration programme. With this in mind, the new Asylum Act was adopted on 11 January 1999.<sup>35</sup> The Act

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<sup>34</sup> Act No. 498/1990 Coll, Collection of Laws of the Czech Republic, available on the website of the Ministry of the Interior, <http://aplikace.mvcr.cz/sbirka-zakonu/>.

<sup>35</sup> Asylum Act No. 325/1999 Coll., Collection of Laws of the Czech Republic, available in English on the website of the Ministry of the Interior, <http://www.mvcr.cz/mvcren/article/asylum-and-migration-legal-framework.aspx>.

stipulates conditions for the entry and stay of applicants for international protection, recognised refugees and persons under subsidiary protection. It defines the international protection application procedure, competences of the bodies involved and the conditions for accommodation in asylum facilities operated by the Refugee Facilities Administration within the Ministry of the Interior.

The new Act eliminated the imperfection related to the terminology used in the previous Act by defining various forms of international protection (asylum, subsidiary protection) and different reasons for granting international protection. It laid down the basis for the State Integration Programme dedicated to asylum holders and providing them with state assistance for the acquisition of the Czech language, employment and housing.

The implementation of provisions of the new Act was thoroughly followed by the European Commission (EC) during the process of Czech Republic's accession to the EU. In its 1999 and 2000 Reports on the Czech Republic's Progress towards Accession, the EC stated that the realisation of the Czech asylum policy was hindered by the lack of experts, especially lawyers, as well as facilities (Pravidelná 1999: 49).

Recently, changes of the asylum legislation have been under discussion once again.<sup>36</sup> The Asylum Bill, signed by the Czech Government on 17 October 2012, entered into force in 2014 due to the transposition of two EU directives,<sup>37</sup> which form part of the Common European Asylum System that aims at harmonising asylum policies of all EU Member States, including all stages of the international protection application procedure.

There is special legislation concerning the temporary protection of persons who escaped from a territory where the basic human rights are continuously violated. In line with the EU Directive 2001/55/EC, the 2003 Temporary Protection Act contains provisions about temporary protection due to (a) armed conflict, civil war or permanent violence, (b) natural disaster, or (c) systematic or mass violations of human rights and freedoms, or systematic or mass persecution on ethnic or religious

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<sup>36</sup> The text of the Asylum Act Amendment is available in the Draft Legislation Library <http://eklep.vlada.cz/eklep/page.jsf>.

<sup>37</sup> Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (Qualification Directive). Council Directive 2003/109/EC of 25 November 2003 concerning the status of third country nationals who are long-term residents.

grounds.<sup>38</sup> As an exceptional measure for protecting groups of displaced persons from non-EU countries, who are unable to return to their country of origin, applicants for temporary protection are not required to prove their personal persecution.

#### 4.2 Migration policy principles

In the 1990s, migration policy was practically non-existent. Policymakers had no experience with migration policy as a specific type of public policy regulating the entry and stay of foreign nationals in a national territory. There was no strategic document defining the Czech migration policy and a lack of migration experts. The Czech migration policy was a succession of *ad hoc* solutions related to particular events during the 1990s (Drbohlav et al. 2010; Babická 2011).

A migration strategy was first approved in January 2003 in the Czech Government's Migration Policy Principles.<sup>39</sup> The direction of the migration policy is defined in six fundamental points, which, according to the Ministry of the Interior, i.e. the main Governmental body responsible for the field of migration, express the desire of the Czech Republic to address migration policy actively and responsibly, while respecting the obligations arising from international conventions, treaties and recommendations. The priority of national activities in the field of migration is to design effective measures that will support managed legal migration, while minimising irregular migration (Ministry 2010).

The Migration Policy Principles have been in force for ten years and are reflected in the Government's definition and conception of the Czech migration policy. Firstly, the Government is exercising full control in the field of migration (Principle 1) and wishes to preserve this right in the future. Migration flows management aims to eliminate all forms of illegal immigration (Principle 3) and is considered an important tool for the control of the labour market situation. The Government supports legal migration, particularly the immigration of those who will contribute to the development of the country and society (Principle 4), i.e. highly skilled migrants from culturally similar

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<sup>38</sup> See Section 1(2) of the Temporary Protection Act No. 221/2003 Coll., available in the PDF format in the Collection of Laws of the Czech Republic, <http://aplikace.mvcr.cz/sbirka-zakonu/ViewFile.aspx?type=c&id=4163>.

<sup>39</sup> Government Resolution No. 55 of 13 January 2003 available at the Government's website <[http://kormoran.vlada.cz/usneseni/usneseni\\_webtest.nsf/0/D376DFB23057E7E6C12571B60070FBF3](http://kormoran.vlada.cz/usneseni/usneseni_webtest.nsf/0/D376DFB23057E7E6C12571B60070FBF3)>. The Czech Government's Migration Policy Principles can be found in English on the website of the Ministry of the Interior, <http://www.mvcr.cz/mvcren/article/the-czech-government-migration-policy-principles.aspx>.

countries who are expected to integrate easily. The migration policy has to be implemented by all state administration bodies, local Governments and institutions in parallel with the ‘mass’ involvement of non-Governmental and civil society organisations (Principles 2 and 5). The Czech Republic shares the feeling of responsibility for migration-related consequences of humanitarian crises (Principle 6).

A closer look at particular principles reveals that they are, in fact, embodied in a number of legislative acts, measures and projects. For instance, the Green Cards Project was designed as a national measure aimed at simplifying the employment conditions of highly qualified immigrants and came into effect on 1 January 2009, independently from the EU migration policy and the Blue Card Directive.

#### 4.3 Integration policy

The Conception of the Integration of Foreigners within the Territory of the Czech Republic was enacted at the end of 2000. Third country nationals, who are residing in the country legally and are not applicants for international protection or recognised refugees, represent the main target group of this integration policy. In exceptional emergency cases, the policy might also target immigrants from other EU Member States (Ministry 2012). The Ministry of the Interior is responsible for the integration policy and assigns tasks and responsibilities to other state actors in the field of integration, such as ministries, the Czech Statistical Office and regions, and encourages other actors, such as non-profit organisations and churches, to cooperate in the implementation of integration measures.

The Government updated its integration policy on 9 February 2011<sup>40</sup> and further formulated its priorities in ‘The Procedure for Implementing the Updated Policy for Integration of Immigrants – Living Together’<sup>41</sup>, together with a list of integration measures that had to be implemented in 2013.

The integration policy is based on the principles of (a) effectiveness of integration measures as well as financial costs, (b) clear and concrete results of all integration activities, (c) availability and specificity of integration measures, (d) fostering civil society’s development and practical cooperation of everyone who might contribute to a successful integration, (e) fostering the implementation of integration policy at the regional and local levels, e.g. providing

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<sup>40</sup> The official title of the document reads ‘An Updated Policy for the Integration of Immigrants – Living Together – Proposal for Further Steps in 2011’.

<sup>41</sup> The Czech Government’s Resolution No. 43 of 16 January 2013.

support to Centres for the Support of the Integration of Foreigners, and direct cooperation with local self-Government (Postup 2013).

The priorities of the updated integration policy from 2011 focus on four key areas the Czech language proficiency, economic and social autonomy of migrants, orientation in the society, and mutual relationships between migrants and the majority population. The updated integration policy from 2013, which reflects certain new measures that are to be adopted in new legislation, is briefly described in the following paragraphs.

Firstly, the requirement regarding the Czech language proficiency is gaining an ever-increasing importance. The A2 level of the Common European Framework of Reference for Languages will be required for obtaining a permanent residence permit, while the A1 level will be a must for applicants wishing to obtain a long-term residence permit for the purpose of performing a business activity. According to the new Citizenship Act, which came into force in 2014, applicants for citizenship have to prove that their knowledge of the Czech language corresponds to the B1 level.

Secondly, a number of integration courses will be introduced for newcomers as well as for long-term or permanent foreign residents. The new adaptation-integration courses for newcomers (up to six months following their arrival to the country) will provide practical information necessary for their orientation in society. These courses will be carried out by the Centres for the Support of the Integration of Foreigners. A test verifying the knowledge about the constitutional system of the Czech Republic will represent another new requirement for acquiring Czech citizenship.

Thirdly, a new integration measure is directed towards achieving a balanced media portrayal of foreigners living in the Czech Republic, particularly by the public service broadcaster, i.e. the Czech Television (Postup 2013).

The updated integration policy does not touch some of the issues that were neglected for a long period of time, such as the question of migrants' inclusion into the public health insurance system, the recognition of their qualifications, i.e. the validation of their university diplomas and degrees, or migrants' political participation.

#### 4.4 New legislative package

Since 2012, the Ministry of the Interior has been working intensively

on a completely new legislative package comprising three acts regulating the entry and stay of foreign nationals in the Czech Republic. The three new acts that should be drafted include the Act on the Residence of Foreign Nationals in the Territory of the Czech Republic (related to non-EU citizens, including family members of Czech citizens), the Act on the Free Movement of EU-nationals and their Family Members, and the Border Protection Act. The legislative intent of these three new acts was approved by the Czech Government on 29 February 2012. The Ministry of the Interior anticipates that all three acts will enter into force in 2015. These new acts aim to eliminate deficiencies arising from previous legislative acts, simplify the entire immigration process and strengthen the responsibility of those relevant stakeholders that are involved in the arrival of foreigners, such as employers or schools. The simpler, more compact and user-friendly legislation will reduce administrative burden related to the procedure for applying for a residence permit. The Ministry of the Interior explained that new regulations aim to strengthen the control over the legitimacy of foreign nationals' stay in the Czech Republic's territory and their obligations towards the state, as well as to reinforce the integration dimension of immigration (Návrh 2012). For instance, one of the planned changes in the entry and stay regime applicable to foreign nationals, which is based on the EU Single Permit Directive, stems from the fact that the legislative intent foresees a new institute of a national visa (issued for a period of maximum one year) or the so-called dual documents entitling the holder to reside as well as to work in the Czech Republic.<sup>42</sup>

The legislative intent of the new Aliens Act draws from the resolution concerning the so-called New System of Economic Migration.<sup>43</sup> This document encompasses the Czech Republic's attitudes towards economic labour migration for the first time in its history. The guiding principle of this policy is based on flexibility that would enable the Government to react quickly to a changing economic reality and its integration capacities. Economic migration will thus be regulated primarily on the basis of the needs of the Czech economy and integration capacities.

Labour immigration will be based on a permanent immigration of highly skilled workers and temporary or circular migration of low skilled foreign migrant workers. These two categories of labour

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<sup>42</sup> Recently, this has only been possible for the Green Card and Blue Card holders.

<sup>43</sup> Government Resolution No. 48 of 19 January 2011 concerning the measures aimed to regulate economic migration, protection of labour migrants and realisation of returns. Available online at <http://www.migraceonline.cz/e-knihovna/?x=2281495>.

migrants will be entitled to different levels of rights and obligations, such as requirements related to their proficiency in the Czech language or the right to a protection period after termination of employment. In order to start a business activity, third country nationals will have to prove its benefit for the Czech economy and society, and comply with the requirement regarding the provision of a considerable investment amounting to 200,000 EUR.

Furthermore, the Czech Republic considers its right to decide about the extent and structure of immigration flows, e.g. by adopting quotas for residence permit applications, a priority and has thus preserved this right even after the adoption of the Lisbon Treaty, with the exception of cases involving family reunification.

#### 4.5 The institutional framework

The institutional framework of migration policy has been changing quite frequently since 1989. Recently, the Ministry of the Interior has been the main Governmental body in charge of migration policy. The Ministry is responsible for preparing legislation in the fields of asylum, migration and integration. The Department for Asylum and Migration Policy adopts decisions regarding international protection and temporary protection proceedings, designs the national integration programme and carries out refugee resettlement programmes. Its other tasks include border protection, administration of EU funds in the fields of asylum, migration and integration, as well as international and Schengen cooperation. Regional offices of the Department for Asylum and Migration Policy are responsible for implementing the extensive agenda of residence permits, long-term visas, green and blue cards.

The Refugee Facilities Administration is directly subordinated to the Ministry of the Interior. It provides for the reception and accommodation of asylum seekers and for the detention of foreign nationals.

The Alien Police Service, which operates within the Police of the Czech Republic and is subordinated to the Ministry of the Interior, is responsible for border control and protection, and for monitoring irregular migration, including deportations from the country's territory.

The fields of asylum, migration and integration are also covered by other Governmental bodies. The Ministry of Foreign Affairs is processing applications for visas and residence permits through its network of embassies and consulates. Moreover, it issues short-term visas. The Ministry of Labour and Social Affairs defines criteria for the labour market access for particular groups of foreign nationals. Its

Labour Inspectorates fight against unauthorised employment of foreign nationals. The Ministry of Industry and Trade issues trade licences for foreigners – entrepreneurs through its Trading Offices. The extradition for criminal prosecution or imprisonment in another country falls within the competence of the Ministry of Justice, which also deals with legislative work related to the judiciary. The Czech Customs Administration, which falls within the Ministry of Finance, carries out controls of foreign nationals' employment. The Ministry of Education, Youth and Sports ensures access to education for immigrant children and decides, together with universities, whether to recognise diplomas and degrees acquired abroad. The Ministry of Health provides information on health care services available to foreign nationals and regulates the obligatory health insurance. The Ministry of Regional Development is involved in the state integration programme for recognised refugees by providing accommodation in the so-called integration flats (Zpráva 2012).

The Czech Courts play an important role in international protection proceedings, since they function as appellate (regional courts) and cassation bodies (Supreme Administrative Court) if applicants do not agree with decisions taken by the Ministry of the Interior.

As described above, there are many state administration bodies involved in the migration policy development and implementation. However, the goals of particular actors are diverse and sometimes even conflicting, as, for instance, in case of the Ministry of Labour and Social Affairs, whose primary goal with respect to foreign nationals' employment is the protection of domestic workers, and a completely different perspective of the Ministry of Trade and Industry, which follows the goal of increasing the Czech economy's competitiveness through the recruitment of foreign experts and professionals.

Nevertheless, the Ministry of the Interior remains the principal actor; it acts as an agenda-setter, a coordinator of migration policy and a mediator between all involved bodies in the country, as well as a negotiator with the EU and other international organisations, such as the International Organisation for Migration (IOM), United Nations High Commissioner for Refugees (UNHCR) and others. The Ministry of the Interior, which finds itself in an undisputedly difficult position, used to be criticised for its reactive rather than proactive approach towards migration. However, considering the fact that migration policy still does not have a very long tradition in the Czech Republic, the state approach towards migration has changed, *inter alia* also due to the extensive *acquis communautaire* that has to be respected. Czech



policymakers are increasingly using the data and analyses of the current and long-term migration trends and are getting inspired by the migration policy measures of their European neighbours. The Czech migration policy is thus becoming more dynamic and complex.

## 5 Selected issues of the Czech migration policy

Having presented the contours of the Czech migration and integration policy, this section attempts to shed some light on the most pressing issues raised by immigration in practice.

### *Terminology*

The first observation that arises after having an insight into the normative framework of the Czech regulation of migration issues refers to the fact that in the Babel of denotations used for migrating persons, it might be useful to explain the terminology used. The term *aliens* differs from the terms *migrants* or *immigrants* commonly used in other European countries. The terms *aliens*, *foreigners* or *strangers* will neither be found in the EU documents nor uttered by European politicians. These terms were associated with newcomers who differ from the social group they are approaching to and try to be accepted or at least tolerated by (Schutz 1976). This situation equals a one-sided attempt of a stranger to adopt certain knowledge in order to understand the rules of the relevant social group. Such a paradigm was rejected by social scientists and replaced by the term *migrant(s)*. However, the terms *aliens*, *foreigners* or *strangers* are still being used in the Czech legislation. In the so-called Aliens Act, for example, a ‘foreign national’ means a natural person, who is not a citizen of the Czech Republic, including a citizen of the European Union<sup>44</sup>.

A second remark related to terminology refers to the fact that there is a differentiation between two categories of foreign nationals in the Czech legislation, i.e. between EU-citizens and non-EU citizens or the so-called third country nationals. Such a categorisation is being implemented in line with the legislation and creates a special group of inhabitants whose rights are not the same as those of other inhabitants. The category of third country nationals is used for defining target groups of integration projects funded by the European Fund for the Integration of Third Country Nationals (EIF). For instance, third country nationals are considered clients of the newly established regional Centres for the Support of the Integration of Foreigners

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<sup>44</sup> Section 1(2) of Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic.

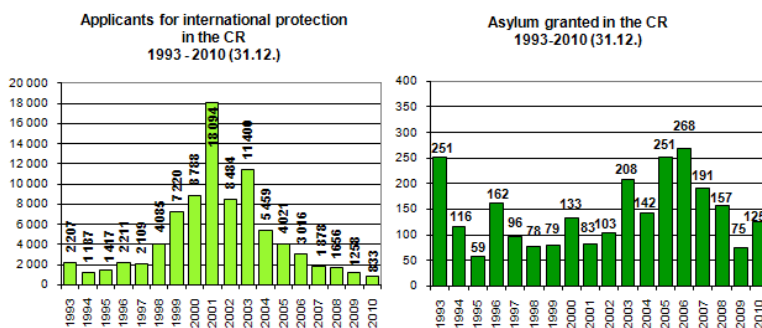
financed by the EIF.

Other terms denoting migrants stem from the purpose of immigrants' stay, such as labour migration (employment or entrepreneurship); family reunification; study or training; research; asylum and temporary protection. These categories of persons are the most relevant for the definition of rights and obligations of immigrants. Some migrant categories are even regulated by certain additional legislative acts specifying their status,<sup>45</sup> which are usually adopted as a reaction to European directives.

### Asylum

As illustrated in Figure 1, the number of applications for international protection was growing steadily in the 1990s, but dropped significantly since the Czech Republic's accession to the EU in 2004. Their number decreased from more than 18,000 in 2001 to merely 756 applications in 2011. Asylum was mostly granted to asylum seekers coming from the Russian Federation, Belarus, Afghanistan, Ukraine, Myanmar, Armenia and Kazakhstan (CZSO 2012b).

**Figure 1** *International Protection in the Czech Republic*



Source: CZSO (Czech Statistical Office) 2012c.

The international protection procedure is considered to be very strict and rigid. Nevertheless, the relative proportion of granted asylum increased from one to two per cent of all successful asylum applications in the 1990s to 14 per cent in 2011. This increase might be partly explained by the inclusion of resettled persons into such statistics, since they obtain the status of recognised refugees and are automatically

<sup>45</sup> Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic is considered *lex generalis*, while other legislative norms dedicated to specific categories of migrants can be considered as *lex specialis*.

granted asylum after the arrival to the country. The number of asylum seekers, particularly asylum holders, is very low in comparison with the number of other categories of migrants in the country. The Czech Republic is aware of this development and willing to share the 'burden' with other EU Member States. Since 2008, the Czech Republic has participated in the Joint EU Resettlement Programme. For example, 108 Myanmar nationals were resettled from Malaysia and granted international protection by the Czech Republic in the 2008-2012 period (Burma Centre 2012).

### *Irregular migration and trafficking*

Irregular migration can be described as a specific type of migration that does not fall within the legally defined framework of entry and residence in a country.<sup>46</sup> It is often accompanied by criminal acts of human trafficking and smuggling. The Czech Criminal Code<sup>47</sup> lists the following crimes related to irregular migration: human trafficking; organising and facilitating irregular crossings of state border; abetting unauthorised residence in the territory of the Czech Republic; unauthorised employment of foreign nationals (EMN 2012).

As stated in the National Strategy against Human Trafficking<sup>48</sup> (2012: 4), the Czech Republic has been a destination and target country for human traffickers rather than a source country. The most frequent forms of exploitation include sexual and labour exploitation. The latter has been prevailing since 2008, which means that more men were represented among the victims than in the past. The number of detected crimes of human trafficking ranged from 29 in 2008 to 19 in 2011. Due to a new Act No. 418/2011 Coll., about the Criminal Liability of Legal Persons, it has been easier for Czech courts to review cases of forced labour since 1 January 2012. The recent largest case of labour exploitation, known as 'the tree workers case', concerns more than 2,000 workers from Vietnam, Ukraine, Romania, Bulgaria, Hungary and Slovakia. The cases of labour exploitation are also increasingly recorded for EU migrants, especially Romanians and Bulgarians, who have been able to enter the Czech labour market without any

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<sup>46</sup> In this paper, the term irregular migration is used to denote a specific type of migration. The term undocumented migrants refers to persons under this specific migration regime. Other terms, such as illegal, extra-legal, unauthorised, irregular or clandestine, are avoided when referring to persons (De Genova 2002: 420).

<sup>47</sup> Act No. 40/2009 Coll., Collection of Laws of the Czech Republic, available on the website of the Ministry of the Interior, <http://aplikace.mvcr.cz/sbirka-zakonu/>.

<sup>48</sup> The full title is 'National Strategy to Combat Trafficking in Human Beings in the Czech Republic for the period 2012-2015', available at <http://www.mvcr.cz/soubor/national-strategy-to-combat-trafficking-in-human-beings2012-2015-pdf.aspx>.

restrictions since 2007.

The Alien Police Service is involved in the activities performed by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX). As the country does not have any external EU borders, it is primarily focussing on Prague airport, which represents a possible entry point for irregular migrants. The details regarding border control are specified in a special Border Protection Act No. 216/2002, which is to be amended together with the Aliens Act and the Act on the Free Movement of EU Nationals and their Family Members. According to the latest legislative intent, the Government reserves the right to re-introduce internal border controls in case of a serious threat to public order or internal security. In line with the Schengen Borders Code, the re-introduction of internal border controls is an exceptional national decision limited to a period of 30 days. The practical application of this measure by the Czech Government has not been determined yet, but it might be specified in the new Border Protection Act. Apart from measures applied at the borders and within the country, certain limited preventive measures may also be taken before a foreign national enters the country. In the period between 2008 and 2009, the Ministry of the Interior, in cooperation with the IOM, carried out a specific project aimed at raising the awareness of Mongolian labour migrants about the labour market situation in the Czech Republic.

The Czech Republic does not stand out in any way in terms of its policy towards undocumented migrants. Data about the number and status of undocumented migrants are practically unavailable. There is a 'no-policy' strategy applied to consider the status and treatment of undocumented migrants in a way similar to the EU policy level. As pointed out by Carrera and Guild (2010: 2), 'the access to fundamental and basic (socio-economic) rights and freedoms [...] by undocumented migrants has simply been a "non-policy issue" across the various agendas and multiannual (five-year) programmes covering the EU's AFSJ [area of freedom, security and justice]'. In addition, the Czech Republic is lagging behind when it comes to research focussing on undocumented migrants. The only stakeholders that are paying greater long-term attention to this group of migrants are the non-profit organisations, which assist such migrants in case of any difficulties and try to initiate a discussion about their regularisation, as this is a possible policy measure that has never been applied in the Czech Republic. Three non-profit organisations based in Prague, i.e. the Prague Multicultural Centre, the Organisation for Aid to Refugees and the Association for Integration and Migration, have been advocating the

undocumented migrants' rights within a project entitled 'Regularisation as a Tool for the Fight against Irregular Migration' since 2007.

The Czech Government becomes immediately aware of the presence of migrants as soon as their situation worsens dramatically, as was the case in 2008 and 2009. The Ministry of the Interior must then adopt a flexible and quick solution in order to ensure security in its territory. Typical policy measures used for dealing with the situation include detention, expulsion or assisted voluntary return. The voluntary returns programme may apply to undocumented migrants, victims of human trafficking or failed applicants for international protection.

### *Labour migration*

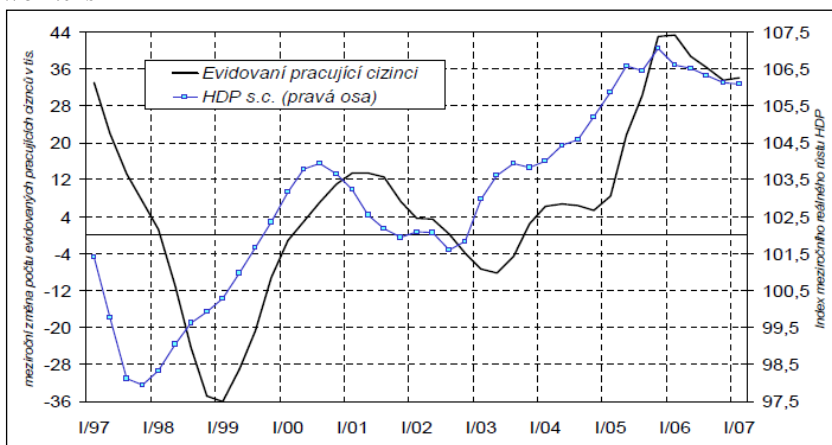
Labour migrants represent the majority of the migrant population in the Czech Republic. Due to its high rates of annual growth of GDP that were recorded between 2000 and 2008, which reached its peak of 7 per cent in 2006, the Czech Republic became an appealing place to work (and live) for everyone that was willing to handle bureaucratic obstacles and wished to obtain employment or start their own business. However, the situation changed in 2008 with the onset of the global economic crisis. As a result, thousands of foreigners lost their jobs overnight and found themselves without any income to cover their basic expenses, including food and housing. For the first time ever, the Government was strongly confronted with immigrants' situation. By reacting to the anxiety expressed by the Czech majority population and stressing the security situation in the country, the Ministry of the Interior launched a special project of the so-called voluntary returns at the beginning of 2009. The project aimed at assisting third country nationals who lost their jobs due to the closing-down of several factories. Foreign workers were usually the first ones to be dismissed, mainly because they did not have regular working contracts, but were hired through labour agencies. The Ministry of the Interior offered these immigrants a financial contribution in the amount of 500 EUR and a flight to their home country. However, most of them did not accept the offer and remained in the country hoping for a swift economic recovery and new working opportunities.

Recently, the top 10 countries of origin of labour migrants in the Czech Republic have been the following: Slovakia (117,831 persons), Ukraine (68,950), Vietnam (32,145), Poland (21,430), Bulgaria (8,148), Romania (6,817), the Russian Federation (5,644), Germany (4,830), Moldova (4,228) and the United Kingdom (3,654) (CZSO 2011a).

The total number of foreigners employed in the Czech Republic

depends on the situation on the Czech labour market; the correlation between unemployment rates, GDP growth and the number of employed foreigners should be observed in a long-term perspective.

**Figure 2** Relation between GDP growth and the number of foreign workers



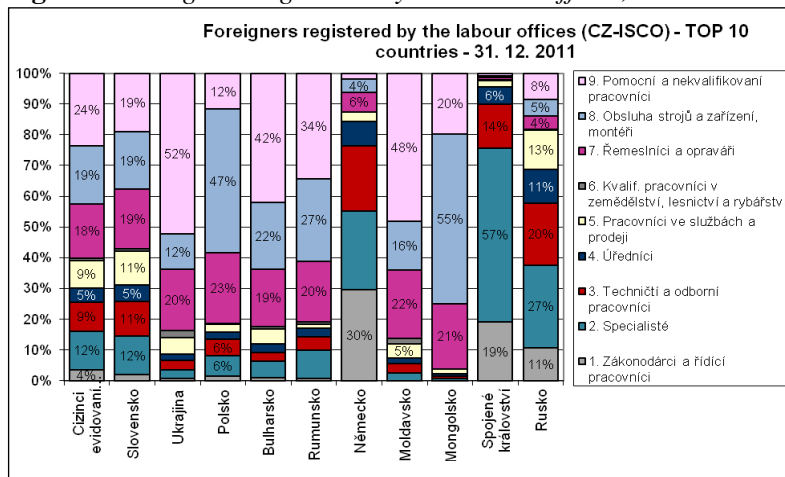
Index of the inter-annual real GDP growth (in blue, on the right axis), inter-annual variation in the number of foreign workers (in black, on the left axis)

Source: Pavel & Turková 2007: 10.

It is important to differentiate between labour migrants registered by the labour offices (Ministry of Labour and Social Affairs) and trade licence holders (Ministry of Industry and Trade). The Vietnamese migrants traditionally prefer entrepreneurship to employment, as can be observed from a high number of trade licence holders (29,000 out of 32,000).

Figure 3 illustrates the relative frequency of qualified workers (categories 6, 7, 8) and unqualified workers (category 9). The qualified and unqualified workers make up 70 per cent of the total number of foreigners registered by the labour offices from the top 10 countries of origin.

Contrary to a widespread belief of the Czech population, i.e. ‘migrants are stealing our jobs’, empirical data clearly demonstrate that migrants are finding employment in non-saturated segments of the Czech economy, particularly in jobs requiring qualified and unqualified workers.

**Figure 3** *Foreigners registered by the labour offices, TOP 10 countries*

TOP 10 countries of origin (from left): Slovakia, Ukraine, Poland, Bulgaria, Romania, Germany, Moldova, Mongolia, the United Kingdom, the Russian Federation

1 – Legislators and managers, 2 – Specialists, 3 – Technical staff, 4 – Civil servants, 5 – Employees in service and retail sectors, 6 – Qualified workers in agriculture, forestry and fishery, 7 – Craftsmen and Repairmen, 8 – Machine operators, assemblers, 9 – Unqualified workers

Source: CZSO (Czech Statistical Office) 2011b.

According to the Migrant Integration Policy Index (MIPEX) (Huddleston et al. 2011: 58), migrant workers' rights 'are just as unfavourable as they are favourable'. This ambiguous formulation used by the MIPEX researchers hints at a certain discrepancy between the statutory working conditions and the practice of migrants' employment. Migrant workers should enjoy the same working conditions as Czech nationals; however, there are cases where employers and employment agencies abuse migrant workers' labour rights. Some of them were disclosed to the public, particularly the case of the so-called tree workers, who were hired in the forestry sector, and domestic workers. Nevertheless, most cases involving individual workers remain hidden. In recent years, the Ministry of Labour and Social Affairs has intensified controls over migrant workers' working conditions that are carried out by the labour offices and inspectorates.

Similarly to most other European countries, Czech labour offices also conduct the so-called labour market test before issuing any new work permits or prolonging present ones. Each regional labour office is supposed to assess migrants' application by considering the situation on the Czech labour market in order to determine whether the vacancy could be filled by a currently registered job seeker. Labour offices have to respect regulations issued by Ministry of Labour and Social Affairs which acts as a coordinator of foreign employment. From 1 July 2012,

labour offices are not allowed to issue any new work permits to foreigners holding a qualification lower than a secondary school diploma (high school leaving certificate). Existing work permits must not be prolonged for periods longer than six months. Such a measure, which was adopted with a view of protecting the domestic labour market, was strongly opposed by both employers and non-profit organisations advocating migrants' rights.

### *Family reunification*

Family reunification represents one of the main purposes for immigrants' stay in the Czech Republic and generally corresponds to the trend observed in other EU Member States. For example, the highest number (42.9 per cent) of new permits in 2010 was granted for family-related reasons (Eurostat 2010).

The right to family reunification is defined by Directive 2003/86/EC on the Right to Family Reunification, which was transposed into the Czech national legislation. The latest legislative act is considered to be sufficient and provides the necessary legal certainty. On the basis of conclusions drawn from the public consultation on the right to family reunification of third country nationals living in the EU,<sup>49</sup> the Czech Republic is not in favour of the Directive's amendment. The Czech Republic believes that there are no major problems with the current provisions, which are sufficiently flexible thus allowing every Member State to adapt its legislation to national needs and conditions. As pointed out by the Czech Senate, the reopening of this Directive might bear a significant impact on the Member States' autonomy in migration management.

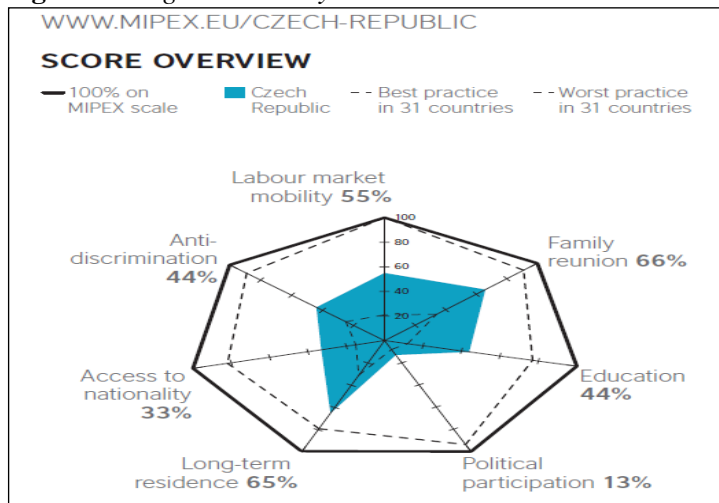
Problems related to family reunification are also resulting from very long qualifying periods that may prolong the actual family reunification to a total of two years. Another unfavourable condition for reunified family members lies in the fact that they are not eligible to enjoy the public health insurance system.

Nevertheless, the practice of implementing the right to family reunification was ranked as the best of other six integration policy areas in the Czech Republic by Huddleston et. al in MIPEX III (2011), see Figure 4. The score achieved by the family reunification policy was slightly above the European average. The same was also the case for MIPEX II which was conducted three years earlier.

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<sup>49</sup> Opened by the European Commission on 15 November 2011 and closed on 1 March 2012.



**Figure 4** *Integration Policy Areas*

Source: MIPEx III 2011: 56

## 5 Positions of the relevant political parties

In the Czech Republic, the issues of migration and integration do not form part of the core political issues as in the countries of Western, Southern and Northern Europe, and are not tackled by highly visible mainstream political and public debates. The topic finds its way into the programmes of political parties rather randomly. Some political parties do not even include migration and integration policies into their political programmes, e.g. the new conservative party TOP 09 or the Communist Party of Bohemia and Moravia. Other political parties usually mention migration and integration policies in the security section of their political programmes. The following paragraphs present a short overview of the attitudes towards migration and integration by selected political parties that have been represented in the Czech Parliament.

The liberal conservative Civic Democratic Party, which was in Government during the 1992-1996, 1996-1998, 2006-2009 and 2010-2013 periods, is well known for its Eurosceptic attitudes. The Civic Democrats, affiliated to the Alliance of European Conservatives and Reformists, are convinced that the implementation of migration policy is the right of national Governments and therefore strictly refuse all efforts that may lead to a uniform EU migration policy which would endanger the Czech state sovereignty. In their opinion, immigration policy consists of three pillars: (a) managed legal migration, (b)

prevention of and fight against irregular migration, (c) relationship between migration and development. In their '2020 Vision', they hold a position that immigrants have to get integrated into the host society and respect democratic and cultural values of that society. Moreover, the party argues that immigration from Islamic and African countries causes increasing pressures on cultural identity of our civilisation (Občanská demokratická strana 2010).

The Czech Social Democratic Party, which was in Government during the 1998-2002 and 2002-2006, and has been in Government since 2014 after winning early parliamentary elections in October 2013, does not share the hypothesis expressed by the Civic Democrats regarding the 'dead multiculturalism'. According to Social Democrats, the integration policy should lead to the understanding and respect of other cultures in a multicultural and multiethnic society. Czech Republic's EU membership provides new opportunities for overcoming the feelings of mistrust towards migrants and for a non-discriminatory inclusion of minorities into the majority population. Migration policy is a political, economic, security and demographic issue for the Social Democrats, who believe that immigration is a possible instrument for tackling issues stemming from the ageing population. In contrast to other political parties, the Social Democrats do not forget to mention how important it is to provide adequate living standards for migrants, such as housing, education, employment and social assistance (Česká strana sociálně demokratická 2013).

The Christian Democrats advocate rational solutions to migration issues while respecting the principle of mutual understanding and the preservation of European religious and cultural heritage. They support active migration and integration policies that promote a selective immigration of hard-working foreign nationals who pay their taxes. The Christian and Democratic Union, i.e. the Czechoslovak People's Party, does not consider the EU policy as a threat to national sovereignty, but rather an opportunity to achieve common goals and is thus willing to endorse the common European asylum and migration policy (KDU-ČSL 2010).

The liberal Green Party wishes to combat the ills of recent migration and integration policies, and focuses on more transparent international protection proceedings, more transparent procedures for the legalisation of foreign nationals' residence and the fight against unauthorised employment. In order to achieve better integration, migrants should be actively involved in public affairs at the local and central levels. It is also necessary to strengthen the role of non-profit organisations in the integration process. In comparison with the

programmes of its rivals, the 2010 *Volební program Strany zelených*, i.e. the election programme of the Green Party, seems to address the most specific points by proposing concrete measures (Strana Zelených 2010).

In the past years, the view of the Civic Democratic Party has been dominant and is thus reflected in the recently adopted legislation. The state sovereignty approach is applied while respecting the EU legislation in the fields of asylum, migration and integration. However, the EU legislation is often transposed by following the method of minimum standards and the EU migration policy development that could result in taking further steps towards convergence and harmonisation of national policies is carefully scrutinised.

Certain authors believe that the fact that foreign nationals hold very limited political rights is one of the reasons why migration and integration policies do not represent a significant issue for Czech political parties. Third country nationals do not have either active or passive voting rights, and are thus completely excluded from the electorate. According to Redlová (2011), Czech political parties cannot imagine having a non-Czech citizen as their member. The voices of non-Czech citizens simply do not exist in the political arena.

The topics of migration and integration thus remain a matter only discussed by a limited number of actors consisting of state actors operating at the central level within individual ministries and, more recently, also at the regional level as Centres for the Support of the Integration of Foreigners. Other actors include academia, non-profit organisations advocating migrants' rights and the media. Consequently, salient migration debates adopt two different perspectives depending on who their initiator is. When policymakers plan to launch a new legislative measure that may have an impact on various stakeholders, the state administration invites all stakeholders to engage in a dialogue on a bilateral or multilateral basis. On the other hand, concomitant debates initiated by the non-profit sector, academia or the media are also taking place most frequently as a reaction to up-to-date events and processes, such as the rapid growth of the number of labour migrants in the country or migrants' complaints about the system of health insurance. The topics of migration and integration dominate the media only when they have a direct impact on the majority population.

## 6 Conclusion and future challenges

As a post-communist country, the Czech Republic is facing different challenges in the field of migration than the old EU Member States. The number of migrants living in the country is still relatively low (around 400,000) and almost half of them are located in the capital city of Prague. Migrants are coming from neighbouring countries, former Soviet Union countries or Vietnam, and the coexistence of migrant communities and the majority population is generally not considered problematic. Nevertheless, some latent tensions might grow into open conflicts if they continue to be ignored by the local authorities. For instance, misunderstandings and failed communication between the majority population and the Vietnamese community escalated into an open conflict in the Prague Libuš district in 2010. Since 2010, the City Council has been investing more intensive integration endeavours in order to stabilise relationships between its inhabitants. The Prague-Libuš case clearly showed that the level of cooperation with respect to the implementation of integration policy between the central level (state administration) and the local level (regions and municipalities) has long been underdeveloped and underestimated. According to one of the Prague-Libuš City Councillors, emergency projects initiated by the Ministry of the Interior in cooperation with certain municipal authorities do not yield desired outcomes, since they are always designed for a limited time period (usually for one year).<sup>50</sup> Such projects normally arouse certain expectations and hope, but are usually not followed-up. A systematic and long-term cooperation between state administration and local authorities would undoubtedly be more than welcome (Jedličková 2010).

Unlike the rather xenophobic majority population, the Czech Government is generally well aware of the need of immigration. Changes in the demographic structure of the population bear a significant impact on pension and health care systems, and migrants of economically productive age are welcomed as additional taxpayers. A strong lobby of employers, who are expressing their demand for foreign workers, both low and highly skilled, is pushing policymakers to introduce substantial changes of the labour migration policy. This is why the New System of Economic Migration will be based on permanent migration of selected highly skilled workers and on temporary or circular migration of low skilled foreign workers. While

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<sup>50</sup> A brief information note about such emergency projects is available on the website of the Ministry of the Interior, <http://www.mvcr.cz/mvcren/article/integration-of-foreigners-within-the-territory-of-the-czech-republic.aspx>.

low skilled migrants are, according to the New System of Economic Migration, expected to be able to leave the country upon request at any time, highly skilled migrants will be attracted to the country by a set of privileges, such as the right to immediate family reunification, simplified procedures for receiving work and residence permits or longer protection periods in case of employment termination. Some experts have been warning against the circular migration concept, which was applied in Western European countries a few decades ago, as it may have serious negative consequences on the labour market and the integration of the foreign workers (the emergence of the so-called *gastarbeiter*). The power that employers have over their temporary migrant workers is increasing together with the danger of employee's dependency on and exploitation by the employer. The national economy, which depends on the continuous supply of cheap foreign work force, might collapse when migrants decide to move from the country in pursuit of certain more attractive economic and social opportunities. Circular migrants will not be motivated to integrate into the host society and conditions allowing their integration in the Czech Republic will actually not exist.

As an EU Member State, the Czech Republic is obliged to implement the EU law. However, the Government is often not fully familiar with policy concepts integrated in European legislation. Therefore, strategies for the transposition of EU directives vary from the 'copy-out' approach applied in case of low-priority and uncontroversial issues, such as family reunification, to the application of minimum EU standards in case of antidiscrimination legislation. The 'copy-out' approach is characterised by taking the national translation of the relevant directive and quickly passing it without introducing changes or establishing links to the broader legislative framework (Huddleston 2013). The minimum EU standards are applied in order to fulfil the obligation deriving from EU membership and not to harm the interests of any stakeholders at the national level. According to Rozumek's (2013) critical argumentation, 'various directives are usually received and transposed by the Czech authorities with a strange suspicion'; this might stem from the Eurosceptic perspective of the latest political representation.

In the Czech Republic, migration policy and other public policy domains are defined by the national context characterised by the lack of experience with democratic governance. The post-communist syndrome, shared with other post-communist countries, is, among other, characterised by problems related to the rule of law and high degree of corruption. Both can also be observed in the migration policy

implementation. Legislative acts are too complicated and incomprehensible, their application is rather limited, the circumvention of the law is practiced by both Czech and non-Czech citizens, and there is a high level of discretion in the administrative decision-making procedure. The experience of Czech policymakers with migration management dates back to the early 2000s when it first became necessary to devise migration policy principles and is thus still in its 'teenage years' with all accompanying inconsistencies and *ad hoc* reactions.

There is no reason to assume that the rate of immigration to the Czech Republic will change dramatically. Labour migrants, family migrants and students will continue to come in order to gain experience or start a new life. One can only hope for a transparent and coherent national migration policy framework that will enable them to enter the country legally and become integrated into its economic and social structures. This is the only way of preventing potential negative developments of mutual relationships between the migrant and majority populations.

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## Poland – a Country of Enduring Emigration

*Krystyna Iglicka*

### 1 Introduction

Until now, Poland has continuously been a country of net emigration. Before 1989, immigration was virtually inexistent. On the other hand, the outflows of people in that period were quite sizeable albeit far from being stable. Since 1989, the inflows of foreign nationals have been steadily growing and, according to official records, the balance around 2010 was close to zero. By European Union (EU) standards, however, both the stock and current flows of foreign residents remained relatively low. This stems from the fact that the majority of foreigners coming to Poland are circular or short-term migrants whose propensity or ability to settle down is low. Simultaneously, especially since 1 May 2004 when Poland accessed the EU, the outflow of labour migrants has intensified and reached an unprecedented level.

In recent years, Poland has been compelled to cope with growing sector-specific and regional imbalances or mismatches in the labour market. In addition, the demographic situation in the years ahead is likely to contribute to emerging labour shortages. In turn, Poland's laws, institutions, infrastructure and the public opinion (including the minds of policymakers) are unprepared to receive large numbers of foreign nationals who would fill the 'gaps' in the labour market. This is why migration policy has recently been focussing on legislative and institutional activities aimed at attracting more migrants.

This chapter presents a detailed description of the fundamental change introduced in Poland's migration reality by the collapse of the communist regime in 1989, the ensuing transition to democracy and market economy, and, finally, the accession to the EU. In particular, it aims at highlighting basic trends in migration flows and stocks of foreign residents in Poland, and assessing in which manner and how successfully migration policies responded to such trends.

### 2 Historical background: past flows and stocks of migrants

#### 2.1 Outflows of Polish people

For a very long time, the population of Poland displayed a great propensity to emigrate. It is estimated that more than 3.5 million Polish people settled abroad by the outbreak of the First World War. Between 1919 and 1939, the number of emigrants amounted to approximately 1.6 million. Between 1860 and 1940, approximately 1.7 million or roughly one third of all emigrants (the total number of which ranges

between 5.5 and 6 million) went to the United States. In addition, a large number of persons left temporarily for other countries, mostly for Germany (Frejka, Okólski & Sword 1998, Okólski 1994), Iglicka 1998). Migratory movements related to the Second World War proved to be the most intensive in Poland's history. It is estimated that every sixth inhabitant of Poland's territory (as of 1938) crossed the state frontiers (Luczak 1984). A substantial part of all those migrants who survived the war did not return to Poland after the war ended.

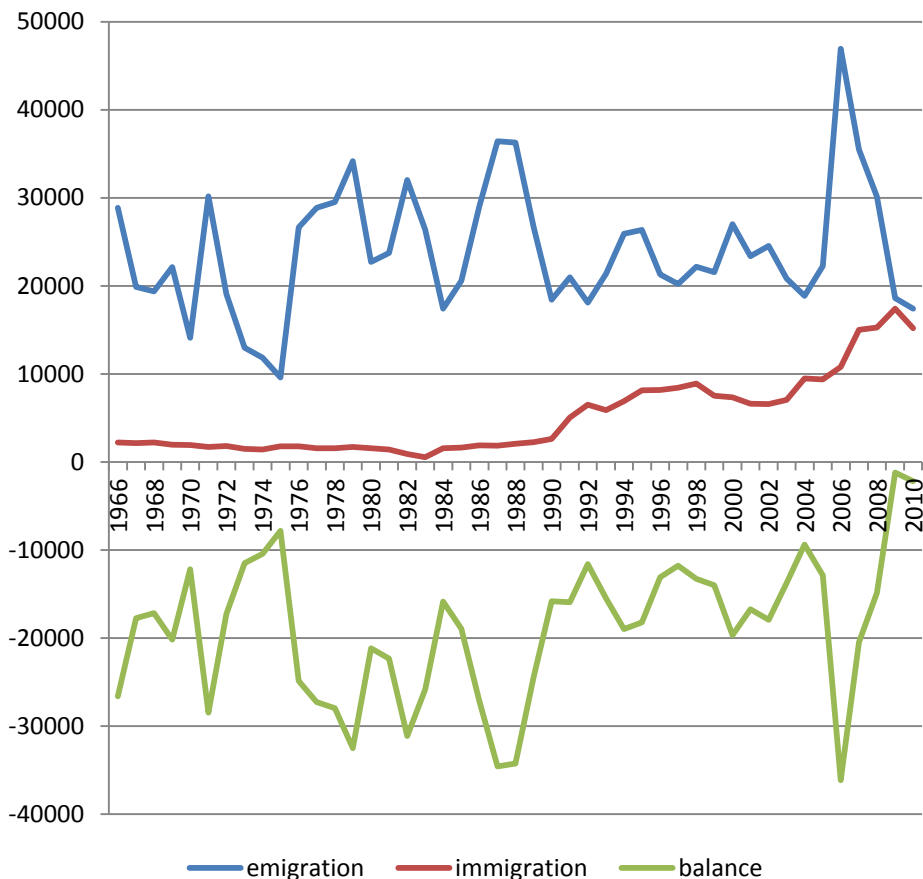
From 1945 until the late 1980s population movements to and from Poland were strictly controlled by the state, and the individual freedom of travelling abroad was severely restrained in case of citizens residing in Poland. Between 1945 and 1947, some 3,885,000 persons (mostly ethnic Germans but also ethnic Ukrainians and ethnic Jews) emigrated from Poland or were displaced (deported, repatriated), while some 3,693,000 persons (mostly ethnic Poles but also Jews) immigrated or were repatriated to Poland (Kersten 1974). In the 1951-1955 period, international movements were effectively stopped. In turn, the following years, i.e. until 1959, saw an enormous increase in migration, though this was once again limited solely to the 'exchange' of ethnic groups. Ethnic Poles and Jews of Polish origin were repatriated from the USSR to Poland, ethnic Germans from Poland to Germany, while ethnic Jews were repatriated from Poland to Israel and to some other countries (Frejka, Okólski & Sword 1998, Iglicka 1998). From the late 1950s until 1990, the documented flows, in which – in contrast to earlier periods – ethnic Poles took a major part, displayed an astonishingly stable pattern (Figure 1).

Annual outflow figures usually ranged from around 20,000 to around 35,000 and inflow figures from around 1,500 to around 3,000. Family reasons, such as marriage, reunion with close relatives or return to Poland after retirement, constituted the main cause of such flows.

The 1970s marked the beginning of a gradual liberalisation of passport regulations in Poland, which led to the multiplication of the number of Poles travelling to other countries. It was precisely in the 1970s when the phenomenon of mass overstaying by Polish tourists in the West began. It is estimated that the total number of emigrant-turned overstaying Poles in the entire decade amounted to around 75,000.

Although the scale of documented emigration did not change dramatically in the 1980s, hundreds of thousands of Polish travellers effectively became immigrants in the West. Persons recognised and accepted by the Federal Republic of Germany as ethnic Germans constituted a great proportion of such undocumented migrants.

**Figure 1** Annual flows of emigrants and immigrants requesting 'permanent residence' and the balance of international migration, 1966-2010 (number of persons)



Source: Own elaboration based on the official data published by the Central Statistical Office.

In addition, the 1980s was a decade marked by a rapid increase in labour migration from Poland. In the peak year of 1989, as many as 148,000 Polish workers were employed abroad (though predominantly in non-western countries) on the basis of various bilateral inter-Governmental agreements or state-sponsored contracts. Around two-third of them worked in other Soviet-block countries, mainly in the German Democratic Republic (GDR), Czechoslovakia and the USSR,

where many worked on large infrastructure projects (e.g. pipelines). Finally, a mass circular mobility of false tourists, i.e. tourists whose major activity in a foreign country involved petty trade or odd jobs, was also observed.

In the 1990s, after the fall of communism, nearly all travel restrictions were lifted and entry into many Western countries became easier – albeit only for people travelling as tourists or for other recreational purposes. Paradoxically, however, emigration decreased and a large majority of migrants engaged in short-term circular movements.

A commonality shared by those two decades lies in the fact that Polish migrants encountered significant difficulties in gaining access to the official labour market in destination countries. Since a large majority of them sought employment, they were pushed to the least attractive jobs, the secondary segment of the market and to shadow economy.

## 2.2 Inflows of foreign nationals and the stock of immigrants

In contrast to outflows, immigration has never been significant in modern times. Until 1989, immigration to Poland was very low, usually between 1,000 and 3,000 persons per year, i.e. approximately ten times lower than emigration (Figure 1). Two short periods (1945-1948 and 1956-1959) represent an exception to this trend as they were marked by arrivals of substantial numbers of resettled Poles from the USSR – 3.7 million and 250,000, respectively. In turn, only some 100,000 persons immigrated to Poland in the entire period between 1945 and 1988. Around half of them were returning Polish migrants or their children, whereas a substantial part of the tiny remainder was composed of foreign citizens from other communist countries (predominantly females who married Polish nationals).

Flows for purposes other than settlement were even less numerous. The inflow of people in need of asylum or humanitarian protection was reduced to few minor waves of political exiles or war orphans as Poland did not accept refugees. Admission of foreign students, initiated in the 1960s, did not occur at a large scale (hundreds rather than thousands new students per year) and was limited to citizens of other communist countries or political allies of the USSR. Migration for work hardly existed, and if so, it was exclusively related to occasional sub-contracts awarded to foreign companies by Polish state-owned enterprises.

Overall, in 1989, on the eve of transition from communism to democracy, only around 20,000 foreign citizens were registered as the

residents of Poland. A large majority of them had Soviet citizenship. At that time, there were practically no undocumented foreigners living in Poland.

### 2.3 Dramatic changes after 1989

In 1989, the migration scene in Poland changed dramatically. It was mainly attributable to the political changes in the Soviet Union, Romania, Bulgaria and other countries of Eastern Europe that granted their citizens freedom to travel abroad. Due to previously concluded (though inactive in practice before 1989) agreements, Poland was one of the very few countries that admitted these people easily. The number of entries of foreign citizens to Poland quickly grew to tens of millions per year. For instance, the number of citizens of former USSR states alone grew from less than three million in 1989 to fourteen million in 1997 (Iglicka 2001).

The numerical increase in the arrivals of foreign visitors was accompanied by an expansion in the diversity of the purpose of visits and in the geographical diversity of participating persons. Although a predominant part of foreigners initially visited Poland only for a few days, the majority of them came to raise money and improve their livelihood in their home countries by engaging in petty trade, occasional odd jobs or whatever else was profitable. Petty traders from Ukraine and other post-Soviet states constituted by far the most notable group because of their numerousness, the recurrence of their visits and the gradual change in the character of those visits, which over time became longer in duration and more ‘regular’ work- or settlement-oriented (Iglicka 2001).

The early 1990s also marked a period during which the Polish territory, thanks to its long adjoining border with Germany, was extensively used by foreigners as a gateway to the West. Transit migration of citizens from countries not sharing a state border with the West, such as Romania, was widespread. At the time, citizens of countries further east could freely enter Poland, but were forbidden free entry into all western states.

The beginning of that decade also witnessed large inflows of foreigners who, unlike the citizens of Romania, were not guaranteed an easy entry into Poland. In order to reach the West, these foreigners had to first unlawfully enter and then unlawfully exit Poland (by simultaneously, of course, unlawfully entering Germany). Such activities frequently required the assistance of criminal organisations. Thus, the business of migrant smuggling and (occasionally) trafficking



emerged and quickly bloomed in Eastern Europe (Maroukis, Iglicka & Gmaj 2011). The majority of smuggled transit migrants came from the following countries of origin: Somalia, Armenia, Vietnam, Iran, Iraq and China, and later on also from Afghanistan, Sri Lanka, Pakistan and India. In the peak years in the mid 1990s, tens of thousands of foreigners were estimated to have been smuggled through Polish borders every year. Since the end of the 1990s, such migrant flows into and/or through Poland have been markedly reduced due to the introduction of more effective border control measures. More recently, migrants that were most frequently smuggled into or through Poland included Russian citizens coming from Chechnya.

The influx of asylum seekers began in 1990, i.e. even before the 1951 Geneva Convention on refugees was ratified by Poland. Their inflows were rather limited before 1995, as the number of applicants ranged from 500 to 850 per year, except in 1990 when their number exceeded 1,000. Refugees were geographically diversified. Many arrived from Africa and Asia, but the majority hailed from South-Eastern Europe (Albania, Bosnia and Herzegovina, Bulgaria and Romania). Most of them turned out to be ‘false’ refugees who soon unlawfully left Poland for the West. A little more than 500, however, were granted refugee status and settled in Poland (Iglicka & Ziolk 2010).

From 1996 to 1999, the inflow of asylum seekers reached a much higher level than was recorded in preceding years (3,000-3,500 per year). The predominant majority of newly arriving individuals came from Asia and the Middle East – Armenia, Afghanistan, Sri Lanka, Pakistan, Bangladesh and Iraq. In 2000, a sharply rising trend was initiated with the arrival of large groups of Chechens (officially citizens of the Russian Federation). This trend stabilised in 2003, with the number of asylum seekers consistently ranging between 7,000 and 8,000 in subsequent years. After 2004, only individuals from the Russian Federation (in 2009 also the citizens of Georgia) represented a statistically significant group within the Polish refugee administration.

It is worth noting that during this period of relatively high influxes of asylum seekers, i.e. between 1996 and 2006, only slightly more than 2,000 foreigners were granted refugee status (3.5 per cent of applications), while less than 5,000 were granted ‘tolerated status’.<sup>51</sup> While the latter group comprised almost exclusively Russian citizens (Chechens), the recipients of refugee status also included citizens of Belarus, Afghanistan, Somalia, Sudan, Sri Lanka and a handful of other

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<sup>51</sup> ‘Permit for tolerated stay’ only entered into force as of 2003.

countries (Iglicka 2007).

Since 1990, labour migration, which hinges on specific work permits that must be obtained prior to entering Poland, represented yet another source of continuous foreign inflow. Apart from exceptional, numerically small categories (e.g. academics), this was the only way for a foreign temporary resident to gain legal employment in Poland until very recently. The number of work permits granted each year has steadily increased over time: from the initial 3,000 work permits issued in 1990 to 25,000 in 2002. Since 2003, the numbers have declined to roughly 12,000 in 2006.<sup>52</sup> Irrespective of their total number in any given year, most migrants originate from the same countries, which, with comparably significant shares, can be easily divided into three regional groups. The first group comprises the three countries of Eastern Europe: Ukraine, Russia and Belarus; the second group includes five Western countries: Germany, the United Kingdom, France, the United States and Italy; while the third group consists of five Asian countries: Vietnam, China, Turkey, India and South Korea. At the turn of the twenty first century, permits granted to citizens of these 13 countries accounted for more than 70 per cent of the total number of permits (the share of Ukrainians alone was between thirteen and fourteen per cent).

For many years, a burdensome procedure and a substantial fee related to granting a work permit discouraged both employers and potential migrant workers from applying. Instead, many foreigners were clandestinely employed. Various estimates throughout the 1990s suggested that hundreds of thousands of foreigners might have been involved in irregular work in Poland every year (Maroukis, Iglicka & Gmaj 2011).

Finally, an influx of ethnic Poles from abroad should also be mentioned here, even though the overall scale of repatriation was rather unimpressive: between 1997 and 2010, less than 7,000 persons arrived to Poland within a special repatriation programme launched by the state. Approximately half of these ‘repatriates’ arrived from Kazakhstan and a quarter from Ukraine. Another ‘flow’ of immigrating Poles included individual returns to Poland, most often emigrants who left during the communist era (Hut 2002, Iglicka 2001).

The above description, albeit crude and preliminary, might suggest that the paths to immigration as a structural political and socio-

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<sup>52</sup> The figures for the post-2004 period do not include the majority of EU (and EEA) nationals who are exempt from the work permit requirement. Still, the number of work permits granted to non-EU citizens in the same period remained at about the same level as in 2002 and 2003.

economic process have already been paved in Poland. According to this contention, Poland has been systematically penetrated by various flows of migrants arriving for diverse purposes and originating from a variety of different countries over the past two decades. Large niches have been created where these migrants established their living spaces.

On the other hand (and rather surprisingly in view of the above sketched changes), the stock of immigrants remained very low. According to the 2002 population census, Poland's population included only 63,000 foreign residents, while the most recent census of 2011 shows that there were 84,000 foreign residents, i.e. between 0.2 and 0.3 per cent of the total.

After more than 20 years of post-communist transition, Poland's immigration does not resemble the past; still it hardly fits a model European immigration country. It strikingly lags behind other EU countries with respect to the quantity and rate of inflows and stock of foreign citizens. Instead of attracting immigrants, whose strategy would include the settlement and integration in the Polish society, Poland receives and hosts migrants who enter the shadow economy and prefer short-term visits, transitory status and flexibility. In effect, the continuously growing number of temporary or circular migrants has little impact on changes in the stock of foreign residents.

### **3 Migration and integration policies**

#### **3.1 Migration policies before 2004**

Between 1945 and 1989, legal acts related to international movements of people strictly followed the cardinal principles of an isolationist migration policy of that time: they were simple and predominantly repressive (Iglińska & Ziolkowski 2010). Numerous Government ordinances of highly limited circulation effectively discouraged residents of Poland from travelling abroad and those of other countries from visiting Poland. The relevant institutions as well as transport and service infrastructures were vastly underdeveloped in comparison with Western countries. This clearly reflected the low priority that was attached to international migration by the omnipotent communist rulers.

Following the adoption of a liberal migration policy by the first non-communist Government in September 1989, all citizens were granted free passage through the state borders, while Poland entered into negotiations on reciprocal visa-free travelling regime with many Governments. At the same time, new administrative and legal entities specifically in charge of migration affairs were established, and a number of international agreements for the exchange of trainees,

students and scholars, as well as programmes in the area of international economic co-operation and assistance were ratified. Various incentives for attracting foreign businesses were gradually implemented. The Polish Government also initiated an active policy aimed at securing a wider access to foreign labour markets for Polish workers, which quickly resulted in a number of relevant bilateral agreements (e.g. with Germany, Belgium and France). Overall, Poland turned into a relatively open country within a period of only one to two years (Iglicka 2007).

In 1989, the only act concerning migration was the Aliens Act of 1963,<sup>53</sup> which was enacted when fewer foreigners were entering Poland. In September 1991, after Poland ratified the United Nation's 1951 Refugee Convention and the 1967 Protocol, it also amended its 1963 Aliens Act to formally establish a system for granting refugee status.<sup>54</sup> The amended act defined the conditions for entry into the country, internal movement and departure. Although deliberations on a new Aliens Act began in 1992, it took five years to finally draft an amended version. Ultimately, the Aliens Act of 1997<sup>55</sup> enabled the free movement of persons and focused mostly on the conditions for entry, stay and transit through Poland. However, it was also mindful of national security, potential EU accession and human rights issues.

In April 2001, the Polish Parliament passed comprehensive amendments to the Aliens Act to help clear the path towards EU membership.<sup>56</sup> One of the significant changes referred to the establishment of the Office for Repatriation and Foreigners. This became the first separate Government agency dealing solely with migration issues.

A separate Repatriation Act, which came into force in January 2001,<sup>57</sup> was the first comprehensive document regulating the resettlement of people of 'Polish ethnicity or descent', including people living in the Asian part of the former Soviet Union. This Act facilitates procedures for those who 'could not settle in Poland due to deportations, exile and other ethnically motivated forms of persecution'. The Repatriation Act also clarifies the means for acquiring Polish citizenship and outlines the types of resettlement assistance. It applies to those who have maintained cultural ties with

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<sup>53</sup> Aliens Act of 29 March 1963, with amendments, *Dziennik Ustaw* 7, 1992, section 30.

<sup>54</sup> *Dziennik Ustaw* 119, 1991, position 513.

<sup>55</sup> Aliens Act of 25 June 1997, with amendments, *Dziennik Ustaw* 127, 2001, section 1400.

<sup>56</sup> Act of 11 April 2001 amending the Aliens Act and some other acts, *Dziennik Ustaw* 42, 2001, position 475.

<sup>57</sup> Repatriation Act of 9 November 2000, with amendments, *Dziennik Ustaw* 53, 2004, position 532.

Poland and have at least one parent, grandparent or two great-grandparents who are of Polish ancestry (Iglicka 2007).

Poland's obligation to implement the Schengen requirements, which meant mandating visas to the nationals of its eastern neighbours, such as Ukraine and Belarus, as well as Russia, proved to be a more difficult issue. Many worried that such visa requirements could weaken cross-border trade, cause the export markets of the former Soviet Union to collapse and decrease the income of people dependent on trade-related services. Consequently, the Polish Government waited until October 2003 to make such visas mandatory. Although cross-border mobility decreased initially, the numbers returned to pre-visa levels by March 2005 thanks to efforts invested by Polish consulates and improvements in the visa regime administration.

In June 2003, Poland also implemented two acts, i.e. the Act on Granting Protection to Aliens within the territory of the Republic of Poland and the Act on Aliens, which further refined the 2001 changes.<sup>58</sup> The Act on Granting Protection to Aliens clearly divides asylum from economic migration issues. It includes principles and conditions for extending various forms of protection to foreigners, including refugee status, asylum status, temporary protection status and tolerated status. Asylum is a separate status provided by the Polish law. It can be granted to a person if the following two conditions are met: firstly, it must be essential to protect the applying foreigner, and, secondly, such protection is justified by important interest of the Republic of Poland.<sup>59</sup> Tolerated status was mainly created to cover Chechens whose asylum applications were rejected but could not be sent home.

The 2003 Act on Aliens included Poland's first regularisation programme for unauthorised immigrants. At the time, the Office for Repatriation and Foreigners estimated that the total unauthorised population ranged from 45,000 to 50,000. However, the regularisation which was in force from 1 September to 31 December 2003 largely failed. For instance, only those who had continuously lived in Poland for five years were eligible. In addition, information about the programme was not publicised and it did not reach the majority of unauthorised immigrants. By the end of the programme, 2,747 out of only 3,512 applications (78 percent) were approved, with 1,245 Armenians and 1,078 Vietnamese receiving legal status.

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<sup>58</sup> Act on Aliens of 13 June 2003, with amendments, and Act of 13 June 2003 on Granting Protection to Aliens within the Territory of the Republic of Poland, with amendments, *Dziennik Ustaw* 189, 2009, position 1472.

<sup>59</sup> *Dziennik Ustaw* 189, 2009, position 1472, art. 90, para. 1.

### 3.2 Policymaking after the accession to the EU

When Poland officially became a member of the European Union on 1 May 2004, which was marked by a rapid abolishment of the last remaining obstacles to the free movement of Polish citizens within the EU (e.g. concerning the access to foreign labour markets and passport controls), migration policy became even more focused on the inflows of people to Poland and integration of immigrants.

Since mid 2005 (until 2009), policymakers have been discussing immigration in terms of social or economic policy, focussing on the following:

- return migration of Poles who emigrated to Western Europe;
- the need for skilled and unskilled foreign workers in sectors, such as agriculture and construction;
- control of the eastern border and free movement of Polish citizens under the Schengen regime;
- irregular inflow of foreigners;
- integration of immigrants.

#### *A PPlan to return*

The Polish Government continues to prioritise different ways for attracting Polish migrants back to Poland due to labour shortages and Poland's aging population. Additionally, it hopes that return migrants would introduce new capital in order to make investments and boost the Polish economy. The current Government's campaign platform involves encouraging the return of young Polish emigrants.

In November 2008, Prime Minister Donald Tusk started a Government campaign entitled 'Have you got a PPlan to return?' that aimed to facilitate smooth returns and showcase employment opportunities. The campaign produced a guidebook and a website, which include practical information about the necessary paperwork, answers to problems that return migrants have to face and opportunities in the local labour market with lists of local employment agencies and job openings in areas where return migrants might like to settle. The Government spent about four million Polish zloty (about one million euro) for the campaign, which was allegedly based on consultations with Polish diaspora organisations. Although the campaign was very informative, interactive and constantly updated, it was not deemed a success.

Apart from the campaign, the Government also passed the Tax Abolition Act in 2008, which allowed Poles who obtained income

abroad between 2002 and 2007 to apply for a refund on taxes they already paid. The act also provides relief from double taxation. Still, Poland does not have other structural measures to make return more attractive (Iglićka & Słusarczyk 2010).

### *Labour shortages*

Massive emigration to Western Europe created serious labour imbalances in Poland as those who left came from two basic strata. They were either young, highly skilled graduates from Polish universities who usually left after graduation (the so-called baby boom generation) or low-skilled workers. The latter gave rise to the popular image of the ‘Polish plumber’ – an immigrant eager to take low-paying and low-skilled work that natives are not willing to do.

Because of emerging labour shortages, in August 2006, Poland awarded workers from Ukraine, Belarus and Russia the right to work in Poland without work permits for three months in a given period of six months. The programme, which was initially limited to the agricultural sector, expanded to all other sectors in June 2007 (Iglićka & Ziolk 2010).

When Bulgaria and Romania joined the European Union in January 2007, Poland, along with nine other Member States, opened the labour market for Bulgarian and Romanian workers. However, contrary to Government’s assumptions, they did not arrive.

In February 2008, the Government extended the duration of legal employment of workers without a work permit from east neighbouring countries to six months in a twelve-month period and, in addition, made the citizens of Moldova (June 2008) and Georgia (November 2009) eligible for the programme. This gave rise to the so-called scheme of employer’s declarations. The workers who benefit from the respective provisions can enter Poland on the basis of their employers’ declarations (not contracts) of intent to employ a given worker for up to six months within a one year period. Most such declarations come from agriculture and construction, i.e. the sectors with the highest demand for seasonal workers. Polish employers responded immediately. The Government continues to facilitate procedures for non-EU citizens working in Poland. In January 2009, the Government streamlined the procedure employers need to follow in order to request a work permit, mainly by reducing the number of required documents.

*The eastern border*

Poland entered the Schengen area in December 2007, making its eastern frontier – 746 miles or 1,200 kilometres from the Baltic Sea in the north to the Carpathian Mountains in the south – a significant portion of the EU's eastern-most border (Iglicka & Sword 1998). To join the Schengen area, Poland had to ensure a high level of border security. Modern infrastructure and equipment for border services had to be implemented. Since 2004, the EU has been supporting Poland, as well as other new Member States, with funds from the Schengen Financial Instrument; Poland received 313 million euro according to the Ministry of the Interior and Administration. By December 2007, Poland spent 90 percent of the financial resources.

Joining the Schengen area resulted in fewer legal border crossings by Ukrainians, Belarusians and Russians, who need to pay 35 euro to obtain a Schengen visa for entering Poland. The visa is prohibitively expensive for Ukrainians, for whom 35 euro may, according to the Ukrainian consul general in Warsaw, represent half of the monthly living expenses. By recognising the importance of good relations with its eastern neighbours, Poland has strived to improve cross-border flows with bilateral border agreements. Since 1 July 2009, residents living near the Poland-Ukraine border may choose to pay 20 euro and receive a special permit with a two-year validity period that allows them to cross the border, travel within 30 kilometres of the border and stay no more than three months in any half-year period. Poland signed a similar agreement with Belarus in February 2010 and ratified it in June 2010.

Dialogue with Ukraine and Belarus regarding future visa agreements also takes place within the Eastern Partnership, established in 2008 upon the initiative of the Polish Government and assistance from Sweden. The Eastern Partnership seeks to improve the EU's political and economic ties with Ukraine, Belarus, Moldova, Azerbaijan, Armenia and Georgia (Iglicka & Ziolek 2010).

*New regulations for co-ethnics: The Polish Chart*

Apart from seeking labour from its eastern neighbouring countries, Poland also adopted the Act of the Polish Chart in September 2007, which makes it easier for people of Polish descent residing in former Soviet countries to settle in Poland.<sup>60</sup> The act, which came into effect in April 2008, builds on the notion of 'Polish ethnicity' that was central to the aforementioned repatriation programme, which came into effect in

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<sup>60</sup> *Dziennik Ustaw* 180, 2007, position 1280.



2001 and was limited to ethnic Poles from Kazakhstan. The earlier programme did not succeed mainly because local authorities in Poland were reluctant to invite eligible people (necessary for a repatriation visa) at a time when Poland's economy was struggling.

Today, any person whose parents, grandparents or at least two great-grandparents were Polish is eligible to live and work in Poland on the basis of a special document called the Polish Chart. Apart from Polish ancestry, applicants must also meet other conditions. During an interview with the consul (an authority that conducts the test and grants the chart), they have to pass a Polish language test and correctly answer questions about Polish culture and history. Chart holders are eligible to receive a free long-term Polish residence visa and eventually Polish citizenship. Chart holders also obtain access to free emergency medical care, reduced fees for public transportation and free entrance to museums. However, they are not eligible for welfare benefits (Iglicka & Ziolk 2010).

### *Irregular migration*

Poland continues to fight unauthorised entry, stay and employment of foreign nationals. Although it is difficult to assess the scale of irregular migration to Poland, those who are in the country without authorisation generally cross the border by using false documents or are brought to Poland by human traffickers and smugglers. Others overstay their visa or enter Poland as tourists but work in the shadow economy.

According to a report on unauthorised immigrants in Poland (Iglicka & Gmaj 2010), there are no studies estimating the country's total number of unauthorised immigrants. However, according to the report, Ukrainian citizens dominate the population of unauthorised migrant workers. The Vietnamese are the only group that researchers have studied in any depth. The Migration Policy Unit at the Ministry of the Interior and Administration claims that one in two Vietnamese living in Poland is probably staying irregularly, which translates to between 12,000 and 22,000 people.

Poland's strict approach to migration policy is evident in its regularisation programmes, which included requirements that the majority of people residing in Poland irregularly could not meet. After the aforementioned 2003 amnesty, which required a continuous residence of five years, the Government held another regularisation from July 2007 until January 2008 the requirements of which were even stricter. For example, applicants had to present a legal entitlement to

occupy their place of accommodation and proof of their financial stability.

In turn, the EU European Pact on Immigration and Asylum adopted in 2008 pushed Poland to combat irregular employment. Since January 2009, border guards are also involved in controlling the legality of foreigners' employment in addition to Poland's National Labour Inspection. This resulted in a significant increase in the number of inspections carried out in companies (Iglicka & Gmaj 2010).

### 3.3 Integration policy

Poland still lags behind other EU countries in implementing comprehensive integration policies. In fact, Poland has not defined the contents of immigrants' integration in any legal document to date (Smoter 2006). Until recently, integration focused only on persons with refugee status and returning Polish emigrants, known as repatriates.

Under the Act on Repatriation, repatriates are entitled to the reimbursement of transportation costs, education of minor children in Poland, settlement and maintenance grants, and a free course in the Polish language; the Government also reimburses bonuses, social insurance, equipment and vocational training to their Polish employers.

In the early 1990s, Poland's first integration programmes for foreigners targeted refugees from former Yugoslavia. Since then, local regional governors have been responsible for coordinating measures for the integration of refugees in their respective regions. At the national level, the Department of Social Assistance and Integration within the Ministry of Labour and Social Policy is the main unit responsible for immigrant integration management. The unit determines the entire area of social assistance. Therefore, immigrant integration is merely a small part of its many activities.

Integration programmes are restricted to persons who have been granted international protection. The Individual Integration Programme, managed by the County Centres of Family Support, covers a maximum period of one calendar year. During that year, participants receive cash benefits for living expenses and Polish language classes. The money also covers health insurance contributions and the costs of specialised guidance services, finding accommodation and social work activities. As of March 2008, these provisions have been extended to persons with subsidiary protection status.<sup>61</sup>

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<sup>61</sup> Act of 18 March 2008 amending the Act on the Protection of Foreign Citizens, *Dziennik Ustaw* 70, 2008, position 416.

Since the County Centres of Family Support are understaffed, some question the quality of services provided by the agency to immigrants. However, County Centres started collaborating and partnering with some integration-oriented non-profit organisations to expand their capacities. In addition, the EU's European Refugee Fund supports many of County Centres' integration measures.

The Government has shown strong support for civil-society organisations and NGOs that aim to help immigrants, such as the Polish Humanitarian Action and the Polish Red Cross, which have been carrying out integration work for many years. In addition, since 2008, financial resources from the EU's European Fund for the Integration of Third country Nationals have contributed to a recent boom in the amount of new programmes and potential integration measures.

Policymakers have recently become slightly more interested in integrating other groups apart from refugees. In 2007, the Ministry of the Interior and Administration established a Working Group on the Integration of Foreigners as part of the Inter-Ministerial Committee for Migration established in the same year. So far, the group mainly focussed on passing opinions on programmes for the implementation of the European Fund for the Integration of Third country Nationals and monitoring relevant programmes pursued in the EU.

## **4 Flows of people after the accession to the EU**

### **4.1 Outflows after the EU accession**

After the accession to the EU, the outflow, particularly of temporary migrants, accelerated. Between the end of 2004 and 2007, the stock of Polish residents who lived in a foreign country on a temporary basis (i.e. longer than two months) increased from one to 2.3 million, which represented six per cent of the total resident population of Poland. According to Poland's Central Statistical Office (GUS 2014), the number of such migrants (since 2007, the minimal length of stay outside Poland has been set at three months) declined between 2008 and 2010 to reach two million and started growing again in 2011 (Table 1).

**Table 1** *The stock of de jure residents of Poland who were ‘temporary migrants’ by country of their de facto residence, on 1 January 2002-2013 (in thousand)\**

Country of actual residence	Population Census (May 2002)	2004	2006	2007	2008	2010	2011	2012	2013
Total	786	1,000	1,950	2,270	2,210	2,000	2,060	2,130	2,196 ***
<i>of which:</i> European Union **)	451	750	1,550	1,860	1,820	1,607	1,670	1,720	1,789
<i>of which:</i> United Kingdom	24	150	580	690	650	580	625	637	642
Germany	294	385	450	490	490	440	470	500	560
Ireland	2	15	120	200	180	133	120	118	115
Italy	39	59	85	87	88	92	94	97	96
Netherlands	10	23	55	98	108	92	95	97	103
Spain	14	26	44	80	83	40	40	37	34
France	21	30	49	55	56	60	62	63	63
Austria	11	15	34	39	40	29	25	28	31
Belgium	14	13	28	31	33	45	47	48	49
Sweden	6	11	25	27	29	33	36	38	40
Denmark	.	.	.	17	19	19	21	23	25
Greece	10	13	20	20	20	16	15	14	12
major non-EU destination country of Europe:									
Norway	.	.	.	36	38	50	56	65	71

\* staying abroad for at least three months (before 2007 – two months);

\*\* since 2007, including Bulgaria and Romania;

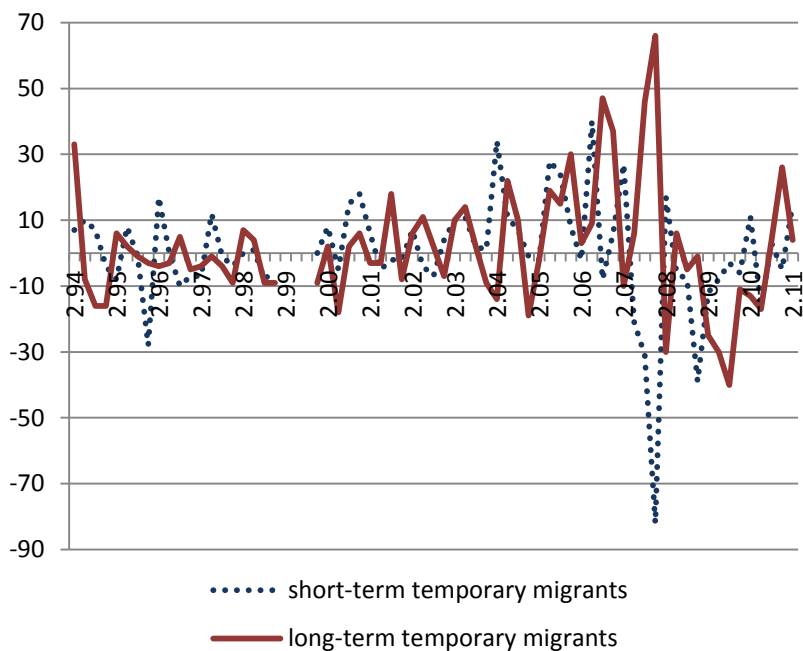
\*\*\* according to GUS estimates, 75 per cent of these migrants, i.e. 1,647, stayed abroad longer than 12 months and should thus be considered as residents of foreign countries.

Source: Poland's Central Statistical Office (GUS), 2014.

Figure 2 shows the instability of out-migration (measured as quarter-to-quarter net outflows), particularly short-term mobility (involving stays abroad shorter than twelve months). The short-term net mobility displayed a relatively stable yearly level and a pattern of seasonal variation until 2000 (with a peak in the third quarter and a drop in the first quarter), while its levels grew, albeit preserving their pattern of seasonality, at an especially high pace since mid 2004. A breakdown of the rising trend took place from the beginning of 2008 when those returning to Poland actually exceeded the number of those who left the country. The long-term net mobility trend was similar to that of short-term mobility, although it seemed much more distinct, particularly after 1999. Since the fourth quarter of 2010, the long-term outflow returned to a consistent increase. The impact of the global financial crisis is

more than evident here.

**Figure 2** *Quarter-to-quarter changes in the stock of temporary migrants, 1994-2011 (in thousands)*



*Source:* Own elaboration of unpublished Labour Force Survey data.

In general, the migration of Polish residents has been predominantly circular for decades. This pattern of mobility changed radically after Poland's accession to the EU. Several symptoms point to a growing tendency of Polish migrants to settle down in destination countries rather than returning to Poland. These include an increasing incidence of marriage concluded between young Polish migrants and nationals of host countries or other non-Polish nationals and an increasing number of children born to Polish women and sent to institutions (nurseries, kindergartens, schools) outside Poland (Iglićka 2010).<sup>62</sup>

After 2004, the United Kingdom became the main country of destination. In early 2002, it hosted merely three per cent of the total stock of temporary migrants, while this share grew to 15 per cent by the end of 2004 and then to 30.4 per cent in 2007. The official British

<sup>62</sup> For more information, see

[http://csm.org.pl/fileadmin/files/Biblioteka\\_CSM/Raporty\\_i\\_analizy/2011/CSM\\_Raporty\\_i\\_Analzy\\_Migracje\\_dlugookresowe.pdf](http://csm.org.pl/fileadmin/files/Biblioteka_CSM/Raporty_i_analizy/2011/CSM_Raporty_i_Analzy_Migracje_dlugookresowe.pdf) (Consulted on 15 November 2012).

source, the Office for National Statistics (ONS),<sup>63</sup> estimated that there were around 69,000 UK residents of Polish nationality in 2004 and that their number later increased to a whopping 726,000 in 2013. The share of Polish residents in Germany, which traditionally represented the primary destination for Polish migrants, decreased from 37.4 per cent in 2002 (38.5 per cent in 2004) to 21.5 per cent in 2007. However, in 2013, the Federal German Statistical Office estimated that the number of Polish residents amounts to 609,855.<sup>64</sup> Apart from the United Kingdom, other countries attracting growing numbers of Polish migrants include Ireland, the Netherlands, Spain and Italy. The USA, another leading target country of the past, lost its importance in a manner similar to Germany.

More recently (2008-2011), the outflow of people from Poland, though less sizeable and at much lower pace than before 2008, marks a continuation of a trend initiated after Poland's accession to the EU. Migration for work purposes to more well off EU countries continues for two major reasons. First and foremost, there is a surplus of workers on the Polish labour market and wage rates are consequently relatively low (or insufficient scale and pace of reforms which would improve the effectiveness of labour market mechanisms). The second reason is related to the territorial extension of the freedom of mobility to Polish workers, which finally took place on 1 May 2011 when transitional restrictions were lifted in Germany and Austria. Official emigration figures for recent years (which grossly and systematically underestimate the actual outflow) indicate a decline – from 30,100 to 17,400 persons who deregistered from their district of permanent residence in Poland between 2008 and 2010 (Figure 1). However, the outflow actually takes place at a much larger scale. For instance, according to German statistics, the inflow of people from Poland to Germany alone amounted to between 110,000 and 120,000 a year in the 2008-2010 period and then rose to more than 160,000 in 2011, i.e. the first year in which Poles enjoyed free access to the German labour market. These official data were confirmed by a study on the impact of return migration (Bracevicius et al. 2012: 1) in which the authors stated in one of their key findings that 'no mass return took place during the economic crisis'. It seems however, that the old proverb stating that '*there is nothing more permanent than a temporary migrant*' proved to be the truth once again. According to the recent Eurostat data, the size

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<sup>63</sup> [http://www.ons.gov.uk/ons/dcp171776\\_375449.pdf](http://www.ons.gov.uk/ons/dcp171776_375449.pdf) (Consulted on 30 October 2014).

<sup>64</sup>

<https://www.destatis.de/DE/ZahlenFakten/GesellschaftStaat/Bevoelkerung/Wanderungen/Aktuell.html> (Consulted on 30 October 2014).

of the Polish population (residents of Poland) is estimated at 36,491,000 in the second quarter of 2014.<sup>65</sup> When comparing this number with the official figure of Poles ‘living’ in Poland (38,495,000) on the basis of having a permanent address in the country at the end of 2013, it is possible to observe a difference of 2,004,000 persons. It is also worth noticing that according to Eurostat, the number of Polish residents declined between the first and the second quarter of 2014 by 77,000 persons.

As the economic situation in Poland is rather stable, such a dramatic decline in the number of permanent and long-term migrants in such a short time span could, in my opinion, be only explained by political factors that began to play a role in migrants’ decision to settle or prolong their stay abroad. The first factor is related to the uncertainties concerning the rules governing the free movement of people and the political debate on immigration in the UK. This debate is generally perceived to be ‘against’ Poles. The second factor is related to the ‘fear of war/conflict’ between Ukraine and Russia, i.e. in an area closest to the Polish eastern neighbourhood.

#### 4.2 Inflows after the EU accession

It was widely expected that following the economic boom, which was related to its accession to the EU, Poland would attract many more migrants from third countries than ever before. However, no upsurge in the inflow of migrants to Poland was observed, at least until 2008. In fact, the number of new residence permits granted to foreign citizens, which usually reflects regular immigration, did not grow substantially. According to the Office for Foreigners, this number was in excess of 36,800 persons in 2004 and 43,400 persons in 2010; a total increment of less than 7,000 persons proved much lower than in a preceding period of the same length (1999-2004) when it reached almost 20,000.

Poland continued to be a target country for a very limited number of regular workers and large numbers of circulating foreigners who sought employment in the shadow economy. Naturally, the size of clandestine employment of foreign citizens is very difficult to estimate, especially since large shares of irregular workers in Poland were apparently consisted of seasonally employed ‘false tourists’ or shuttle migrants, usually from the nearby Ukraine (Iglićka & Gmaj 2010, Maroukis, Iglicka & Gmaj 2011). On the other hand, 37,200 and around 43,000 foreigners were granted a work permit in 2010 and 2011

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<sup>65</sup> [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsl\\_act\\_q&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsl_act_q&lang=en) (Consulted on 30 October 2014).

respectively, which was considerably more than in 2005 (11,150 permits).

After considering the aforementioned data, the proportion of documented foreign labour in the total number of employed persons might be estimated between 0.2 and 0.3 per cent, which is at the very bottom of EU-27.

Although active and apparently effective measures aimed at attracting foreign workers, associated with the ‘scheme of employer’s declarations’ are relatively new, their outcomes could be seen almost immediately. During the first year after the new regulation entered into force (between 1 February 2008 and 31 January 2009), as many as 163,000 ‘declarations of employment of a foreigner’ (which are exempt from work permit requirements) were recorded by the local labour authorities. This might represent a tremendous increase in legal employment of foreign nationals in Poland and simultaneously correspond to foreigners’ decisive shift from irregular to regular work.

The number of foreign nationals eligible for employment within the scheme of employer’s declarations rose to more than 180,000 in 2009 and 2010, and to 260,000 in 2011. In 2011, the vast majority of such ‘eligibility documents’ went to Ukrainians (92 per cent) while only five per cent to Moldovans and the remainder (three per cent) to Belarusians, Georgians and (less than 1,000) Russians. The predominant part of such documents (81 per cent) implied up to six-month employment, mostly (50 per cent) in agriculture (Iglićka & Ziolk 2010).

It should also be mentioned that opportunities for irregular economic activity performed by nationals of Ukraine (from 1 July 2009) and Russia (from 27 July 2012) have recently extended. On the basis of respective bilateral agreements entitled ‘Small Trans-border Movements of People’, the inhabitants of areas close to the Polish border (the entire Kaliningrad District in case of Russia) acquired the right to a visa-free entry into Poland’s areas adjoining the border and sojourn there for up to 90 days per year (a maximum of 30 days during an individual journey). This might also involve the nationals of Belarus provided that the Belarusian regime implement an appropriate agreement with Poland (it was ratified by the Lower Chamber of Parliament in November 2011 and has been ‘hibernating’ since then). Such agreements cover approximately 840,000 Ukrainians, 955,000 Russians and (potentially) over one million Belarusians.

The inflow of asylum seekers was the only flow of foreign nationals into Poland that significantly decelerated in recent years. The



number of persons seeking a refugee status culminated in 2009 at 10,600, mainly due to a huge inflow of Georgian citizens whose number increased from 71 in 2008 to a whopping 4,200 in 2009 (the majority of whom were members of the Kurdish ethnic group). A year later, their inflow dropped to a mere 1,000 persons. The number of Russians (predominantly from the Chechen ethnic group), who represented the main nationality of asylum seekers during the post-accession period, started to shrink already in 2009. As a result, only slightly more than 6,500 asylum seekers were subsequently recorded in 2010 and 2011.

In view of the above-described developments, which suggested the possibility of an increase in the immigrant community in Poland, the stock of immigrants has recently decreased, which is rather surprising, particularly after a slight increase in the 2004-2008 period. According to Eurostat criteria, there were 57,800 persons in 2008, 45,500 in 2010 and 47,300 in 2011.<sup>66</sup>

At the end of this description regarding the inflows of people, it seems reasonable to present the most recent estimate of the number of foreign citizens who need a special permission in order to become Polish residents. Table 2 presents the estimated figures that are further sub-divided according to the type of required documents. Due to Poland's membership of the EU, the estimate does not include citizens of EU countries living in Poland.

On 1 January 2012, more than 100,000 foreigners possessed a document that made them eligible for obtaining a residential status in Poland. Ukrainians, which are the largest national group by far, accounted for 30 per cent of that figure and were followed by Russians (twelve per cent), Vietnamese (nine per cent), Belarusians (nine per cent), Armenians (four per cent) and Chinese (four per cent). In terms of different types of permits (eligibility documents), holders of settlement permits (that set no time limit for residence in Poland) represented a predominant group (48 per cent), while the top nationalities included Ukrainians, Belarusians, Russians, the Vietnamese, Armenians and citizens of the USA. Permissions for a fixed-term residence (at least one year) were the second most frequently possessed type of document (42 per cent). Once again, Ukrainians constituted the largest national group, followed by the Vietnamese, Chinese, Belarusians, Russians and three equally represented nationalities, i.e. South Koreans, Armenians and Turks. The holders of these two types of documents accounted for 90 per cent of

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<sup>66</sup> See: <http://epp.eurostat.ec.europa.eu/tgm> (Consulted on 18 November 2012).

the total number of foreign citizens issued with individual residence permits in Poland.

**Table 2** *The stock of documented non-EU foreign citizens residing in Poland on 1 January 2012 by their country of origin (top ten countries) and the type of document/permit*

Country of origin	Total	Subsidiary protection	Settlement	EU long-term residence	Tolerated status	Refugee status	Fixed-term residence
Total	100,380	3,012	47,999	5,732	738	1,170	41,613
Ukraine	29,746	7	15,919	2,002	67	1	11,750
Russia	11,675	2,788	4,867	429	105	828	2,658
Vietnam	9,257	1	4,437	1,032	252	3	3,532
Belarus	9,249	13	6,043	327	15	119	2,732
Armenia	3,964	18	1,773	495	107	4	1,567
China	3,821	8	559	96	11	2	3,145
Turkey	2,281	12	508	223	1	12	1,525
India	2,170	0	515	248	5	1	1,401
USA	2,167	0	799	107	3	0	1,258
South Korea	1,702	0	50	83	0	0	1,569

Source: Various sources, summarised data from Biuletyn Migracyjny 38, October 2012.<sup>67</sup>

## 5 Current political debate and migration policy developments

The recent four-year period (2009-2012) was marked by very intense legislative work addressing various urgent migration issues. It might be argued that the current legislative work and accompanying public debates are unparalleled in the recent post-communist period of Polish history. Each of the below presented initiatives involved a long process of negotiations with interested parties and a public debate.

### 5.1 Blueprints for migration policy

The most extensive and important debate so far was held with respect to Poland's far-reaching migration-oriented strategy. It was initiated and fuelled by the Government which, following its failed attempt to encourage returns of post-accession Polish migrants (the 'Plan to return' campaign) and faced with increased labour emigration resulting from the fact that Germany and Austria opened their labour markets to Polish workers on 1 May 2011, shifted its attention towards potential immigration from non-EU countries.

<sup>67</sup> See: [www.biuletynmigracyjny.uw.edu.pl](http://www.biuletynmigracyjny.uw.edu.pl).

Indeed, Poland lags behind its western neighbours in regulating and developing services for immigrants. The Government's lack of interest in immigrants might well stem from Poland's isolation during the communist era and the self-perception of Poland as an ethnically and culturally homogenous nation (Iglicka & Ziolk 2010). This is why the Government has taken decisive steps towards reforming Poland's migration policy.

The debate on the strategy was finalised in July 2012 when a document entitled 'Migration policy of Poland – the current state of play and the further actions' was adopted by the Council of Ministers (MSWiA 2012).<sup>68</sup> The document was drafted after lengthy consultations with social partners, including NGOs.

That document should serve as a basis for setting specific migration policy targets, drafting specific laws and other regulations, and promoting relevant institutions in years ahead. It is the first migration policy document adopted by the Government of Poland of such political importance as well as substantive extent and reach.

In 2009, the debate was initiated by the Inter-Ministerial Committee for Migration, which was set up by the Prime Minister in February 2007. The co-ordination of various migration policies represented the major objective that the team was supposed to address. In turn, the team established a Working Group for Developing Poland's Migration Strategy. The aforementioned document was produced by that same working group.

The document is rather lengthy but it almost entirely refers to immigration-related (inflows-related) issues. Only around five pages contain explicit passages regarding policy-related questions concerning the outflows of Poles to other countries. This clearly points to the priorities that were set in Poland's migration policies. The document elaborates on certain major themes that include various areas of migration policy, such as Poland's general position on priorities and administrative procedures concerning legal immigration, prevention and combating irregular immigration, protection of foreign citizens, integration of immigrants, citizenship, return of ethnic Poles from the former USSR, migration of Poles for work and return migration of Polish citizens. In addition, the document deals with the following issues: the ways of improving respective legislative acts and the institutional framework, international determinants or limitations affecting the policy, the links between migration policy and other Government policies, and the monitoring of migration. Even before the

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<sup>68</sup> <https://www.msw.gov.pl/pl/aktualnosci/10149.doc.html> (Consulted on 5 November 2012).

document had been approved by the Government, a number of new specific legislative or administrative initiatives that ensued its letter and spirit were undertaken.

It would not be an exaggeration to claim that the document is actually completely dedicated to immigration policy, despite the fact that Poland continues to be primarily a country of emigration (acknowledged and deplored in many public speeches by the highest officials) and where foreigners not only constitute a tiny minority but the inflow from other countries is also low and will most likely remain low in the near future.

Despite the Government's concern with a continuous outflow of Polish people to other countries, the above prioritisation of migration policy goals and topics reflects a tendency of the 'Europeanisation' of Poland's policy and its ever more active participation in discussions on the common EU migration policy. One of the conspicuous examples of such an attitude can be found in the Polish Government's close cooperation in EU security issues. FRONTEX, an EU agency entrusted with coordinating border security, is based in Warsaw. The Polish Government has also supported further harmonisation of asylum systems (Iglicka & Ziolek 2010).

### *New regularisation*

Before the Government announced the third regularisation programme for undocumented foreigners in 2011 (the first two were carried out in 2003 and 2007), it was believed (and evidenced by reports and estimates commissioned by the Government) that tens of thousands of foreigners were staying in Poland clandestinely, which is particularly true for Armenians, the Vietnamese and Ukrainians. The members of the two former national groups, whose home countries is rather far away, were believed to be in a specially precarious situation. This was the main reason for launching new regularisation initiatives.

The regularisation (widely called 'abolition' or 'amnesty' for foreigners) was based on the 'Act on the Legalisation of Stay of Some Foreigners in the Territory of Poland',<sup>69</sup> which was passed by the Parliament on 28 July 2011. It provided that foreign citizens who were in Poland in an undocumented (illegal) situation could apply for the legalisation of their stay between 1 January and 2 July 2012. The applying foreigners had to meet one basic condition: provide some proof of their uninterrupted undocumented stay in Poland since 20 December 2007 at least (the date of Poland's entry into the Schengen

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<sup>69</sup> *Dziennik Ustaw* 191, 2011, position 1133.

area).<sup>70</sup> Regularisation procedures were to be carried out by regional governors responsible for the territory of foreigners' actual residence. The Act did not specify any economic requirements for foreigners. Successful applicants were granted a fixed-term residence permit (valid for two years), which could be renewed. Simultaneously, the Act authorised the successful foreign citizens to pursue legal employment merely on the basis of a work contract.

### *Employment procedures applicable to foreign citizens*

In February 2009, a new amendment to the 'Act on the Promotion of Employment and the Institutions of Labour Market'<sup>71</sup> came into effect. The Act has substantially simplified the access of foreign citizens from non-EU countries to the Polish labour market.

Firstly, the Act introduced five types of work permits depending on the nature (contract with an employer based in Poland or sub-contracting) and expected duration of employment. The application procedures for obtaining work permits and the processing of such applications were shortened and simplified (e.g. a requirement related to the fact that applicants had to lodge their applications for permits before they entered Poland was abolished).

Secondly, the related administrative fees were greatly reduced. Before the amendment of the Act, a universal fee represented the equivalent of a minimum wage, while the amended Act reduced the fee several times over (a symbolic fee of 50 PLN or around 12 euro in case of employment of up to three months, 100 PLN in case of longer employment and 200 PLN in case of employment in a sub-contracting foreign company).

Thirdly, the Act substantially extended the existing list of foreigners who were entitled to an automatic granting of a work permit without prior labour market tests. The list included new categories, such as foreigners possessing occupations declared as deficit occupations (by the regional governors in consultation with representatives of employees and employers) in a given region, legal foreign residents who lived in Poland for at least three years prior to their permit application, and foreign graduates who completed their high school education in any EEA country (including Poland) or Switzerland at least three years prior to their permit application.

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<sup>70</sup> For rejected asylum seekers wishing to obtain a regular status under the aforementioned Act, the illegal stay period was set to begin on 1 January 2010.

<sup>71</sup> *Dziennik Ustaw* 6, 2009, position 33.

Finally, the Act introduced provisions aiming to prevent social dumping. Among others, it also stipulated that a foreigner's salary must not be lower than the one offered to Polish citizens carrying out the same job.

### *Simplified employment procedures concerning workers from behind the eastern border*

In addition to special regulations facilitating access to the Polish labour market to the citizens of Belarus, Russia and Ukraine (introduced in 2006), new regulations were adopted in 2009 to further simplify employment procedures for the aforementioned foreigners, as well as for the citizens of Moldova and Georgia.

Initially, it was expected that these regulations would enable foreigners from neighbouring eastern countries to work seasonally in Polish agriculture for three months during any six-month period. No work permit was required; instead, a declaration of a Polish employer regarding the intention to employ a foreigner (registered in the local labour office) became the basis for legal work. In 2009, these principles were largely extended. Since then the respective regulations pertain to all economic sectors and the maximum duration of employment is six months during any twelve-month period.

In addition, since 28 July 2011 employers recruiting workers on the basis of these principles have been obliged to provide the labour office with the following information (apart from the basic personal details): occupation, address of the place of employment, expected date of the beginning and end of contract, type of contract and salary offered. Employers were also made responsible for informing foreigners they intend to hire about the legal provisions concerning the employment of foreign nationals in Poland.

### *The Act on Polish Citizenship*

Following a two decades-long debate, the 'Act on Polish Citizenship'<sup>72</sup> was finally passed by the Parliament on 2 April 2009 and has been in force since 15 August 2012.

It is worth mentioning that the Act was designed to be quite liberal: it gave the governors of sixteen Polish regions a discretionary right of granting Polish citizenship to foreigners in an almost automatic way in line with a few precise requirements. These requirements include:

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<sup>72</sup> *Dziennik Ustaw* 0, 2012, position 161 (published on 14 February 2012; enforced since 15 August 2012).

three-year residence (based on the permanent residence permit) or shorter stay in Poland (in special cases, e.g. refugees or persons of Polish descent), proof of economic stability (a shelter and steady income), proof of compliance with the Polish law and proficiency in the Polish language.

*Local cross-border traffic with three post-Soviet neighbouring countries*

As already mentioned above, the Poland's entry into the Schengen area in December 2007 drastically affected cross-border movements of people living on both sides of the Polish eastern border. There was a risk that a new legal situation would impair traditional social and economic ties on both sides of the border. This is why Poland sought a special arrangement, acceptable by EU regulations, which would successfully cope with that situation. As a result, border zones allowing the free movement of people were proclaimed with the following three neighbouring countries: Belarus, Russia and Ukraine. In case of Russia, the zone embraces the entire district of Kaliningrad, whereas border zones shared with Belarus and Ukraine cover an area extending to no more than 30 kilometres from the frontier line.

Residents of these border zones are eligible for multiple visa-free journeys to Poland. Their eligibility was subject to a requirement of a minimum three-year permanent residence in the respective border zone. The maximum duration of an interrupted stay in Poland is set at 60 days. In order to be able to perform cross-border travelling in accordance with these principles, all interested inhabitants of border zones have to acquire a special document called the 'local border traffic permit'. The permit is valid for two years and may be extended for additional five years.

The respective agreement between Poland and Ukraine was already signed in 2008, and it entered into force on 1 July 2009. The agreements with Belarus and Russia were signed in 2010; the one with Russia entered into force in mid 2012, whereas the agreement with Belarus still awaits its final approval by the Belarus Government.

*Resettlement of recognised refugees to Poland*

In order to extend a gesture of solidarity with countries receiving asylum seekers during crisis periods, the Parliament approved an amendment to the 'Act on Providing Foreigners with Protection on the Territory of Poland'<sup>73</sup> on 28 July 2011. This enabled persons from other

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<sup>73</sup> *Dziennik Ustaw* 191, 2011, position 1133, *Dziennik Ustaw* 291, 2011, position 1707.

EU countries or third countries, who received the status of ‘Geneva convention refugees’ by the UNHCR in these countries, to be relocated to Poland. The Act gave the Council of Ministers the right to issue an ordinance specifying the number (quota) of refugees who could be resettled to Poland in a given year, the countries from which refugees might be transferred and the financial resources to cover the costs of resettlement and adaptation in Poland.

#### *Admission of Russian nationals, refugees from Chechnya*

In 2010, the Office for Foreigners signalled a decline in the inflow of asylum seekers from Chechnya and a growing proportion of refusals to grant these migrants international protection. The Office suggested that this stems from an increase of economically motivated migrants in the total number of asylum seekers and from the improved safety of the population in Chechnya (due to the completion/reduction of military action by both rebels and the regional Government). This view was strongly challenged by some NGOs, who believed that the main reason for the position taken by the Office for Foreigners lies in the strive to warm Polish-Russian political relations.

#### *Access to education for immigrant children*

Until recently, it was widely known that public educational institutions ‘tolerated’ pupils and students whose residential status was undocumented. This practice was legitimised on 1 April 2010, when the Ministry of Education introduced new legal provisions that facilitated access to formal education in Poland for foreign children, irrespective of their residential status.<sup>74</sup> On the basis of this regulation, all children of foreign nationality, including those whose parents are undocumented residents, have the right to free education in all public schools (from pre-school to secondary level). Moreover, special assistance is envisaged to those foreign children who are not proficient in the Polish language.<sup>75</sup>

## **6 Conclusion**

Migration analysts and policymakers are increasingly willing to acknowledge that the transition of Poland’s migration status from net emigration to net immigration country is, contrary to what was believed twenty or even ten years ago, not an obvious or a rapid change. The

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<sup>74</sup> *Dziennik Ustaw* 57, 2010, position 361.

<sup>75</sup> Ordinance of the Minister of Education, published in *Dziennik Ustaw* 61, 2011, position 306 (in force since 6 April 2011).



outflow of people continues and the proportion of Polish migrants who tend to settle in a foreign country is growing; on the other hand, neither the inflow of foreigners nor return migration are occurring on a sizeable scale. Moreover, foreign migrants perceive Poland rather as a transit country or a country for a short-term stay.

A new, more active and immigrant-friendly approach to migration policy has already been emerging in the past five years. It was manifested in many legislative initiatives directed to foreign citizens, which – unlike in the past, were primarily concerned with the control of foreigners' entry and stay in Poland – aimed at facilitating their life and work. An amended version of the Aliens Act (MSWiA, 2012) will most likely represent a new framework, which will set favourable conditions for immigrants' flows and their integration in Poland in the years to come.

In fact, a draft of that Act that emerged after inter-ministerial consultations was adopted by the Polish Government on 16 August 2011. Many provisions of the Act were made consistent with the spirit and letter of the document entitled 'Migration policy of Poland', which was then still under preparation. Subsequently, the draft was sent for consultations with the social partners and was analysed by the Government Legislation Centre. The Act was adopted by the Polish Government on 31 July 2013. The Act follows relevant EU directives and envisages a radical simplification of administrative procedures related to labour inflows, such as the introduction of a single permit combining residence and work, strong preferences for skilled labour (including regulations concerning the EU Blue card) and long-term residents (extension of the duration of permitted stay in Poland from two to three years for temporary migrants), as well as the facilitation of foreign students' stay and employment. In addition, the new Aliens Act, which foresees effective integration measures, links the settlement in Poland to the basic knowledge of the Polish language (A2 level). The Act will be supplemented (and in a way supported) by another important new legislative initiative, i.e. the act on sanctions against employers who breach legal provisions concerning foreign workers. It is worth noting that the provisions of the new Aliens Act did not evoke any major political controversy thus far.

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## **Slovenia: Towards a circular migration concept**

*Felicita Medved*

### **1 Introduction**

Slovenia, a new state since 1991, still perceives itself as a nation marked by a high degree of ethnic homogeneity with a relatively low number of immigrants, the majority of whom come from the former common Yugoslav state. Political discourse has neglected immigration and the shaping of migration policy took place mainly in the context of accession to the European Union (EU).

Following a brief historical overview of migration dynamics and an insight into the structure of Slovene population according to citizenship, this Chapter offers a schematic overview of migration policy and legislative framework that regulate and facilitate economic migration as well as other aspects of the migration process, such as integration. After analysing labour migration and recent trends towards circular migration, high skilled employment, intra-EU mobility and challenges presented by trafficking in human beings and irregular migration, the present Chapter also identifies and discusses discrepancies between the proclaimed normative framework and its effectiveness in practice. Finally, it is concluded that economic abuse of migrant workers, as it was revealed in practice, calls for the necessary rethinking of principles, goals and priorities of Slovene immigration policy.

### **2 Facts about population and dynamics of migration**

Slovene territories within the Habsburg Monarchy were part of international migration flows in the middle of the nineteenth century. Emigration of Slovenes, both economic and impelled by political, ethnic and ideological reasons, lasted until the 1970s. According to calculations, half a million Slovenes left the territory for foreign destinations overseas and in Europe. The territory, where 1,135,000 Slovenes lived in the middle of the mid-nineteenth century, thus belongs to those European regions, which lost almost half of their actual natural increase due to emigration (Šifer 1974). This long period of emigration before 1970s, was followed by a period of strong immigration from other republics of the then Yugoslavia, which was much stronger than emigration from Slovenia. After Slovenia's independence, net migration was mostly positive, mostly due to immigration from former Yugoslav republics. On 1 July 2014, Slovenia

had a population of 2,061,623.<sup>76</sup>

*Every ninth resident of Slovenia is an immigrant*

According to the 2011 census, the foreign-born population of Slovenia represented 11.1 per cent (228,588 people) of the country's population, which is 2.5 per cent more than a decade before.<sup>77</sup> The increase in the number of immigrants is attributed to the prosperous economic situation and an increasing demand for labour until the onset of the economic crisis in 2008, to immigration from some new Member States after Slovenia's accession to the EU and to the secondary migration of family members.

*Two thirds of the foreign-born population are citizens of Slovenia*

Immigration from abroad, mostly from the republics of former Yugoslavia, was a deciding factor for the demographic and socioeconomic development of Slovenia in the past fifty years. Even after Slovenia's independence, the direction of migration flows between Slovenia and foreign countries did not change significantly. Despite new migration flows from EU Member States and from non-European countries, the share of residents of Slovenia, who were born in countries from the territory of former Yugoslavia, still amounts to 86.7 per cent of all foreign-born residents, which is just two per cent less than a decade ago.

Migration topics remain closely linked to the territory of former Yugoslavia. Nevertheless, some characteristic migration processes that had a significant influence on the recent distribution of countries of birth and the relationship among citizens and foreigners took place in the 1990s. Firstly, almost 10 per cent of the legally residing population of Slovenia acquired citizenship of the Republic of Slovenia in the period of about six months after the country's independence.<sup>78</sup> Secondly, new economic migrants entered Slovenia from less developed parts of former Yugoslavia, such as Kosovo and Macedonia. Thirdly, a new type of immigrants with atypical demographic structure has emerged – refugees from war stricken regions, mostly from Bosnia and Herzegovina. Due to economic immigration, based on a time-

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<sup>76</sup> Foreign citizens represented 4.8 per cent of Slovenia's population. Statistical Office of the Republic of Slovenia (SORS): Population, Slovenia, 1 July 2014 – final data, Wednesday, 29 October 2014, First Release. [http://www.stat.si/eng/novica\\_prikazi.aspx?id=6605](http://www.stat.si/eng/novica_prikazi.aspx?id=6605) (Consulted on 4 November 2014).

<sup>77</sup> Refer to SORS: Migration, Slovenia, 1 January 2011 – final data Friday, 30 December 2011, First Release, [http://www.stat.si/eng/novica\\_prikazi.aspx?id=4430](http://www.stat.si/eng/novica_prikazi.aspx?id=4430) (Consulted on 4 November 2014).

<sup>78</sup> For more details on the citizenship structure in Slovenia, see Medved 2000a.

limited approach, and very demanding conditions for the acquisition of the citizenship of the Republic of Slovenia, the share of foreign-born population with Slovenian citizenship decreased from 80 per cent in the 2002 census to 65 per cent in 2011.

*Half of immigrants born outside Europe are citizens of Slovenia*

More than 21,000 immigrants in Slovenia were born in EU Member States. However, 70 per cent of them were born in only three countries, i.e. Germany, Austria and Italy, while 90 per cent of them are citizens of the Republic of Slovenia. This population may be divided into three large groups: (i) born during the Second World War as their mothers were exiled; (ii) second generation of Slovene-origin returning to the county of their parents' first residence; (iii) foreigners who moved to Slovenia after its accession to the EU.

By excluding countries of former Yugoslavia and EU Member States, one may observe that more than 1,000 immigrants were born in Ukraine, Russia and Switzerland. Almost 5,000 residents were born in 123 non-European countries. Among these Chinese (784) are the most numerous (784), but only five per cent of them are citizens of Slovenia. Persons born in certain destination countries of Slovene emigration in the twentieth century (Argentina, Canada and the United States) are predominantly Slovene citizens (82 per cent).

*Every fourth foreign-born resident lives in Ljubljana*

A distinctive concentration in a relatively small territory is the basic characteristic of the spatial distribution of foreign-born population in Slovenia. Almost one quarter of that population lives in Ljubljana, while an additional one-third lives in ten other municipalities. The population of Italian origin living in three municipalities (Koper/Capodistria, Izola/Isola and Piran/Pirano) was replaced already in the 1950s by immigrants from former Yugoslavia (at the beginning, they were mostly from Croatia), while subsequent immigration depended on the economic attractiveness of the region. The remaining seven municipalities (Maribor, Kranj, Celje, Velenje, Jesenice, Novo mesto and Nova Gorica) were the centres of Slovene industrialisation in the period of former Yugoslavia.

**Table 1** *Citizens of Slovenia and foreign citizens by region/country of birth and sex, Census, 1 January 2011*

	Citizens of Slovenia			Foreign citizens		
	total	men	women	total	men	women
<b>Total</b>	<b>1,967,443</b>	<b>955,866</b>	<b>1,011,577</b>	<b>82,746</b>	<b>58,697</b>	<b>24,049</b>
Slovenia	1,818,063	881,494	936,569	3,538	1,896	1,642
<b>Foreign Countries</b>	<b>149,380</b>	<b>74,372</b>	<b>75,008</b>	<b>79,208</b>	<b>56,801</b>	<b>22,407</b>
<b>Europe</b>	<b>146,790</b>	<b>73,000</b>	<b>73,790</b>	<b>76,872</b>	<b>55,613</b>	<b>21,259</b>
• Countries of former Yugoslavia	128,539	64,494	64,045	69,703	52,157	17,546
Bosnia and Herzegovina	58,165	29,477	28,688	38,732	30,791	7,941
Montenegro	2,255	1,232	1,023	556	318	238
Croatia	42,908	20,032	22,876	6,250	4,127	2,123
Kosovo	2,079	1,341	738	7,271	5,365	1,906
Macedonia	5,026	2,950	2,076	8,632	5,614	3,018
Serbia	18,106	9,462	8,644	8,262	5,942	2,320
• EU Member States	16,289	7,698	8,591	4,893	2,735	2,158
• Other European countries	1,962	808	1,154	2,276	721	1,555
<b>Non-European countries</b>	<b>2,590</b>	<b>1,372</b>	<b>1,218</b>	<b>2,336</b>	<b>1,188</b>	<b>1,148</b>
Africa	325	184	141	215	162	53
South and Central America	582	292	290	397	114	283
North America	890	462	428	248	142	106
Asia	407	239	168	1,404	724	680
Oceania	386	195	191	72	46	26

Source: Statistical Office of the Republic of Slovenia (SORS).

### *Immigration after Slovenia's accession to the EU*

According to the Statistical Office of the Republic of Slovenia (SORS), the population of Slovenia increased significantly after Slovenia's accession to the EU. Immigration has been increasing annually at an average rate of 50 per cent. Thus, the number of immigrants in 2005 and 2006 was twice as high as in the years before, whereas the figure was as much as six times higher in 2007 and 2008. According to Eurostat figures, Slovenia has seen the third highest increase in immigration in the EU in 2007.<sup>79</sup> After 2008, the number of immigrants to Slovenia declined. In 2009, 30,296 foreign citizens moved to Slovenia. In 2011, 14,083 people immigrated, which is almost a tenth less than in 2010.<sup>80</sup>

Compared to 2012, immigration decreased by 7.7 per cent in 2013. 84 per cent of immigrants were foreign nationals. Most of them were citizens of one of the countries of former Yugoslavia (73 per cent), followed by citizens of the EU-27 (17 per cent). Almost two-thirds of immigrants with foreign citizenship were between 20 and 44 years of age. The mean age of foreign immigrants (31.6 years) is nine years lower than the mean age of immigrants with Slovene citizenship.<sup>81</sup>

### **3 National policy and legislative framework**

The basic political documents on migration policy were endorsed by the National Assembly in 1999 and 2002. At the end of 2010, the Government adopted the Strategy for Economic Migration. These documents, which are acts of programming nature rather than binding pieces of legislation, have been given teeth by a number of legislative acts and by-laws.

#### *Resolution on Migration Policy*

Resolution on the Migration Policy of the Republic of Slovenia<sup>82</sup> sets out core elements of the policy, which comprises a number of fields subdivided into several sub-policies: asylum, immigration, immigration

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<sup>79</sup> The Czech Republic was the first with a 141.8 per cent growth in comparison to the previous year, followed by Denmark with 131.7 per cent growth. In 2007, Slovenia enjoyed the highest GDP per capita among the eight former Communist nations that joined the EU in 2004.

<sup>80</sup> SORS: Migration changes, Slovenia, 2011 – final data, Monday, 30 July 2012, First Release.

<sup>81</sup> SORS: Migration changes, Slovenia, 2013 – final data, Tuesday, 29 July 2014, First Release, [http://www.stat.si/eng/novica\\_prikazi.aspx?ID=6395](http://www.stat.si/eng/novica_prikazi.aspx?ID=6395) (Consulted on 4 November 2014).

<sup>82</sup> Resolution on the Immigration Policy of the Republic of Slovenia, *Official Gazette of the Republic of Slovenia No. 40/1999*; Resolution on the Migration Policy of the Republic of Slovenia, *Official Gazette of the Republic of Slovenia No. 106/2002*.



management, especially combating irregular migration, smuggling of migrants and trafficking in human beings, and integration.

**Table 2** *Migration changes, 1995-2013\**

	1995	2000	2005	2009	2010	2011	2012	2013
<b>Immigrants from abroad</b>	5,879	6,185	15,041	30,296	15,416	14,083	15,022	13,871
Slovene citizens	2,191	935	1,747	2,903	2,711	3,318	2,741	2,250
Foreigners	3,688	5,250	13,294	27,393	12,705	10,765	12,281	11,621
<b>Emigrants to other countries</b>	3,372	3,570	8,605	18,788	15,937	12,024	14,378	13,384
Slovene citizens	776	1,559	2,077	3,717	3,905	4,679	8,191	7,789
Foreigners	2,596	2,011	6,528	15,071	12,032	7,345	6,187	5,595
<b>Net migration</b>	2,507	2,615	6,436	11,508	-521	2,059	644	487
Slovene citizens	1,415	-624	-330	-814	-1,194	-1,361	-5,450	-5,539
Foreigners	1,092	3,239	6,766	12,322	673	3,420	6,094	6,026
<b>Per 1,000 population</b>								
Immigrants	3.0	3.1	7.5	14.8	7.5	6.9	7.3	6.7
Emigrants	1.7	1.8	4.3	9.2	7.8	5.9	7.0	6.5
Net migration	1.3	1.3	3.2	5.6	-0.3	1.0	0.3	0.2
<b>Total increase</b>	1.3	1.1	2.9	7.2	1.6	2.6	1.6	1.1

\* Data for 2009 and onwards are prepared according to a new definition of population of Slovenia, published in 2008.

Source: SORS, 30 July 2012

The Resolution stipulates the following six core principles which guide immigration policy: (i) the principle of solidarity or international sharing of burden and responsibility, which presupposes the duty of protection and assistance to refugees; (ii) the principle of responsibility towards citizens and the state, which relates in particular to the regular free movement of people and to arrangements for naturalisation; (iii) the principle of respect for the rule of law and protection of human rights; (iv) the principle of long-term macroeconomic efficiency, which determines relatively free migrations, in particular access of foreigners to the Slovene labour market; (v) the principle of historical responsibility; (vi) the principle of equality, liberty and mutual cooperation, in particular with respect to integration.

These principles should be implemented through a variety of measures, which include international and regional cooperation, and, in particular, in full compliance with the EU law. Special emphasis should be placed on integration policy and the establishment of concrete programmes aimed at promoting a widespread awareness of different aspects, causes and consequences of migration. These programmes should be backed up by an institutional framework ensuring the horizontal and vertical cooperation of state as well as local Government bodies. They should cooperate closely with scientific, research and educational institutions and non-Governmental organisations (NGOs) working in the field of migration.

### *Strategy for Economic Migration for the 2010-2020 Period*

The Strategy for Economic Migration<sup>83</sup> seeks to encourage certain types of economic migration, i.e. highly skilled, skilled and low skilled labour, as well as international students and researchers, which would alleviate the emerging gap between the working population and the needs of the labour market, as well as migration, which would increase economic activity and innovation, and contribute to the overall competitiveness of Slovene economy.

With respect to the changing EU policy landscape, in particular the 2008 European Pact on Immigration and Asylum, the political mandate of the Stockholm Programme and an even closer cooperation between Member States and third countries in managing migration flows, the Strategy aims to provide guidance, policies and measures for economic immigration that will:

- alleviate the effects of demographic deficit in terms of reduced working age and economically active population, as well as reduce temporary disparities in the labour market;
- encourage innovation and entrepreneurial activity, maintain and promote economic competitiveness and increase human resources;
- enable Slovenes working abroad to acquire experience and reduce the brain drain from Slovenia as well as from the countries of origin of immigrants living in Slovenia by encouraging circular migration of experts;
- promote employment of highly skilled migrants, as well as the admission and mobility of students and researchers;

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<sup>83</sup> Strategija ekonomskih migracij za obdobje 2010-2020 [Strategy for Economic Migration for the 2010-2020 Period]. Ljubljana, november 2010.  
[http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti\\_pdf/Strategija\\_ekonomskih\\_migracij-2010-2020.pdf](http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti_pdf/Strategija_ekonomskih_migracij-2010-2020.pdf)

- strengthen relations with third countries of origin of migrants through bilateral agreements;
- establish a more ambitious integration policy.

The document includes an Action Plan, which provides measures for strategic guidelines and determines institutions responsible for their preparation and implementation. In order to provide for an effective implementation of measures arising from the Action Plan, certain horizontal directions also should be considered, which would mean that migration issues should be integrated in foreign and international development cooperation policies and that Slovenia should be promoted as an attractive country of immigration.

### 3.1 Legislative framework

#### *Aliens Act*

The legislative framework for the management and administration of migration was first developed in 1991, when the Aliens Act was adopted as part of Slovenia's independence legislation.<sup>84</sup> In 1999, it was replaced by a new Aliens Act, which was revised several times; the latest changes were made in 2009, mainly transposing EU directives and implementing regulations.<sup>85</sup> The current Act was adopted in 2011.<sup>86</sup> The Act, *inter alia*, defines conditions for the entry of aliens into the country, visas, residence permits, departure from the country, deportation and permission to remain, procedures and competent bodies, processing and protection of personal data and the establishment of aliens' identity, and assistance in integration. By the 2014 amendments to the Act, two EU directives have been transposed into the national legal order: Directive 2011/51/EU according to which the possibility to acquire a long-term resident status is also recognised to persons under international protection, and Directive 2011/98/EU establishing a uniform procedure which introduces the so-called 'one-stop shop' principle. The latest amendments came into force on 1 January 2015.

As a rule, third country nationals who wish to enter and stay in Slovenia for purposes other than those allowed on the basis of a visa are required to obtain a residence permit, prior to entering the Republic of Slovenia. Under the Aliens Act and implementing by-laws, a residence permit belongs to the jurisdiction of the administrative unit in the

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<sup>84</sup> *Official Gazette of the Republic of Slovenia No. 1/1991-I.*

<sup>85</sup> See *Official Gazette of the Republic of Slovenia No. 64/2009-UPB6* (official consolidated text 6).

<sup>86</sup> *Official Gazette of the Republic of Slovenia Nos. 45/2014* (official consolidated text) and 90/2014.

territory of which an alien intends to reside or resides. A permit for temporary residence is valid for a specific purpose, such as work, family reunification or study and for a specific period of time. A permit for permanent residence grants a third country national the status of a long-term resident.

### *Employment and Work of Aliens Act*

The system of economic migration management was set up by the Employment of Aliens Act, adopted in 1992.<sup>87</sup> In order to provide a better mechanism for identifying and regulating various forms of migrants' work, the new Employment and Work of Aliens Act came into force on 1 January 2001.<sup>88</sup> This Act enacted some of the immigration policy goals and was more consistent with the Aliens Act. It regulated access to the labour market depending on the type, purpose and duration of work by different types of work permits. Priority was given to immigrants who have already settled. The Act was amended in 2005.<sup>89</sup> It was hoped that the clarification of definitions as well as the specific criteria for obtaining work permits would eliminate certain ambiguities, which allowed the circumvention of the law, particularly by self-employed entrepreneurs, representatives of companies and in the field of cross-border provision of services via seconded workers and the movement of persons within foreign corporations. On the other hand, a possibility of seasonal migrant workers' employment immediately after they had completed their seasonal work was also introduced. In 2007, nine EU directives were transposed into Slovene legislation, which, among other, concerned EU citizens and their family members, victims of trafficking in human beings, students, pupils, volunteers and researchers, family reunification and the status of long-term residents.<sup>90</sup> Their transposition led to a revision of some previously used terms and to the introduction of some new terms, such as 'third country', 'long-term resident' or 'researcher'. Furthermore, some complicated procedures were simplified and the powers of the Government with regard to specific actions that may be undertaken in case of disturbances in the labour market were more precisely defined. Along with these changes, the by-laws were also modified and integrated into a single by-law. This has significantly contributed to the transparency and partly removed administrative barriers for recruiting migrants with occupations in demand or in shortage on the Slovene

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<sup>87</sup> *Official Gazette of the Republic of Slovenia No. 33/1992.*

<sup>88</sup> *Official Gazette of the Republic of Slovenia No. 66/2000.*

<sup>89</sup> *Official Gazette of the Republic of Slovenia No. 101/2005.*

<sup>90</sup> *Official Gazette of the Republic of Slovenia No. 52/2007.*

labour market.

Despite the aforementioned changes, a new Employment and Work of Aliens Act<sup>91</sup> was adopted in March 2011, transposing EU directives concerning the conditions of entry and residence of third country nationals for the purposes of highly qualified employment and minimum standards on sanctions and measures against employers of illegally staying third country nationals. In addition to terminological changes in compliance with the Aliens Act, the new Employment and Work of Aliens Act also provides somewhat more favourable conditions for exercising the rights of migrant workers.

### *Mechanisms for regulating the work of migrants*

#### *Work permit*

A work permit, which is defined as ‘a document on the basis of which a domestic or foreign employer concludes a contract of employment or work or performs other work with an alien in accordance with the provisions of this Act’ is the fundamental mechanism for regulating the work of non-EU citizens in Slovenia.<sup>92</sup> As a rule, the first work permit is issued on the basis of an application submitted by an employer, usually for one year. The basic condition for the authorisation of the permit is the current situation in the labour market, i.e. a lack of relevant national candidates. Third country nationals may apply for the permit themselves only in special cases, but this possibility is linked to a specific alien status or nature of work independent of the situation on the labour market. The Employment Service of Slovenia carries out procedures relating to work permits.

There are three basic types of work permits: (i) employment permits obtained by the employer and granted only if there are no suitable domestic job-seekers or job-seekers who have equal status as domestic job-seekers in the record of unemployed persons; (ii) permits for work acquired by a Slovene or foreign employer for work performed by seconded alien workers, seasonal worker migrants, for training and advanced training, for work performed by representatives of foreign companies and for individual services provided by third country nationals; and (iii) personal work permits obtained by third country nationals after 20 months of employment and social insurance registration. The Blue Card is intended for highly qualified employment and includes an authorisation to work and reside in Slovenia.

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<sup>91</sup> *Official Gazette of the Republic of Slovenia* Nos. [26/2011](#), 21/2013 and 100/2013.

<sup>92</sup> Art. 10 of the Employment and Work of Aliens Act.

### *Annual quota*

The quota of work permits is the main instrument for limiting the maximum number of aliens in the labour market. It may be determined by the Government taking into account fluctuations and conditions on the labour market, but it may not exceed five per cent of the actively working population of Slovenia on an annual basis.<sup>93</sup> The quota includes categories of third country nationals who seek access to the Slovene labour market for the first time or are coming into the country annually to be employed or perform other forms of temporary contract work on various grounds. The quota is allocated for employment, seconded workers, training and advanced training, seasonal work and individual services. Other instruments used to regulate the labour market situation may also be applied and may be activated in cases characterised by an excessive influx of foreign labour.

### *Free access to the labour market*

A work permit is not required only in cases postulated by the law or international treaties. Free access to the labour market applies to citizens of the EU and EEA Member States, as well as to citizens of the Swiss Confederation and their family members. These migrants are treated equally as workers of Slovene nationality. However, employers are obliged to register the employment of these workers with the Employment Service of Slovenia.<sup>94</sup>

## 3.2 Actors involved in Slovene migration policy

The Ministry of the Interior is the main actor in the field of migration. Its Directorate for Migration and Integration was established in 2009 and is presently merged with the Internal Administrative Affairs, Migration and Naturalisation Directorate. The Office for Migration within the Directorate functions as the main institution for keeping track of developments in the fields of migration, international protection and integration.<sup>95</sup> Tasks related to border matters and aliens belong to the Police. The Border Police Division, which operates under the Uniformed Police Directorate, performs tasks in the field of State

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<sup>93</sup> The quota, which the Republic of Slovenia agrees upon in international agreements, is not included. See Art. 54 of the Employment and Work of Aliens Act.

<sup>94</sup> In addition, provisions of the Employment and Work of Aliens Act do not apply to some other categories, such as aliens working as foreign correspondents or priests, aliens organising or running charitable and humanitarian activities and others. Refer to Art. 5 of the Employment and Work of Aliens Act.

<sup>95</sup> For more detail, see the official website of the Ministry of the Interior, <http://www.mnz.gov.si/si/>.

border security.<sup>96</sup> Tasks of the Centre for Foreigners include the deportation of aliens.

The Ministry of Labour, Family, Social Affairs and Equal Opportunities, particularly its Division for Employment, Social Entrepreneurship and Migrations, is responsible for the economic migration policy.<sup>97</sup> The Labour Migration Division draws up regulations and legislative proposals related to the employment and work of third country nationals in Slovenia, monitors the implementation of rules and regulations, and handles complaints against decisions of the Employment Service of Slovenia.<sup>98</sup>

Other ministries only have certain specific powers. For instance, the Ministry of Foreign Affairs, its embassies and consulates abroad are responsible for issuing visas and accepting applications for residence permits.<sup>99</sup> The Ministry of Education, Science and Sport is responsible for issues overlapping the area of migration and education. The Ministry of Health provides funding for healthcare of refugees and persons with subsidiary protection. Social security rights of immigrants having the right of permanent residence, such as social assistance, child allowance and unemployment benefits, fall under the responsibility of the Ministry of Labour, Family and Social Affairs and its Centres for social work, as well as the Employment Service of Slovenia.

Actions undertaken by the state are complemented by those of the local communities. Social partners and academic institutions, such as the University of Ljubljana, the University of Primorska, the Peace Institute, the Institute for Ethnic Studies and the Institute for Public Administration, as well as several NGOs, such as, *inter alia*, the Slovene Philanthropy, the Jesuit Service and Nevidni delavci sveta (Invisible workers of the world), are also involved.

Legislative proposals and other measures stemming from the economic migration policy are the subject of social dialogue between representative employers' associations, trade unions, and economic and professional chambers taking place in the Economic and Social Council. However, the conclusions of the Council are not binding for the Government.

In addition, different working groups or councils are established

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<sup>96</sup> For more detail, see the official website of the Police, <http://www.policija.si/portal/>.

<sup>97</sup> For more detail, see the official website of the Ministry of Labour, Family, Social Affairs and Equal Opportunities, <http://www.mddsz.gov.si/en/>.

<sup>98</sup> For more detail, see the official website of the Employment Service of Slovenia, <http://www.ess.gov.si/>.

<sup>99</sup> For more detail, see the official website of the Ministry of Foreign Affairs, <http://www.mzz.gov.si/>.

with the aim of devising and monitoring measures for the implementation of policy principles and goals. For instance, the Council for the Integration of Aliens was established in 2008 and reports to the Government. Its members are appointed by the Government. They come from ministries and NGOs, but not from immigrant associations. As such, the Council is hardly representative, democratic or autonomous.

## **4 Policy implementation**

### **4.1 Labour immigration**

During the period of economic growth, Slovene companies frequently reported labour shortages as the main limiting factor in their business performance. They specifically required low skilled and skilled workers, mostly in construction and metal industry, preferably nationals of former Yugoslav republics. The Government responded accordingly and economic migration policy focused on these specific groups of migrants. Consequently, both the inflow and stock of workers from abroad were constantly increasing until the end of 2008. As shown in Table 4, the number of valid work permits was increasing until the end of 2008, when it reached 90,696 or almost 56 per cent more than in 2006. The vast majority of workers admitted were low skilled or skilled. The majority of workers had no formal occupation and only primary education. Furthermore, the share of workers having higher education started to decline from 2007 onwards.

Nevertheless, there was a mismatch between labour demand and workers' qualifications or education (Medved 2010a). For example, companies involved in accommodation and food service activity reported shortages of cooks and waiters with occupational titles and showed an interest in acquiring them from the Western Balkans and from other EU Member States, provided they were proficient in the Slovene and foreign languages. The situation on the labour market, demographic indicators and employers' demands suggested that a shortage of low skilled workers and workers with occupational titles (upper secondary vocational education) would also be present in the future, particularly in construction, metallurgy, electricity and motor vehicles sectors, as well as in accommodation and food services. On the other hand, information and communication technologies, biotechnology, forestry and the health sector would be in need of skilled and highly skilled workers.

This shows that the Slovene labour immigration policy lacks a long-term vision and a sustainable design of migration management,



and that it mainly addresses cyclical shortages of low skilled workers despite a simultaneous need for highly skilled workers. This is best reflected in the increasing annual work permit quota in the period from 2004 to 2009, as shown in Table 3. During the period of strong economic growth and simultaneously low level, though inadequate, structure of unemployment, as well as a low level of employment from other EU Member States, the work permit quota system represented the key mechanism of the state. In order to satisfy the demands of the economy to combat labour shortages by recruiting third country nationals, the Government was increasing the annual work permit quota. Under the pressure from employers, the annual quota for 2006, 2007 and 2008 was corrected even during the course of each year.

**Table 3** *Annual work permit quota and quota utilisation, 2004-2009*

<i>Year</i>	<i>Quota</i>	<i>Utilisation (No.)</i>	<i>Utilisation (%)</i>
2004	17,100	15,092	88
2005	16,700	15,525	93
2006	18,500	17,765	96
2007	29,500	29,089	99
2008	32,000	29,453	92
<b>2009</b>	24,000	10,923	42.8

*Source:* Own elaboration of data provided by the Ministry of Labour, Family and Social Affairs

### *Recent changes in policy due to economic downturn*

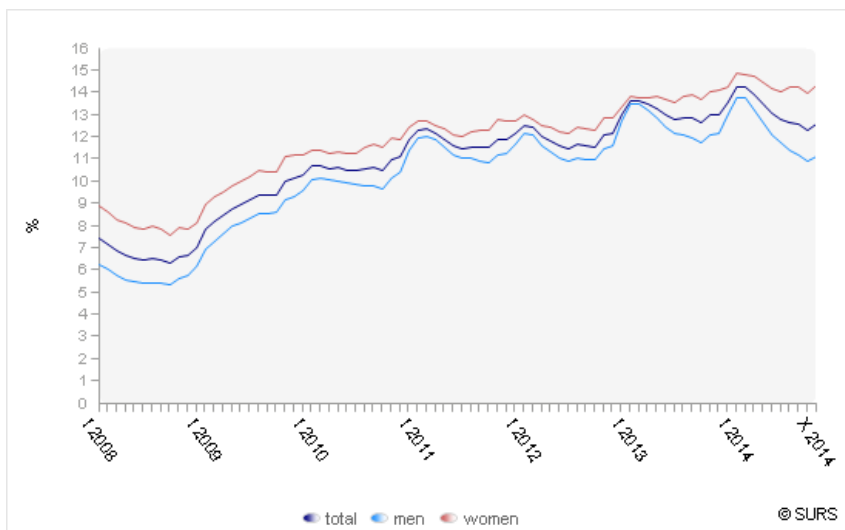
The consequences of the global financial and economic crisis started to reflect in Slovene economy in the latter half of 2008, especially in terms of reduced labour demand and rising unemployment. In September 2008, there were 59,303 unemployed persons, while the registered unemployment rate amounted to 6.3 per cent.<sup>100</sup> Since then, the number of unemployed people started to grow rapidly. In October 2010, the number of registered unemployed persons exceeded 100,000 for the first time since 2003. In the third quarter of 2014, the registered unemployment rate stood at 12.5 per cent with more than 115,900 registered unemployed persons (Figure 1).

Predicting that there would be a decline in the volume of activities precisely in those sectors, which had employed most migrants, and in view of the rising unemployment, the initial reaction to an estimated reduction of labour demand was the limitation of the number of third

<sup>100</sup> The unemployment rate represents unemployed persons as a percentage of the total labour force. It is calculated according to two methodologies: the Labour Force Survey unemployment rate and registered unemployment rate.

country nationals on the labour market by a Governmental decree.<sup>101</sup> The work permit quota for 2009 included 24,000 permits intended for third country nationals without residence permits in Slovenia and for those who acquire employment permits after the completion of seasonal work. At the end of December 2009, there were 78,424 third country nationals with valid work permits, which is 13.6 per cent less than a year earlier.<sup>102</sup> The quota for 2010 was set at 12,000 work permits, i.e. 50 per cent less than in 2009.<sup>103</sup>

**Figure 1** Registered unemployment rate, 2008-2014



Source: SORS, Labour force, Slovenia, October 2014 – final data, Tuesday, 16 December 2014, First Release, [http://www.stat.si/eng/novica\\_prikazi.aspx?id=6721](http://www.stat.si/eng/novica_prikazi.aspx?id=6721)

The apparent deterioration of the labour market situation during 2009 led to additional legislative instruments, which fall into two categories. The first concerns a stringent control of the labour market, while the second, which was adopted for the first time in the history of Slovenia, concerns restrictions and prohibitions of employment and work of third country nationals on the grounds of public interest or general economic interest.

In March 2009, the Ministry of Labour, Family and Social Affairs

<sup>101</sup> Decree Laying down Work Permit Quota for 2009 to Limit the Number of Aliens on the Labour Market. *Official Gazette of the Republic of Slovenia* No. 8/2009.

<sup>102</sup> 73,894 (93.2 per cent) of these third country nationals were citizens of former Yugoslav republics.

<sup>103</sup> Decree Laying down Work Permit Quota for 2009 to Limit the Number of Aliens on the Labour Market. *Official Gazette of the Republic of Slovenia* No. 8/2010.

changed the rules governing work permits and introduced the labour market test also for the employment of third country nationals whose occupations were on the list of shortage occupations.<sup>104</sup> In June 2009, the Government adopted a temporary measure, which was in force from 13 June until the end of 2009, by activating Article 5(7) of the then Employment and Work of Aliens Act for the very first time. Article 5(7) stipulates:

‘The Government may, in addition to the overall quota, also set restrictions and prohibitions on the employment of or work by aliens by region, area of activity, company and occupation. It may also set restrictions or prohibitions on the influx of new alien workers in its entirety or from specific regions if there are well-founded reasons that this is in the public interest or the general commercial interest.’

In doing so, the Government justified the adoption of the decree,<sup>105</sup> mainly by emphasising the rising unemployment trends with an intent to reinforce control of the labour market. For example, seasonal employment in construction and accommodation and food services was banned. The second set of prohibitions was directed at protecting public interest and demonstrating that Slovenia is a credible partner with respect to the implementation of Schengen rules. At the end of 2008 and in early 2009, Slovenia received several warnings from other Member States of the Schengen area stating that citizens of Kosovo with a residence permit in Slovenia were located on their territories, working informally or trying to register at their employment services or overstaying on their territories after the permitted three-month period had expired. Switzerland considered between 2 to 15 such cases daily. Due to such warnings, the Slovene government decreed the following: (i) a ban on issuing work permits to representatives of micro and small sized companies from Kosovo, who do not have a residence permit in Slovenia; and (ii) the prohibition of employment from certain regions by transferring the majority (95 per cent) of the unused portion of employment permits quota to other territories of former Yugoslavia, excluding Kosovo.

Despite these restrictions and prohibitions, the Government allocated 1,000 employment permits for highly skilled workers, provided that these demonstrate that they acquired a higher level of education at the very least<sup>106</sup> and that their employer would pay them a minimum wage in the amount of 2.5 Slovene minimum wages.

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<sup>104</sup> Rules on Work Permits, on Registration and De-registration of Work and on the Supervision of the Employment and Work of Aliens, *Official Gazette of the Republic of Slovenia No. 28/2009*.

<sup>105</sup> Decree on Restrictions and Prohibition of Employment and Work of Aliens, *Official Gazette of the Republic of Slovenia No. 44/09*.

<sup>106</sup> As stipulated by the Decree on the Introduction and Use of Classification System of Education and Training, *Official Gazette of the Republic of Slovenia No. 46/2006*.

Consequently, only 42.3 per cent of the quota was used at the end of 2009.

**Table 4** *Valid work permits, 31 December, 2006-2013*

Year	Total	Personal work permits	Employment permits	Permits for work	Bilateral Agreement Slovenia and Bosnia and Herzegovina	EU Blue Card
2006	50,734	29,871	14,501	6,362	-	-
2007	66,065	31,754	24,490	9,821	-	-
2008	90,696	37,196	44,329	9,171	-	-
2009	78,387	44,463	28,160	5,764	-	-
2010	73,913	56,627	12,343	4,943	-	-
2011	34,221	22,232	8,563	3,426	-	-
2012	32,710	21,711	8,359	2,640	-	9
2013	27,103	17,196	6,869	2,429	609	5

*Source:* Employment Service of Slovenia, 2014

Considering the situation on the labour market and reduced employment opportunities after 2008, a decline in the volume of work permits has been expected, specifically for those employment permits requiring the labour market test. Table 4 shows that in 2009 the number of such permits was already more than halved compared to a year before and has reduced to less than 7,000 permits in 2013. As 3,196 of such permits refer to the extension of employment, the number of new migrant workers in Slovenia is even lower (by 38 per cent) than the number suggested by administrative data on valid permits. When compared to the previous period, the share of personal work permits increased by 31.5 per cent (6,103 permits), which is understandable, since the majority of such permits (4,241) is issued to workers, who were employed in Slovenia for at least 20 months in the past two years and have at least secondary education. Permits for work mainly concern seasonal work in agriculture, training and development or short individual contracts, but also activities performed by managers and posted workers. In 2013, 3,009 of such permits were issued, out of which 1,016 were issued to managers and 1,013 to posted workers.

According to the Employment Service of Slovenia, there is a continued growth in the number of permits issued without the labour market test to majority owners of corporations: in 2011 there were 1,018 permits, in 2012, 1,714 such permits were issued, while in 2013 there were 1,937 permits, which represents a 90 per cent increase compared to 2011. Due to the fact that many company owners are taking advantage of this opportunity to organise work and residence

permits for workers, which would otherwise not have been able to acquire them, the Government ordered an examination of conditions for issuing work permits to owners and representatives of companies, who are nationals of third countries, in early 2013.

As described previously, most new migrant workers from non-EU countries are employed in manufacturing, transportation and warehousing, construction and catering. The majority of them are unskilled (46.3 per cent), while the proportion of workers with higher education remains below seven per cent. Most of them still come from areas of former Yugoslavia (89 per cent). In 2013, there were also more citizens of the Russian Federation (588), Ukraine (549) and China (318).

In summary, recent changes in the policy of economic migration are primarily caused by the economic downturn. Against the backdrop of the economic crisis, the Government activated Article 5(7) of the Aliens Act for the first time in history. In addition to its usual quotas, it also implemented measures to protect the Slovene labour market and public interest or general economic interest, partly justifying such measures by the enforcement of Schengen rules. The Decree was amended twice in 2010 and these temporary measures were prolonged until the end of 2010. Since then, the economic crisis has led to a reduced economic activity and subsequently a lower need for labour. Demand for migrant workers has also declined, as confirmed by data related to work permits.

#### 4.2 Towards a circular migration concept

The 2010 Strategy for Economic Migration promotes, *inter alia*, the effective implementation of measures that should integrate migration issues into external policy and development issues. The Action Plan provides for the formulation of selective measures allowing a simpler, more transparent and controlled admission of certain categories of migrants, as well as efficient provision of their rights. The four sets of measures are primarily intended for: (i) time-limited sectoral schemes (by activity), (ii) the EU Blue Card, (iii) ways to promote circular migration, and (iv) simplification and standardisation of procedures for the admission of third country nationals for employment and certain other purposes.

##### *Foreign policy regional dimension*

Economic cooperation with third countries is an important part of the implementation of the Slovene migration policy. This cooperation

particularly concerns the Western Balkans,<sup>107</sup> which is an area of special significance for Slovenia and its economy. The development and lasting stability of the Balkans region is also high on the country's foreign policy agenda.

In March 2010, the Government adopted guidelines for activities in the Western Balkans defining priority areas and actions necessary for a more coherent and coordinated performance of both Government and economic entities. The following guidelines relating to legal employment of nationals from countries in the region are to be pursued: the identification of advantages and demand for employment of nationals of the Western Balkan countries. They have a comparative advantage over migrants from other regions due to their geographical and linguistic proximity, and their traditional presence in the Slovene labour market. According to the aforementioned guidelines, Slovenia should also encourage immigration in line with the labour market needs, simplify and unify admission procedures for nationals of the Western Balkan countries for the purposes of work and employment, as well as promote labour mobility. In this process, further efforts will be placed on ensuring social security of these migrants when working in Slovenia. The conclusion of bilateral agreements with the Western Balkan countries concerning employment of their nationals in Slovenia will be based on the principles of the Slovene migration policy as well as by following the reference framework of EU policies for the establishment of a comprehensive migration policy.<sup>108</sup> Such bilateral agreements will enable Slovenia to satisfy labour demand through migration and mobility according to the needs of the Slovene economy and the situation on the labour market, as well as demographic indicators in the forthcoming period.

The Government believes that bilateral agreements could stimulate a debate on the establishment of an area of free movement of workers within the Western Balkans even before the accession of individual countries of the region to the EU.<sup>109</sup>

### *Bilateral agreements*

At present, there are two bilateral agreements regulating cooperation between Slovenia and third countries in the field of employment of

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<sup>107</sup> Albania, Bosnia and Herzegovina, Montenegro, Kosovo, Macedonia and Serbia.

<sup>108</sup> Such as the European Pact on Immigration and Asylum, Council of the European Union, Brussels, 24 September 2008.

<sup>109</sup> Proposal of guidelines for the activities of the Republic of Slovenia in the Western Balkans until 2020, Decision of the Government of the Republic of Slovenia No. 51201-1/2010/17 of 11 March 2010.

economic migrants. The aim of the agreement with Macedonia is to regulate the terms and conditions of employment of seasonal worker migrants from that country.<sup>110</sup> Macedonian workers have been present on the Slovene labour market for several years and have mainly been employed in economic sectors, such as construction, agriculture and forestry, characterised by a shortage of qualified domestic workers or workers from mainly new EU Member States. According to the bilateral agreement, employment entitlements relate solely to seasonal worker migrants while their family members are not awarded any rights.

The bilateral agreement concerning employment of nationals of Bosnia and Herzegovina in Slovenia, which entered into force in March 2013,<sup>111</sup> represents an attempt to devise a circular migration programme. It follows the reference framework of EU policies for the establishment of a comprehensive migration policy, with the emphasis on partnership dialogue with third countries and beneficial effects of circular migration, voluntary return of migrant workers to their country of origin and ‘ethical’ recruitment in favour of reducing the ‘brain drain’. The purpose of the agreement is to provide more controlled flows of labour migration from Bosnia and Herzegovina. It introduces organised recruitment of workers, which is not left solely to the wishes of employers, as the initial selection of workers is only possible with the active participation of both national institutions in the field of employment (the Employment Service of Slovenia and the Agency for Work of Bosnia and Herzegovina). It is believed that this will prevent illicit brokering of workers, which has frequently occurred in the past.

Migrant workers will be issued a work permit for a period of three years. The agreement allows for transition from the original employer and from seasonal employment. In principle, voluntary return is required and the option to return to Slovenia is open after six months. Exceptions are also possible, e.g. when a renewal of a work permit or the right to family reunification is granted and in cases of ‘professional employment’. Bosnia and Herzegovina has the possibility to prevent ‘brain drain’ by restricting migration of individual occupational groups or the re-employment of migrants in Slovenia.<sup>112</sup> Migrant workers are

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<sup>110</sup> Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Macedonia on the Employment of Seasonal Workers, *Official Gazette of the Republic of Slovenia*, No. 46/2008.

<sup>111</sup> *Official Gazette of the Republic of Slovenia* – International Treaties, No. 14/2012.

<sup>112</sup> The present bilateral agreements do not apply to the ‘EU Blue Card’ or to nationals of the country of origin under Council Directive 2009/50/EC Concerning the Conditions of Entry and Residence of Third country Nationals for the Purposes of Highly Qualified Employment, OJ L No. 155, 18 June 2009.

entitled to equal treatment as Slovenian nationals, particularly with regard to working conditions, the freedom of association and membership in representative organisations of workers, employers or professions, and education and vocational training. The agreement also clarifies conditions under which their temporary stay may be converted into a permanent one.

On the basis of this agreement, 661 workers were permitted to work in Slovenia in 2013, while employers submitted 1,424 applications for the transfer of 3,500 workers from Bosnia and Herzegovina. This indicates that the volume of workers under the agreement is expected to increase significantly in the coming years.

The effects of this approach will be shown in the right light only if such a mode of employment of migrant workers will also apply to 'all' other third countries, which, according to the Ministry of Labour, Family, Social Affairs and Equal Opportunities, should become a principal guideline for regulating the employment and work of foreigners in the future.<sup>113</sup>

#### 4.3 Highly skilled migrants

The Strategy for Economic Migration also recommends the promotion of highly skilled employment, as well as the admission and mobility of students and researchers. It suggests that this type of migration might contribute to overall economic activity and growth, as well as to innovation and the overall competitiveness of Slovene economy.

The needs for labour in certain sectors, such as information and communication technologies, biotechnology, forestry and the health sector, have been well identified. In the latter in particular, Slovenia faces problems similar to those of a significant number of other EU Member States, as well as some other countries. In 2009, there was an estimated 20 per cent shortage in nursing professionals with only 40 new jobs per year taken by non-EU citizens. Annual needs for medical doctors are estimated to range from 517 to 970. A further decline in the number of medical doctors is expected from 2010 onwards due to retirements and insufficient numbers of graduates from medical schools. Some measures to remedy this situation have already been taken: student enrolment into medical schools has been increasing by about 45 per cent annually (from 600 in 2004 to 1,050 students in 2010) and several new schools were established in 2008 and 2009. In accordance with the draft Health Services Act and the Resolution on the

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<sup>113</sup> Employment Service of Slovenia, Annual Report 2013: 30, [http://www.ess.gov.si/files/6063/letno\\_porocilo\\_2013.pdf](http://www.ess.gov.si/files/6063/letno_porocilo_2013.pdf).



National Plan of Health Care 2008-2013,<sup>114</sup> a network of public health service providers at all levels should be laid down, including the calculation of precise needs for labour and skills.

The recruitment of medical doctors, nursing professionals and professional in other fields from abroad and the problems thereof are not only related to cumbersome admission procedures, but also to eligibility requirements for employment, specifically language skills and recognised qualifications. However, the most decisive factor for such a state of affairs is perhaps a degree of resentment expressed by professional chambers with respect to the 'import' of foreign staff. To some extent, this also applies for the Slovene tertiary education system and the abilities and equipment of educational institutions to find an equilibrium between their desire to become an integral part of global education and the role they represent and perform in the protection of values, particularly linguistic, as traditional Slovene institutions (Medved 2012). While mobility of students is increasing, with 2,575 temporary permits issued in 2013 (Ministry of the Interior 2014: 14), the number of researchers from abroad is negligible. Altogether, there were 16 researchers (as defined by the Aliens Act) in Slovenia in 2009.

Some measures timidly suggest a growing awareness, though under the EU 'pressure', that more attention ought to be given to highly skilled immigration. For example, Slovenia recently modernised its system for recognising qualifications of third country nationals.<sup>115</sup>

The effects of the ambitious work permit quota reserved for highly skilled workers, which was set at 1,000 in 2009, are practically inexistent, and would remain such even if the total work permit quota would be completely utilised. Despite expectations of a larger inflow of highly skilled migrants and benefit stemming from a uniform procedure for issuing EU Blue Cards introduced in 2011, only five EU Blue Cards were issued in 2013, which is even less than in 2012, when there were nine.

The recent changes in immigration management have thus mainly worked in terms of protecting the Slovene labour market and sustaining a relatively low qualification structure of migrants, while they were less effective in terms of attracting highly skilled workers.

#### 4.4 Intra-EU mobility and the emigration of Slovenes

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<sup>114</sup> Resolution on the National Plan of Health Care 2008-2013, 'Satisfied Users and Performers of Medical Services', *Official Gazette of the Republic of Slovenia* Nos. 72/2008 and 47/2008.

<sup>115</sup> Recognition and Evaluation of Education Act, *Official Gazette of the Republic of Slovenia* No. 87/2011-ZVPI (97/2011 correction).

Slovenia did not expect any substantial changes or significant increases in intra-EU mobility and migration after its accession to the EU. Still, in its position paper on free movement of workers in the pre-accession period, Slovenia enforced the principle of reciprocity towards any old EU Member State (EU-15) that would enforce national measures restricting the free movement of workers in the seven-year transitional period.<sup>116</sup> At the end of the two-year transitional period, the Government, which joined the initiatives of other new EU Member States concerning the elimination of the transitional period, decreed the abolishment of such reciprocity. As from 25 May 2006, the Slovene labour market is open to all EU citizens. For citizens of Croatia, which became an EU Member State in mid-2013, the transitional period expires on 30 June 2015.

With regard to the impact of the Union preference principle on the Slovene labour market, an increase of Slovak construction workers was recorded shortly after the accession of both the countries to the EU (King & Thomson 2008). Since Bulgaria's accession in 2007, the number of Bulgarian citizens in Slovenia is increasing. Slovene employers, however, prefer the already traditional migrant workers who originate from the former Yugoslav republics, particularly from Bosnia and Herzegovina. It is also observed that both the stock and inflow of economic migrants, as well as service providers from the EU, particularly from new Member States, is declining. This trend mainly results from unattractive labour conditions, such as low wages, and more attractive offers of employment available in other economically more developed countries. In any case, in terms of economic migrants, the Slovene labour market is still dominated by nationals from other parts of former Yugoslavia.

### *Emigration of Slovenes*

Until recently, intra-EU mobility did not have a substantial impact on the mobility of Slovene workers. During the European Year of Workers' Mobility, various reasons for the low mobility of Slovene workers were pointed out. They were associated with the knowledge of foreign languages and insufficient information about social and other rights of mobile workers in the EU. It was argued that better wages are not sufficient to persuade low-paid workers to move or commute to another EU Member State (Ministry of Labour, Family and Social Affairs 2006). With the onset of the economic crisis, significant changes have occurred. Commuting to neighbouring countries on a

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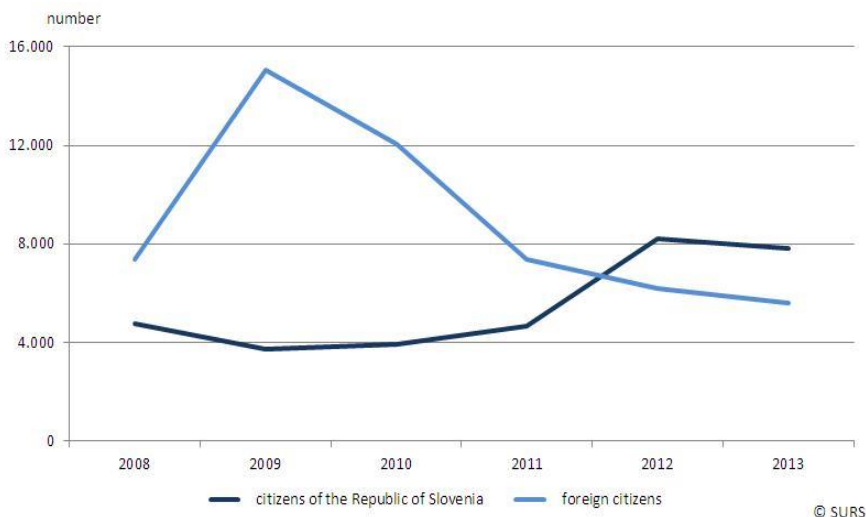
<sup>116</sup> See Article 3(3) of the 2000 Employment of Aliens Act.

daily or weekly basis has increased. There are now around 18,000 workers commuting to Austria alone.

Since 2000, more Slovene citizens emigrated from Slovenia every year than immigrated to Slovenia. As presented in Figure 2, 2013 was the fourteenth consecutive year recording a negative net migration of citizens of Slovenia: 5,539 more left the country than returned to it. Slovenes most frequently emigrated to Germany and Austria; between 29 per cent and 52 per cent of all Slovene citizens emigrating from Slovenia in a particular year. The exact reasons for emigration are not known, but they include seeking new opportunities abroad, education and family reunification. In the past couple of years, emigration of Slovenes is on the rise: 8,191 moved abroad in 2012 and 7,789 in 2013. Almost two-thirds of them sought a better life in the EU-27, and one in five of them went to Germany and Austria (21 and 20 per cent respectively).<sup>117</sup> Before 2011, the net migration of Slovene citizens had always been lower among women. In 2011, the ratio between genders changed: the net migration of men was lower than that of women by 97 persons.

The outflow mainly concerns young highly skilled adults and has been causing some concern, not least from the economic and demographic point of view.

**Figure 2** *Emigrants by citizenship, 2008-2013*



Source: SORS

<sup>117</sup> SORS: Migration changes, Slovenia, 2013 – final data, Tuesday, 29 July 2014, First Release, [http://www.stat.si/eng/novica\\_prikazi.aspx?ID=6395](http://www.stat.si/eng/novica_prikazi.aspx?ID=6395) (Consulted on 14 December 2014).

## 5 Irregular migration

Due to its geographic position at the crossroads between the West, Eastern Europe and the Balkans, Slovenia is primarily a transit country and to a lesser extent a destination country of irregular migration. This is mainly expressed in the form of human trafficking for the purposes of sexual and labour exploitation. Trafficking involving the most vulnerable, disabled and children, who were forced into begging, has also been detected.

### 5.1 Trafficking in human beings

Slovenia is primarily a country of destination and transit of victims of trafficking in human beings and to a lesser extent a country of origin. The main countries of origin of the victims are Romania, Hungary, Ukraine and the Dominican Republic. There were 90 formally identified victims of trafficking between 2010 and 2013. The majority of victims were women subjected to sexual exploitation. Furthermore, five men were identified as victims of trafficking for the purpose of labour exploitation and two children as victims of trafficking for sexual exploitation.<sup>118</sup>

Given the seriousness of the problem, the Government appointed an Inter-ministerial Working Group for Combating Trafficking in Human Beings in 2003. The Working Group is comprised of representatives of ministries and Government bodies and members of NGOs. It is an advisory body and it does not have any executive functions. Its core tasks are the preparation and supervision of the National Action Plan that has been drafted every two years since 2004, the coordination of activities of institutions and the exchange of information regarding current developments in the field of combating trafficking in human beings.<sup>119</sup>

The objective of the National Action Plan is to define the key counter-trafficking activities, which normally involve the adoption of new legislative measures, the investigation and prosecution of criminals offences related to trafficking, prevention in the form of awareness-raising and research activities, and assistance to and protection of trafficked victims, as well as training and international cooperation. Much of the effort has been invested in educational and general

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<sup>118</sup> 33 in 2010, 21 in 2011, four in 2012 and 32 in the first six months of 2013. In 2011, eight of the identified victims were Slovene women trafficked within the country for the purpose of sexual exploitation (GRETA 2014: 10).

<sup>119</sup> Government of the Republic of Slovenia, [http://www.vlada.si/teme\\_in\\_projekti/boj\\_proti\\_trgovini\\_z\\_ljudmi/](http://www.vlada.si/teme_in_projekti/boj_proti_trgovini_z_ljudmi/) (accessed on 4 September 2014).

awareness-raising programmes. The training of experts involved in the identification, care and protection of victims of trafficking is a well-established part of the national preventive strategy against human trafficking. The Working Group's two focal groups are the Police and NGOs. Additionally, a number of awareness-raising campaigns are organised every year for the general as well as for target populations, such as children, their parents and other potential victims of trafficking. In 2007, the theme of human trafficking was introduced into the standard Slovene primary school curriculum. It is part of the seventh and eighth grade course on Citizen's Education and Ethics.

In 2004, trafficking in human beings was introduced into the Penal Code as a newly defined criminal offence.<sup>120</sup> The Group of Experts on Action against Trafficking in Human Beings (GRETA 2014) recommends, *inter alia*, that Slovene authorities should strengthen multi-agency involvement in victim identification by introducing a clear national referral mechanism, strengthen training provided to judges, prosecutors and other relevant professionals. Greater attention should also be paid to human trafficking for the purpose of labour exploitation, trafficking in children, trafficking in persons from vulnerable groups, including the Roma, and trafficking within Slovenia.<sup>121</sup>

## 5.2 Transit migration

Considering irregular migration in more general terms, Slovenia is a transit country on the 'Balkan Route' on the way to western and northern Europe. The problem of 'illegal migration' has been mainly perceived as a threat to national security. When the Slovene border was unlawfully crossed by hundreds of migrants daily, it was perceived as getting increasingly out of control. The largest number of irregular migrants entered Slovenia from Croatia, followed by Hungary, and attempted to cross Slovenia to enter Italy and Austria. Between 1995 and 2000, the number of captured irregular migrants, mainly from Iran,

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<sup>120</sup> European NGOs Observatory on Trafficking, Exploitation and Slavery, <http://www.e-notes-observatory.org/legislation/slovenia/> (accessed on 4 September 2014). Criminal proceedings for this offence were initiated in 28 cases in 2009, 12 cases in 2009, 15 cases in 2011 and 27 in 2012. The number of convictions was four in 2009, ten in 2009, six in 2011 and eight in 2012. The terms of imprisonment ranged from two years to three years and two months in 2009, from one month to three years in 2010, from one year and four months to four years in 2011, and from six months to one year and six months in 2012. Confiscation of assets was ordered in two judgments in 2009, three in 2010, six in 2011 and two in 2012 (GRETA 2014:37).

<sup>121</sup> GRETA 2014, Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Slovenia, GRETA(2013)20, Published on 17 January 2014, [http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA\\_2013\\_20\\_FGR\\_SVN\\_public\\_en.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2013_20_FGR_SVN_public_en.pdf).

Romania and Turkey, arriving from Croatia rose by 543 per cent. In year 2000, more than 35,000 migrants were captured. According to unofficial data, the police managed to capture only one in three persons crossing the Slovene national border without authorisation.<sup>122</sup>

Immediately after their entry in Slovenia, most irregular migrants apply for asylum. Accordingly, this was done by more than 11,000 persons in 2000 (766 in 1999), which is why Slovenia adopted a new Act Amending the Asylum Act using a fast-track procedure and declaring the neighbouring Croatia to be a 'safe third country'.<sup>123</sup>

Given that Slovenia was in the first group of candidate countries for accession to the EU at the time, it had been intensely involved in the harmonisation of its legislation with the EU *acquis*. The question of how to encourage other countries to contribute to the restriction of the tide of irregular migration was raised, and a number of readmission agreements have been concluded since then with those countries that facilitate migration flows. The need to identify reasons for mass departures from countries of origin has also become more apparent.

Partially due to these measures, the number of unauthorised border crossings decreased by 42 per cent (20,871) in 2001 and by another 67 per cent in 2002 (6,926).<sup>124</sup>

The Schengen border was also an important foreign policy aspect of this issue due to which Slovenia was faced with the obligation of establishing European security standards on its 670 km long border with Croatia. The meeting of Schengen criteria was an exceptionally demanding project both in terms of personnel and technical capacities. On 21 December 2007, Slovenia and the other nine new EU Member States joined the Schengen area and at the same time, the border between Slovenia and Croatia became the southern external border of the EU. The Police dealt with 2,479 unauthorised border crossings in 2007. Today, their number is still relatively low because of the diversion of irregular migration from Serbia to Hungary and further

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<sup>122</sup>Government Communication Office, *Illegal Migration - A Threat to Slovenia's National Security*, January 2001,

[http://www.ukom.gov.si/en/media\\_room/background\\_information/domestic\\_policy/illegal\\_migration\\_a\\_threat\\_to\\_slovenias\\_national\\_security/](http://www.ukom.gov.si/en/media_room/background_information/domestic_policy/illegal_migration_a_threat_to_slovenias_national_security/).

<sup>123</sup>Accommodation capacities for two different categories of foreign nationals were also a pressing problem for a number of years, until the Asylum centre was finally built in 2004.

<sup>124</sup>Policija, *Mejna problematika, Statistika, Nedovoljene migracije v obdobju od 1. januarja do 31. decembra 2001* [Slovene Police, *Border Issues, Statistics, Irregular Migration in the Period from 1 January to 31 December 2001*],

<http://www.policija.si/images/stories/Statistika/MejnaProblematika/IlegalneMigracije/2001.pdf>.

*Nedovoljene migracije v obdobju od 1. januarja do 31. decembra 2002* [Irregular Migration in the Period from 1 January to 31 December 2002],

<http://www.policija.si/images/stories/Statistika/MejnaProblematika/IlegalneMigracije/2002.pdf>.

towards Central Europe, as well as to maritime borders, especially towards Italy.<sup>125</sup>

**Table 6** *Unauthorised border crossings and residence, 2007-2013*

	2007	2008	2009	2010	2011	2012	2013
Unauthorised border crossings	2,479	1,186	2,532	1,962	1,445	1,771	1,011
Unauthorised residence	731	1,935	2,307	2,954	4,002	3,674	3,313

Source: Own elaboration of the Police data. Policija, Mejna problematika, Statistika [Slovene Police, Border Issues, Statistics], <http://www.policija.si/index.php/delovna-podroja/mejne-zadeve-in-tujci/139> (Consulted on 15 December 2014).

In the same period, i.e. between 2007 and 2013, the recorded unauthorised residence of non-EU citizens was increasing. The highest number, i.e. 4,000, was recorded in 2011. They were mainly overstayers whose visa or residence permits were annulled, renounced or expired. If they failed to arrange a residence status on grounds other than employment or work, their right of residence in Slovenia was renounced and they had to leave the country within a period of three months. If they fail to do so, the authorities initiate a voluntary return procedure, which means that they need to cooperate with the Police. If migrants decline to voluntarily return to their country of origin, they are deported from Slovenia, i.e. brought to the state border by the Police, directed across the border and handed over to the authorities of the neighbouring country.<sup>126</sup> Furthermore, the return of third country nationals may also be implemented on the basis of agreements, which Slovenia has concluded with other countries. Although administrative and judicial avenues are in place for the protection of irregular migrants, some aspects of irregular migrants' treatment call for improvement.

The economic crisis has negatively affected migrant workers in Slovenia and many have lost their jobs while no concrete measures or incentives for their return to their countries of origin, mainly to former Yugoslav republics, have been adopted. Nevertheless, statistics show high emigration of foreign citizens in 2009 and 2010 (15,071 and 12,032 respectively) as presented in Table 1.

The evidence of migrants returning to their homes is rather scarce.

<sup>125</sup> Policija, Mejna problematika, Statistika [Slovene Police, Border Issues, Statistics], <http://www.policija.si/index.php/delovna-podroja/mejne-zadeve-in-tujci/139>.

<sup>126</sup> Article 51 of the Aliens Act prohibits the deportation or return of an alien to a country in which his or her life or freedom would be endangered on the basis of race, religion, nationality, membership of a special social group or political conviction, or to a country in which the alien would be exposed to torture or to inhumane and humiliating treatment or punishment.

On the basis of observations, it is possible to conclude that there is a certain mobility related to the demand for labour or lack of it due to geographical proximity and other factors, such as family, social and economic ties. A more thorough study of data concerning work permits, particularly their interruption, might prove this point. Given the current trend in personal work permits, however, it can be reasonably assumed that migrants are not returning to their countries of origin for good. In addition, there is also an increasing trend of third country nationals, who obtain a personal work permit as close family members of Slovene nationals, and those, who obtain this type of work permits on the basis of self-employment.

There is also scarce information on the extent of third country nationals working without authorisation. It is estimated that their number is low, as also suggested by the Police data presented above. Therefore, with a view to increase the effectiveness of inspections, there seems to be no risk assessment on the basis of which individual sectors in which the employment of 'illegally staying third country nationals' would be regularly identified.<sup>127</sup> Due to the exploitation of legally employed migrant workers, the inspectorate and other authorities should, in fact, be more active in sanctioning the violations of their labour and social security regulations, as argued further on.

## 6 Integration

As presented above, some elements of integration policy are already defined and normatively regulated. The integration process, being one of the core building blocks of immigration policy, encompasses those state and societal measures that guarantee favourable conditions for the quality of immigrants' life and enhance their integration, so that they become responsible participants in the development of Slovene society. The process of integration is to be conducted in an atmosphere respectful of the multicultural character of society, the richness of diversity, peaceful coexistence, social stability and cohesiveness.<sup>128</sup> The objectives of this policy are underpinned by principles of equality, liberty and mutual cooperation. Equality is understood in terms of equal social, economic and civil rights; liberty denotes the right to express one's cultural identity, while respecting the integrity and human dignity, as well as the right to maintain one's own culture in accordance

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<sup>127</sup> Cf. Article 14(2) of Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 Providing for Minimum Standards on Sanctions and Measures against Employers of Illegally Staying Third country Nationals, EU L 168 volume 52, 30 June 2009.

<sup>128</sup> Resolution on the Immigration Policy of the Republic of Slovenia, *Official Gazette of the Republic of Slovenia*, No. 40/1999; Resolution on the Migration Policy of the Republic of Slovenia, *Official Gazette of the Republic of Slovenia*, No. 106/2002



with the laws and basic values of the Republic of Slovenia. Finally, mutual cooperation stands for everyone's right to participate and shoulder responsibility in the continuous process of forming a common society.<sup>129</sup>

In terms of legislation, integration is the subject of Chapter 10 of the Aliens Act, which deals with assistance in the integration process, such as the Slovene language learning courses, programmes for getting acquainted with Slovene history, culture and constitutional system, as well as the first free-of-charge basic level Slovene language exam. Integration is also foreseen in the provisions of the Citizenship of the Republic of Slovenia Act, which among other conditions for naturalisation, requires that applicants pass the exam testing their Slovene language skills at a basic level.

The scope of and eligibility for integration programmes, financed by the Ministry of the Interior with the support from the European Fund for the Integration of Third country Nationals, depend on the type of residence permit obtained by applicants. Under a Decree that came into effect on 1 January 2013,<sup>130</sup> third country nationals are allowed to participate in such programmes immediately after arriving to Slovenia. This also applies to their family members, who are third country nationals, and to family members of EU citizens, including Slovene nationals. Regardless of the length of their stay and the validity of their documents, they are allowed to participate in the Slovene language learning programmes and courses on Slovene society to the maximum extent possible or for a total of 180 hours. The Decree is thus the only legal act in Slovenia granting legally residing third country nationals a more favourable position than to EU citizens.

The Government and its ministries have always maintained that integration is a two-way process. On one hand, it requires active cooperation from immigrants; on the other hand, it imposes a duty on the state to establish favourable conditions for a good quality of life of all immigrants by, among other measures, actively preventing discrimination, social marginalisation, xenophobia and racism, and by encouraging integration through various programmes.<sup>131</sup>

However, the concrete state educational programmes, which were

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<sup>129</sup> For political and philosophical background of these principles, particularly on liberty, see Medved 1999.

<sup>130</sup> *Official Gazette of the Republic of Slovenia*, No. 24/2007 – official consolidated text.

<sup>131</sup> Zaletel, J. *Integracija v RS, včeraj, danes, jutri* [Integration in the Republic of Slovenia, Yesterday, Today, Tomorrow], Ljubljana: Ministrstvo za notranje zadeve, [http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti\\_pdf/elmd06\\_om4\\_integracija\\_mnz.pdf](http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti_pdf/elmd06_om4_integracija_mnz.pdf) (Consulted on 14 December 2014).

outlined in some detail above, are well conceived in theory, but have turned out to be less useful in practice (Vrečer et al. 2008, Inštitut za narodnostna vprašanja 2009). According to the Ministry of the Interior (2014), 2,030 immigrants participated in the uniform programme and 817 participated only in the Slovene language courses. 589 took the basic level Slovene language exam, out of which 407 (69.1 per cent) were successful. When taking into account that almost 100,000 third country nationals had the right to either temporarily or permanently reside in Slovenia at the end of 2013, it becomes clear that only three per cent participated in integration programmes. Given that the rate of participation is one of the indicators of successful integration, it appears that the integration policy is not bearing fruit as expected. One of the reasons for this might be linked to the methods, which are still in their early stages of development. However, this offers merely a partial answer. It is far more plausible that the low participation in these programmes is related with the unsuitability or rather impracticality of the normative framework of integration for the actual practical needs of immigrants. This becomes apparent if one takes into account that a substantial part of immigrants are in Slovenia for economic reasons on a temporary basis and may not actually be interested in the available integration programmes. However, this does not mean that the integration policy is not important. On the contrary, the protection of rights and security of status are issues requiring an adequate response, as discussed below.

## 7 Recent discussions and concerns

Unlike the occasional political and social debates on refugees, particularly in the 1990s, and on 'illegals' around the turn of the millennium, there have been no major discussions on migration until recently. Even the first migration policy in the late 1990s was mainly induced by external impulses in the context of the pre-accession process to the EU rather than on the basis of a platform of any political party, governmental or parliamentary committee or due to the pressures of economic forces in society, NGOs, public opinion or the media (Medved 1998). After Slovenia's accession to the EU, an interest in pursuing a strategy for economic migration occurred in the context of objectives and priorities of the 2004 Hague Programme aimed to further develop the area of freedom, security and justice<sup>132</sup> and in the light of expected effects of an ageing population and disparities in the

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<sup>132</sup> European Commission, Communication, The Hague Programme: Ten Priorities for the Next Five Years, The Partnership for European Renewal in the Field of Freedom, Security and Justice, COM(2005) 184 final, Brussels, 10 May 2005.

Slovene labour market. Nevertheless, medium and long-term migration policy has never been the subject of visible, let alone lively political debates.

As far as political parties are concerned, migration topics do not rank high on their agendas. However, some of their political views are provided in their programmes. Two out of three current coalition parties, which formed the Government in the autumn of 2014, do not include migration in their programmes: the leading, recently formed *Stranka Mira Cerarja*, SMC (The Party of Miro Cerar), which is a member of the Alliance of Liberals and Democrats for Europe (ALDE), and DeSUS, the pensioners' party. For Social Democrats (*Socialni demokrati*, SD), the second coalition party, immigrants need special assistance. In particular, the party argues that migrants' activities should not be limited to the family and ethnic levels, but that they should also be able to fully participate at the civic level. This calls for active and positive political measures that should not simply leave individuals to choose whether they wish to participate in the life of the host state. Finally, the SD claims that 'migration policy must be focussed on the behaviour of people, not on their status'.<sup>133</sup>

The Slovene Democratic Party's (*Slovenska demokratska stranka*, SDS) programme sees the prevention of illegal migration as one of the basic activities of the state in the provision of internal security.<sup>134</sup> *Nova Slovenija*, N.Si (New Slovenia, Christian People's Party), which belongs to the European People's Party (EPP) as SDS, dedicates the whole section of its 2009 platform to 'Aliens'. The party condemns every form of intolerance. They expect foreign-born citizens to integrate: 'Diversity enriches, but not at the expense of reducing the rights of the majority of the nation and undue privileges to minorities.' While all Slovenes always have the right to return to their homeland, the N.Si wishes to restrict and control immigration from outside the EU and promote the integration of long-term immigrants, who wish to obtain Slovene citizenship, provided that they speak the Slovene language. The party also commits to ensure that future labour shortages that are expected due to the ageing population would not be solved primarily through immigration, but by encouraging fertility and support family policy.<sup>135</sup>

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<sup>133</sup> Program SD: Pravičnost! Za Slovenijo v vrhu sveta [Programme of the Social Democrats (SD): Justice! For Slovenia to Become One of the Best in the World] (2013), <http://www.socialnidemokrati.si/predstavitev/program/> (consulted on 14 December 2014).

<sup>134</sup> Programme of the Slovene Democratic Party (SDS), point 83, <http://www.sds.si/menu/5> (consulted on 14 December 2014).

<sup>135</sup> Nova Slovenija (2009), Temeljni program. Blizu ljudem [New Slovenia, Basic Programme, Close to the People], <http://www.nsi.si/assets/files/Temeljniprogram%20BlizuLjudem.pdf>.

Another parliamentary party, *Združena levica* (United Left), an electoral alliance of three parties standing for ‘Slovenia of Democratic Eco-friendly Socialism’ claims that: ‘the public sector must provide to all residents universal access to health treatment, education and other basic acquisitions of civilisation’.<sup>136</sup>

Nevertheless, in the course of 2010 when the economic crisis was underway, the media revealed extensive abuse in private companies, mostly in the construction sector, which caused considerable financial damage, the loss of jobs and consequently led to the bankruptcy of these companies. Migrant workers were hit the hardest. Not only did they often work overtime in extremely poor and difficult working conditions, they were also not paid their wages. It became apparent that employers had engaged in a massive violation of their employment and other social responsibilities, as they failed to register their workers in retirement, disability and health insurance schemes, or failed to cover the required monthly instalments. Outside of work, these workers lived in poor, sometimes intolerable, living and hygiene conditions (Medica et al. 2011). While even liberal and social democratic parties remained silent, trade unions compared the situation to modern slavery. Indeed, some forms of exploitation were very serious and reminiscent of slavery-like situations characteristic for the trafficking in human beings. This also led to desperate reactions of migrant workers; some went on hunger strikes and resorted to civil disobedience in the field of employment.

The situation was so grave that in her annual report to the National Assembly, the Ombudsman was prompted to publicly question whether Slovenia is still a welfare state based on the rule of law.<sup>137</sup> While the direct responsibility for the disgraceful situation lies with private companies, the state also bears a share of responsibility. All violations of labour and social security laws should have been investigated and sanctioned by the competent inspectorate, however understaffed. The Police and the Prosecutor’s Office have also not done their job, given that many of the described instances of maltreatment qualify as criminal offences according to the Penal Code.

#### The Rules on Setting Minimal Standards for Accommodation

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<sup>136</sup> Združena levica: Pot v demokratični ekološki socializem [United Left: Our Path to Democratic, Eco-Friendly Socialism]: 24. <http://zdruzena-levica.si/images/program.pdf>.

<sup>137</sup> Introductory speech of the Slovene Ombudsman on the occasion of presenting the Ombudsman’s Annual Report for 2009 in the Slovene National Assembly, 22 October 2010, <http://www.varuh-rs.si/publikacije-gradiva-izjave/govori-referati-in-clanki/novice/detajl/predstavitev-letnega-porocila-varuha-za leto-2009-na-seji-drzavnega-zbora/?cHash=8ae514ccca98a314c097f0358869b5fb>.

were adopted in 2011<sup>138</sup> in order to regulate the housing of migrant workers. While this would significantly change the initial position of migrant workers and reduce the possibility of exploitation and dehumanising conditions of their housing, migrants in possession of either an employment permit or a permit for work remain a vulnerable group, exposed to unequal treatment and violations of their rights. The Ministry of Labour, Family and Social Affairs approached this issue, as migrants did not receive adequate and understandable information from their employers. With the assistance of the European Social Fund, new communication channels, the so-called INFO-points, were set up to provide migrants with relevant information.

However, the fertile ground for situations described above has also been provided in the Employment and Work of Aliens Act, which openly favours the employer. Taking into account that the right to residency hinges on the work permit, possibilities for potential abuse become more than apparent. The present statutory regulations and inaction of the state in a general political climate, which is not conducive to the full respect of the rule of law, constitute a vicious circle for low skilled migrant workers. Hopefully, the uniform procedure for acquiring a combined permit allowing aliens to work as well as to reside in Slovenia, which enters into force on 1 January 2015, may be a way towards breaking the circle.

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<sup>138</sup> Rules on Setting Minimal Standards for Accommodation of Aliens, Who are Employed or Work in the Republic of Slovenia, *Official Gazette of the Republic of Slovenia*, No. 71/11.

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## Croatia – Diversity of Migration Trends and Policies

*Julija Kranjec & Drago Župarić-Iljić*

### 1 Introduction

Shifts in Croatian migration flows pinpoint to the interconnectedness of historical, political, economic and socio-demographic drivers for mobility and migration. Croatia has traditionally been a country of significant emigration, as well as either voluntary or involuntary migration. Nowadays, Croatia first and foremost continues to be country of origin for Croatian nationals emigrating abroad. Even though it is perceived as gradually becoming a final or preferred destination for some immigrants, it remains to be a transit territory for many irregular migrants on their way to Western Europe.<sup>139</sup>

Using secondary demo-statistical sources, the first purpose of this Chapter is to provide a coherent overview of historical Croatian migration flows from and to Croatia. Secondly, it analyses contemporary migration patterns, flows and stocks. A decade after its independence, Croatia was characterised by war-induced migration and displacement. The post-war period led to the stabilisation of emigration and returnee flows, as well as to further regular labour (e)migration trends and some new regular and irregular (im)migration flows. Thirdly, the Chapter also depicts contemporary Croatian migration, asylum and integration legal and institutional framework, discussing policies and practices in this area.

Firstly, some methodological difficulties that occurred while analysing the abovementioned issues are pointed out. Further on, based on conducting a desk-study analysis of legal and political documents, this Chapter discusses the legislative and institutional framework for aliens, asylum, citizenship and integration law(s). Moreover, it analyses current migration and integration policies, which were introduced in the final stages of harmonisation with the EU *acquis* prior to Croatia's accession. The Chapter ends with concluding remarks regarding the political debate on migration issues and the presence of foreigners in Croatian society, as well as by mapping some of the future challenges concerning Croatian migration, asylum and integration politics and policies.

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<sup>139</sup> In ethnical terms, Croatia is quite a homogenous society; according to the 2011 census, it has a population of 4,284,889 out of which 90.42 per cent declare themselves as Croats (Croatian Bureau of Statistics 2012). Croatia has a population density of 75.8 inhabitants per km<sup>2</sup>. Administratively, the country is divided into 20 counties and the city of Zagreb. Croatia covers 56,594 km<sup>2</sup> of land and 31,067 km<sup>2</sup> of territorial sea. The length of the borders is 2,375 km (the border with Bosnia and Herzegovina is the longest, i.e. 1,011.4 km), out of which 1,351.6 km became the new EU external border, after Croatia's accession to the EU.



## 2 History of migration before 1989

When assessing historical migrants' stocks and net migration from/to Croatia, one faces the problem of reliability and validity of past, as well as recent, migration data. Usually, it is very difficult to compare data from various sources due to the indistinct definitions of 'Croatian emigrants'. Some records count all people who left all territories previously under different jurisdictions of historical Croatian territories, while others record only Croats in the ethnic sense. Uneven official statistical records lead to different estimations with respect to the numbers of Croatian migrants in the past (Gregurović & Mlinarić 2012:112). Thus, all data presented in this Section may only count as a rough assessment of migration statistics.

Emigration began in the fifteenth century and was characterised by waves of forced population movements from Croatian historical territories marked by wars between the Ottoman Empire, the Habsburg Monarchy and the Republic of Venice. After the seventeenth century, forced emigration continued on a smaller scale until the mid-nineteenth century. It is estimated that 400,000 people left the territory from the fifteenth to mid-nineteenth century, mainly to west neighbouring countries of the Habsburg Monarchy (Nejašmić 1991). After this period, a new pattern emerged consisting of economically driven mass emigration from rural and over-populated coastal regions and islands, which were undergoing a farming crisis due to the lack of land and epidemics in agricultural grape production. Most emigrants left for overseas destinations (USA, South America and Australia). Immigration during the nineteenth century was much lower, mainly consisting of people from other territories of the Habsburg Monarchy, who were settling in Croatia as farmers, soldiers or state officials (Nejašmić 1991).

Upon the dissolution of the Austro-Hungarian Monarchy after the First World War, Croatia was included in the short-lived State of Slovenes, Croats, and Serbs, which merged into the Kingdom of Yugoslavia. Due to territorial and political changes, emigration was mainly ethnically driven. Many Germans and Hungarians more or less forcibly left Croatia to their newly established nation-states.<sup>140</sup> Because of restricted immigration to the USA, South America, New Zealand and Canada became new attractive destinations for the majority of Yugoslav economic emigrants in the interwar period (Gregurović &

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<sup>140</sup> Descendants of Germans and Hungarians, who stayed, are nowadays among the 22 officially recognised national minorities in Croatia.

Mlinarić 2012). Germany, France, Belgium and Italy were most interesting European destinations for the rest.

From the mid-nineteenth century up to the First World War, some 350,000 people altogether left overseas and around 100,000 more emigrated in the interwar period, while 25,000 moved to European countries (Čizmić, Sopta & Šakić 2005). Negative net migration was insufficiently mitigated by inflows from deprived regions of the Kingdom of Yugoslavia, especially from Bosnia. These migrants primarily settled in fertile agricultural areas in the Croatian mainland.

During the Second World War, in the fascist collaborationist 'Independent State of Croatia (NDH)', war-related migrations consisted of displaced persons, refugees and 'cleansed' ethnic groups. In 1945, Croatia became one of the federal constituent units of the Second Yugoslavia. Approximately 250,000 compelled emigrants left the country at the end of the war, including defeated Nazism collaborators, soldiers and members of German, Italian and Hungarian ethnicities who opted for their countries of origin (Bara & Lajić 2009). A significant number of politically motivated emigrants of Croatian origin, who opposed the new Yugoslav socialist regime, i.e. the state under the rule of the Communist party, went into exile, mainly to overseas destinations.

Starting from the early 1960s up to the 1980s, there was also a remarkable regular labour migration, especially to West Germany, Switzerland and Austria. The state tolerated and sometimes facilitated labour emigration as a way to relieve the labour market pressure and unemployment in Yugoslavia. In the early 1970s, there were between 300,000 and 400,000 Yugoslav 'guest workers on temporary work abroad', out of which almost 40 per cent were Croatians (Mežnarić 1991). It was expected that *Gastarbeiters* would eventually return, but when they were accompanied by 'members of their families living with them' almost half of them permanently settled in their host countries. At the same time, workers were coming to Croatia from less developed southern areas of Yugoslavia (Serbia, Bosnia and Herzegovina, Montenegro, Kosovo and Macedonia). Most of those coming from Bosnia and Herzegovina were ethnic Croats.

This brief historical background reveals that net migration was predominately negative. An estimated number of all emigrants from the mid-nineteenth century until the late 1980s amounts to 1,150,000, while the number of immigrants was assessed to amount to approximately 300,000 (Nejašmić 1991). According to Mišetić (2008:78), around 1.27 million more people left the country than settled in Croatia during the

twentieth century. Hence, Croatia was mainly and dominantly an emigration country before 1989.

### **3 Migration patterns, flows and stocks after 1989**

In June 1991, Slovene and Croatian politicians opted for secessions from Yugoslavia and declared their independence. Serbian politicians and military leaders in Serbia, Bosnia and Herzegovina, and Montenegro opposed that, claiming they want to preserve the Yugoslav state and protect their ethnic compatriots in other republics. This served as a pre-context of a violent outburst and war in Croatia (1991-1995) and Bosnia and Herzegovina (1992-1995). During the 1990s, war and war-like conflicts in the Balkans caused the displacement and exile of more than three million people (Župarić-Iljić 2012).

This Section presents recent migration flows and stocks. However, figures regarding recent international migration are not plausible to the highest extent. Croatia does not keep a population register, while stock data regarding citizens and foreigners is only available in 10-year population censuses. Recent censuses (in 1991, 2001 and 2011) make reliable comparisons of migration data difficult, since different methodologies and classifications were used each time for persons absent at the time of the census. The latest census of 2011 was conducted and data were processed in line with a new methodology based on the UN Recommendations on Statistics of International Migration and further harmonised with the EU's regulation on common statistics (CBS 2014). Nevertheless, there is a need to further develop population and migration statistics.

Surveys on internal and international migration of Croatian population are carried out by the Croatian Bureau of Statistics on the basis of data collected by the Department for Administrative Affairs of the Ministry of the Interior (MOI). However, there have been some obstacles and methodological biases, which should be noted. Before the implementation of the Aliens Act, which entered into force on 1 January 2012, registration of temporary and permanent residence was mandatory only upon entering the country, while the same was optional in case of leaving the country. The size of emigration has thus probably been underestimated. For example, thousands of 'brain-drain emigrants' could not easily be incorporated into any emigration statistics, and the overall official assessments differ from 4,738 up to 40,000 in the period between 1991 and 2001 (Adamović & Mežnarić 2003).

In addition, the monitoring of immigration is insufficient. Figures regarding ‘real immigrants’ are probably overestimated due to the fact that many Bosnian Croats, who obtained Croatian citizenship, only formally register their residence in Croatia, but do not actually live there. With the adoption of the Residence Act, which entered into force on 29 December 2012, some new provisions bring changes to these methodological fallacies and misleading data.<sup>141</sup> The abovementioned methodological notions and obstacles should be borne in mind when depicting the situation with respect to recent migration flows and stocks in Croatia (Mišetić 2008).

### 3.1 War-induced displacements (1991-1995)

During the war in Croatia, about a third of its territory was occupied by the rebel Serb forces, which opposed Croatia’s independence. The war had consequently led to 20,000 deaths and more than 700,000 displaced persons (DPs). Out of these, some 150,000 persons fled the country, mostly to Central and Western European countries (Perković & Puljiz 2001).

In 1992, when the war in Bosnia and Herzegovina broke out, 2.2 million persons were displaced, accounting for 55 per cent of the pre-war Bosnian population. 1.2 million of these left Bosnia and Herzegovina in search of asylum. Croatia received and recognised ‘prima facie’ and ‘en masse’ around 403,000 Bosnian refugees, mostly Muslims/Bosniaks and Bosnian Croats. Many of Bosnian Croats remained and integrated into Croatian society, obtaining Croatian citizenship (Mesić & Bagić, 2011). Some of them settled in houses formerly owned by Croatian Serbs, who fled the country in 1995 when the occupied Croatian territories were repossessed by military actions. The refugee outflow of Croatian citizens of Serbian ethnicity was directed towards Serbia (more than 200,000) and towards *Republika Srpska*, a Serbian entity within Bosnia and Herzegovina (around 50,000).

Later, in 1999, some 7,000 refugees arrived in Croatia due to conflicts in Macedonia and in Kosovo, but mostly moved on to European and other destinations. At the same time, the negative socio-political climate in Serbia towards its Croatian minority compelled between 30,000 and 35,000 ethnic Croats to settle more or less (in)voluntary in Croatia (Bara & Lajić 2009). State officials also offered Kosovar Croats to settle in the war-affected and underpopulated areas of the Dalmatian hinterlands. Some 1,700 did. Still, due

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<sup>141</sup> Residence Act, *Official Gazette*, No. 144/2012.

to war atrocities, which, among others, resulted in forced migration flows, this period was marked by negative net migration of 247,000 persons (Gelo, Akrap & Čipin 2005).

### 3.2 Post-conflict repatriation of refugees and internally displaced persons (IDPs)

At the beginning of the war in 1991 and 1992, there were around 550,000 IDPs in Croatia. Since then, their number had gradually decreased. In 1998, when East Slavonia was peacefully reintegrated into the Croatian state jurisdiction, the number of IDPs reached 76,433. By July 2013, there were still some 585 persons considered to be refugees (from the 1990s period) in Croatia (UNHCR 2013).

Refugee repatriation was a result of a policy to restore destroyed or devastated houses to their pre-war owners. The United Nations High Commissioner for Refugees (UNHCR) observed that 145,921 properties were re-appropriated and that 132,872 Serb returnees were registered at their pre-war homes at the end of 2010, which is just around half of Croatian Serbs who fled the country during the war (Župarić-Iljić 2012). Out of that number, 93,898 returned from Serbia and Montenegro, 15,743 from Bosnia and Herzegovina, and 23,231 Serbian IDPs returned from within Croatia. In July 2013, there were still 49,175 refugees from Croatia in neighbouring countries, out of which two thirds were in Serbia (UNHCR 2013). Mesić and Bagić (2011) conclude that only 38 per cent of registered Serb returnees actually reside in Croatia. These are mostly the elderly and 53 per cent are women. As observed by Koska (2008), the facilitated return of the Serbian population was only partly successful due to the still present inter-ethnic hostility, the lack of economic and employment perspectives and discrimination by public institutions in certain local communities.

### 3.3 Regular international migration

After the war, i.e. from 1996 until 2008, Croatia recorded positive net migration, but the large immigration flow into Croatia in the 1990s was surpassed by the forced outflow of Croatian Serb refugees and regular labour emigration from Croatia. The 1990-1997 period was also marked by 30,429 diaspora returnees, even though only sixteen per cent may be counted as 'real repatriates', i.e. those who actually settled and stayed in Croatia (Čizmić et al. 2005).

As shown in Table 1, the officially recorded positive net migration has been steadily dropping since 1998 with the overturn of migration

trends in 2009 when net migration became negative once again. A significant decline in 2009 and negative net migration outcomes since then have primarily resulted from the economic situation and a more restrictive immigration policy since 2008 (Gregurović & Mlinarić 2012). Nevertheless, contrary to official statistics, Živić, Pokos & Turk (2005:36) argue that Croatia had an overall negative migratory balance of 222,331 persons in the 1991-2001 period.

In the past 13 years, foreign citizens represented 15.5 per cent of immigration. This proportion declined between 2003 and 2009. The latter was the only year when the outflow of foreigners exceeded their inflow. The emigration of Croatian nationals has increased since 2010, when they accounted for 97.6 per cent of all emigrants, which represents a trend vaguely discussed in Croatian society. During the same period, i.e. before Croatia entered the EU (since 2011), the immigration of foreign nationals has increased. Today, foreign nationals represent slightly more than half of all immigrants per year (see Table 2). However, difficult economic conditions and high levels of unemployment (especially among the youth) are still producing increasing numbers of mobile labourers of Croatian origin, who are becoming more or less permanent emigrants.

In 2013, around half of all immigrants were Croatian citizens (49 per cent), while 50.5 per cent were foreigners. Croatian citizens also represented 87.8 per cent of the total emigration flow. The gender structure of net migration was more or less balanced in 2013 (e.g. 52.3 per cent of men for immigration, and 51.8 per cent of men for emigration).

Most immigrants in the past 15 years came from the countries of former Yugoslavia (except Slovenia). As presented in Table 2, their total share represents a significant inflow of immigration to Croatia. In 2013, almost half of all immigrants (47.2 per cent) came from Bosnia and Herzegovina. Among them, more than two thirds (68.8 per cent) were already Croatian citizens (most likely possessing dual citizenship). EU citizens accounted for 25.5 per cent of all immigrants in 2013. They were mostly Germans (8.8 per cent), Slovenes, Austrians and Italians. Among them, 30.6 per cent were also Croatian citizens. In comparison with the 2011 data, one might observe a slight decrease in the number of immigrants who are Croatian citizens coming back to Croatia as repatriates or 're-migrants'. At the same time, the number of foreign citizen immigrants has been steadily increasing. While most immigrants, who are Croatian citizens, still come from Bosnia and Herzegovina, the share of foreign citizen immigrants rose due to the increasing numbers of EU nationals. In the past few years, a small but

significant increase of immigrants from China was also recorded.

**Table 1** *Net migration and foreign immigrants in Croatia, 1996-2014*

Year	Immigration	Emigration	Net migration	Foreigner immigrants (No. and %)*	Foreigner emigrants (No. and %†)	Net migration of foreigners
1996	44,596	10,027	<b>34,569</b>	n/a	n/a	n/a
1997	52,343	18,531	<b>33,812</b>			
1998	51,784	7,592	<b>44,192</b>			
1999	32,910	14,285	<b>18,625</b>			
2000	29,385	5,953	<b>23,432</b>			
2001	24,415	7,488	<b>16,927</b>	2,159 (8.8)	818 (10.9)	1,341
2002	20,365	11,767	<b>8,598</b>	1,997 (9.8)	647 (5.5)	1,350
2003	18,455	6,534	<b>11,921</b>	2,100 (11.4)	420 (6.4)	1,680
2004	18,383	6,812	<b>11,571</b>	1,526 (8.3)	941 (13.8)	585
2005	14,230	6,012	<b>8,218</b>	856 (6.0)	503 (8.4)	353
2006	14,978	7,692	<b>7,286</b>	1,034 (6.9)	725 (9.4)	309
2007	14,622	9,002	<b>5,620</b>	918 (6.3)	918 (10.2)	0
2008	14,541	7,488	<b>7,053</b>	2,016 (13.9)	865 (11.6)	1,151
2009	8,468	9,940	<b>- 1,472</b>	847 (10.0)	1,303 (13.1)	- 456
2010	4,985	9,860	<b>- 4,875</b>	809 (16.2)	237 (2.4)	572
2011*	8,534	12,699	<b>- 4,165</b>	3,814 (44.7)	3,181 (25.0)	633
2012	8,959	12,877	<b>-3,918</b>	4,751 (53.0)	2,041 (15.9)	2,710
2013	10,378	15,262	<b>-4,884</b>	5,293 (51.0)	1,868 (12.2)	3,425
Total 2001-2013	181,313	123,433	<b>57,880</b>	28,120 (15.5)	14,467 (11.7)	13,653 (23.6)

\* In order to harmonise international migration statistics with international standards and the EU *acquis communautaire*, data have been processed in line with a new methodology since 2011.

Source: CBS – Croatian Bureau of Statistics: Migration of Population of the Republic of Croatia 2013 (and previous editions, authors' adaptation)

**Table 2** *International migration by the country of origin, destination and citizenship in 2013*

Country of origin/destination	Immigrants				Emigrants			
	Total	Croatian citizens	Aliens	Unknown	Total	Croatian citizens	Aliens	Unknown
<b>Total</b>	<b>10,378</b>	<b>5,085</b>	<b>5,238</b>	<b>10</b>	<b>15,262</b>	<b>13,394</b>	<b>1,786</b>	<b>82</b>
Europe	9,361	4,769	4,589	3	13,823	12,232	1,515	76
<i>European Union</i>	2,644	810	1,833	1	4,756	4,058	694	4
<i>(out of which Germany)</i>	913	485	428	-	2,193	2,069	124	-
<i>Other European countries</i>	6,717	3,959	2,756	2	9,067	8,174	821	72
<i>(out of which Bosnia and Herzegovina)</i>	4,902	3,373	1,528	1	4,087	3,580	503	4
<i>(out of which Serbia)</i>	703	286	416	1	4,004	3,805	132	67
Asia	308	29	278	1	219	115	104	-
Africa	86	12	74	-	36	16	20	-
North and Central America	303	161	142	-	205	147	54	4
South America	82	19	63	-	20	11	9	-
Australia and Oceania	107	84	23	-	60	53	5	2
Unknown	131	11	114	6	899	820	79	-

Source: CBS – Croatian Bureau of Statistics (2014), Migration of Population of the Republic of Croatia 2013 (authors' adaptation)

Two thirds of emigration flows in the 2000s had been to Bosnia and Herzegovina, and to Serbia. In 2013, the trend continued to a lesser extent, with 26.8 per cent leaving to Bosnia and Herzegovina and 26.2 per cent leaving to Serbia. The majority of emigrants were Croatian citizens, presumably of Bosniak or Serbian ethnic origin. While emigration to the EU in 2011 accounted for 20.7 per cent of all emigration, it increased to 31.2 in 2013. Germany (with the largest stock of emigrants from Croatia among all EU countries), together with Austria, Switzerland and Italy account for 27.4 per cent of emigrants' destinations, and involve mostly Croatian citizens as emigrants. According to Božić (2007:21), around 356,000 Croatian citizens resided in European countries in the mid-2000s, out of which 240,000 lived in Germany.

Thus, one might conclude that apart from 'ethnically motivated' migration between Croatia and the neighbouring countries of former Yugoslavia, the (second) largest outflows relate to traditional emigration territories that have sustained socio-economic ties with Croatia based on the guest workers model, which developed between



the 1960s and the 1980s, and/or family reunification schemes during that period or later on (during the war in the 1990s).

**Table 3** *Purposes of foreigners' residence in Croatia, 31 December 2013*

	Country of citizenship	Temporary residence: in sum 17,173 (out of which)			Permanent residence	Total	%
		Family reunification	Work	Other purposes*			
1	<b>European Economic Area</b>	<b>2,545</b>	<b>1,371</b>	<b>1,426</b>	<b>4,963</b>	<b>10,305</b>	<b>30.7</b>
	<i>Germany</i>	<i>559</i>	<i>141</i>	<i>364</i>	<i>1,457</i>	<i>2,521</i>	<i>7.5</i>
	<i>Slovenia</i>	<i>555</i>	<i>197</i>	<i>344</i>	<i>1,325</i>	<i>2,421</i>	<i>7.2</i>
2	<b>Third country Nationals</b>	<b>4,602</b>	<b>2,730</b>	<b>1,261</b>	<b>10,113</b>	<b>18,706</b>	<b>55.7</b>
	<i>Bosnia and Herzegovina</i>	<i>1,717</i>	<i>1,612</i>	<i>658</i>	<i>5,819</i>	<i>9,806</i>	<i>29.2</i>
	<i>Serbia</i>	<i>611</i>	<i>146</i>	<i>160</i>	<i>1,511</i>	<i>2,428</i>	<i>7.2</i>
3	<b>Family members of EEA (or Croatian) citizens</b>	<b>3,226</b>	<b>-</b>	<b>12</b>	<b>1,317</b>	<b>4,555</b>	<b>13.6</b>
	<b>Total</b>	<b>10,373</b>	<b>4,101</b>	<b>2,699</b>	<b>16,393</b>	<b>33,566</b>	<b>100</b>
	%	30.9	12.2	8.1	48.8	100	

\* Other purposes include secondary and higher education, scientific research, humanitarian reasons, use of property, autonomous residence and 'other reasons'.

Source: Ministry of the Interior (2014) (<http://mup.hr/main.aspx?id=172024>), authors' adaptation.

At the end of 2011, with the inclusion of persons, who did not regulate their permanent status according to the 2011 Aliens Act,<sup>142</sup> the Ministry of the Interior assessed the share of foreigners at 1.09 per cent, which was still relatively low in comparison with EU Member States. On 31 December 2013, the MOI recorded 33,566 foreigners from more than 120 countries<sup>143</sup> residing in Croatia, which represents only 0.8 per cent of the total population of the Republic of Croatia (Table 3). In 2013, foreign residents in Croatia were nationals of Bosnia and Herzegovina (29.2 per cent), Germany (7.5 per cent), Serbia (7.2 per cent), Slovenia (7.2 per cent), Kosovo (5.4 per cent), Macedonia (4.7 per cent), Italy (3.5 per cent), China (2.2 per cent), Austria (2 per cent), Russia (1.8 per cent) and other countries (29.3 per cent).

<sup>142</sup> Aliens Act, *Official Gazette*, No. 130/2011.

<sup>143</sup> This includes regular foreigners in possession of a passport, as well as lower numbers of stateless persons from former states that ceased to exist (for example those who left the USSR, but never returned and lost their previous citizenship became persons without citizenship (*apatrids sur place*) or whose previous residence is 'unknown').

Almost 50 per cent of all temporary residence permits were issued to nationals of Yugoslavia successor states. At the same time, 48.8 per cent of foreigners possess permanent residence permits. Permanent residence of EEA citizens represents 30.3 per cent of permanent residence permits and 14.8 per cent of the total number of permits. Temporary working permits of EEA citizens accounted for 33.4 per cent of all working permits in 2013, while 7.6 per cent of all residence permits are issued for the purposes of reunification of EU citizens and their families (13.7 per cent of family reunification involves third country nationals). According to data in Table 3, one might conclude that family reunification is the most important reason for immigration, followed by work, secondary or tertiary education and humanitarian reasons.

### 3.4 Transit migration of irregular migrants

Croatia has also been a transit territory for irregular migrants and asylum seekers on their way to Western Europe as a part of a migratory path known as the '(West) Balkans route'. The geographical position of Croatia has always played an important role, as it is the shortest route between the Western Balkans, the Middle East and Central Asia and destinations in the EU. The position of Croatia as the westernmost country along the Schengen border accentuated its significance on the map of important migratory routes from the East to the West. After the entry of Romania and Bulgaria into the EU, there has been a decrease of irregular migration in Croatia, as routes of irregular migration shifted from the central Balkans corridor to its northern part and to the central European corridor leading across Hungary towards Poland, Slovakia and the Czech Republic.

In addition, migrant flows were affected by consequences of violent conflicts in the immediate EU neighbourhood (i.e. Kosovo and Macedonia) in the past two decades. With a consistently high number of migrants fleeing countries, such as Afghanistan and Iraq, conflicts in North Africa and Syria have led to a large number of refugees and irregular border crossings. Economic crisis has particularly affected southern EU countries, which is why Greece and – to a certain degree – Italy have become less desirable destinations. Due to the difficult living conditions of immigrants in these countries, primarily related to physical and economic uncertainty, many of them are trying to reach western EU Member States. This has led to a new phenomenon, where most irregular migrants to Croatia are coming from Greece via Albania and Serbia, trying to continue through Slovenia and Italy on the way to the (further) West.

**Table 4** *Irregular border crossings by citizenship, 2010-2013*

Country of citizenship	2010	2011	2012	2013
Afghanistan	259	1,079	1,618	611
Albania	298	106	176	263
BIH	356	213	323	195
Kosovo	117	170	339	276
Pakistan	13	223	338	207
Serbia	129	119	114	78
Tunisia	7	36	125	163
Turkey	95	207	183	101
Syria	-	11	527	720
Somalia	-	67	874	314
Algeria	-	17	648	255
<i>Other</i>	<i>947</i>	<i>798</i>	<i>1,574</i>	<i>1,551</i>
<b>Total</b>	<b>2,221</b>	<b>3,046</b>	<b>6,839</b>	<b>4,734</b>

*Source:* MOI – Ministry of the Interior (2012), Statistical Review of Basic Security Indicators and Police Work Results in 2011; Ministry of the Interior (2014), Statistical Review of Basic Security Indicators and Police Work Results in 2013 (authors' adaptation)

The majority of irregular entries to Croatia occur on the border with the Republic of Serbia (21.4 per cent), while the largest number of irregular exits takes place on the border with Slovenia (52.9 per cent). Persons being caught irregularly crossing the border were mainly from Serbia, Kosovo, Albania, Bosnia and Herzegovina, Macedonia, Turkey and Romania before its accession to the EU. The highest wave of irregular migrants trespassing through Croatia to go further West occurred in 2000 (24,180 crossings). Irregular migration decreased by more than 40 per cent in the period between 2005 and 2009 (from 5,004 to 1,447), but it significantly increased again in 2011 and 2012, consisting mainly of Afghan, Pakistani, Algerian, Syrian and Somalian nationals (MOI, 2012). A decline in irregular crossings in 2013 is a result of strengthening the border surveillance mechanisms prior to Croatia's accession to the EU.

### 3.5 Persons under protection, unaccompanied minors and victim of trafficking

Apart from being a transit territory for persons fleeing from persecution and seeking shelter and protection, Croatia is gradually becoming a target destination for certain refugees. A relatively low annual number of between 100 to 200 asylum applicants in the 2004-2009 period

drastically increased to 807 applications in 2011. Altogether, there were 4,711 asylum applicants in Croatia between 2004 and October 2014. They arrived from more than 70 countries, mostly from Asian and African territories. Until 2009, most asylum seekers were coming from countries in the region (Serbia, including Kosovo, and Bosnia and Herzegovina), as well as from Iran, Palestine, Pakistan, Bangladesh, Turkey and the Russian Federation. In 2011, when the number of applications increased by 178 per cent compared to a year before, countries of origin also changed. Due to war-like circumstances in North Africa, the Middle and Central East, there was a significant increase of applicants from Afghanistan, Somalia, Syria and Algeria.

**Table 5** *Statistical summary regarding asylum seekers, 1997-2014*

Country of citizenship	1997-2003*	2004-2009	2010	2011	2012	2013	2014 (Oct)	Total 2004-2014 (No. and %)
Afghanistan	14	27	107	487	364	185	30	1,200 (25.5)
Somalia	4	1	11	42	295	138	7	494 (10.5)
Syria	-	1	4	9	86	194	64	358 (7.6)
Algeria	16	9	10	2	145	136	49	351 (7.5)
Serbia (incl. Kosovo)	39	247	10	5	10	9	8	289 (6.1)
Pakistan	21	70	5	70	59	50	23	277 (5.9)
Palestine	5	35	48	19	11	15	7	135 (2.9)
Iran	63	34	21	40	20	7	6	128 (2.7)
Tunisia	-	3	3	14	19	70	19	128 (2.7)
Morocco	-	1	2	13	27	62	20	125 (2.6)
Turkey	3	59	4	9	17	6	3	98 (2.1)
Russian Federation	10	38	5	15	12	15	4	89 (1.9)
Others	134	413	60	82	128	202	154	1,039 (22.0)
<b>Total</b>	<b>309</b>	<b>938</b>	<b>290</b>	<b>807</b>	<b>1,193</b>	<b>1,089</b>	<b>394</b>	<b>4,711 (100)</b>

\* The first column (1997-2003) is not calculated in the overall number of applications, since the first Act on Asylum entered into force in 2004. Previous applicants applied for the status according to old Act on the Movement and Sojourn of Aliens, and were granted protection according to the UNHCR competence.

Source: Ministry of the Interior 2005, UNHCR 2012, Ministry of the Interior 2013.

Until October 2014, a total of 131 persons were granted international

protection. 71 of these (mostly persons from Afghanistan, the Russian Federation, Turkey, Iraq and Ukraine) received asylum status and 60 were granted subsidiary protection status (mostly from Syria, Somalia and Afghanistan). A very low refugee recognition rate (2.8 per cent) may be explained by a restrictive interpretation of the Asylum Act and by the fact that many applicants leave Croatia primarily to move to their favoured destinations in the 'old' EU Member States. According to the MOI, 79 per cent of applicants in 2011 withdrew their applications; 22.9 per cent of applications that were examined on basis of merits were successful (ECRI 2012:35). While this fact may be interpreted from several perspectives, the exploitation of asylum protection in order to prevent deportation seems one of the obvious reasons. This mostly happens in the process of detention, which results from an arrest made on the basis of irregular border crossing or unregulated stay (CLC 2013).

Croatia is located on the trafficking route from East European and former Soviet republics towards Western Europe. The number of trafficking victims within Croatia is rather low (Božić 2007), but the number of unaccompanied minors is increasing. Although statistics from relevant institutions and authorities differ, one study found that the arrivals of unaccompanied children with irregular status were on the rise between 2000 and 2007; even though the trend was in decline in recent years, it is once again recording significant growth in 2011 (Kraljević, Marinović & Živković Žigante 2011:9). The same study also states that children make up some ten per cent of irregular border crossings, while nearly 85 per cent of them are unaccompanied. The MOI reports that 621 minors, mostly originating from Afghanistan, Pakistan and Somalia, sought asylum (264 unaccompanied) from 2007 until the end of 2011. In the 2009-2014 period, protection was granted to 12 children with families (children up to 13 years of age) and to 11 unaccompanied children (16-17 years old) (MOI 2014b). Unfortunately, there is no standardised system for the collection of specific data on unaccompanied minors and numbers registered by the police differ from those unaccompanied minors, who were awarded custody by the Centre for Social Care.

## 4 Legislative framework

This Section describes the evolution of the legislative framework concerning migration, asylum and integration in Croatia.

### 4.1 Legislation concerning aliens

The first legal act dealing with foreigners in Croatia was the 1991 Act on the Movement and Sojourn of Aliens with corrections and amendments in 1992, 1993 and 1994.<sup>144</sup> In July 2003, a new Aliens Act was adopted, which was subject to changes in 2007 and 2009 and again in 2011, and was amended in 2013.<sup>145</sup> The 2003 Act, enforced on 1 January 2004, reflected the spirit and fundamental principles of the previous act, which established many institutes considered as European standards in the field of visa and migration regulations, such as provisions regarding family reunification, humanitarian status, obligations for carriers, *non-refoulement* principle, time limits for administrative detention of irregular immigrants and the treatment of minors. Significant changes in the 2003 Act relate to a more restrictive procedure for expulsion of irregular migrants. The Act repealed the provision where the MOI's decision on the cancellation of residence also determined the length of entry ban. Other changes concerned the work of foreigners, such as requirements for work permits and business licences. Issues related to the work of foreigners fell under the jurisdiction of the MOI. Through its repressive, as well as preventive, character, i.e. deterrence, the Act played a significant role in reducing irregular migration in Croatia and in neighbouring countries, particularly in Slovenia (CLC 2013).

Due to the need for further harmonisation with the EU *acquis*, a new Aliens Act was adopted in 2007. It introduced full compliance with the Schengen Borders Code and further prohibitions of entry and stay. The Ministry of Foreign Affairs became a central Government body responsible for the issue of visas and the establishment of a Croatian Visa Database was announced. The Act also stipulated changes related to residence and work. For family members of immigrants, an 'autonomous' temporary residence without a specific purpose was introduced, while the business licence was no longer considered as a temporary residence permit, but was related solely to the work permit.<sup>146</sup> The Act also permitted temporary residence for

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<sup>144</sup> *Official Gazette*, Nos. 53/1991, 22/1992, 26/1993 and 29/1994.

<sup>145</sup> *Official Gazette*, Nos. 130/2011 and 74/2013.

<sup>146</sup> The 'business permit' was considered as a permit to both reside and work within Croatia. It was issued to a foreign citizen who registered a business or provided services on behalf of a foreign employer or investor.

humanitarian reasons, particularly for victims of trafficking. While some migrants, such as students, seasonal workers and *au pair* service providers, could not be granted permanent resident status, while for other migrants, the duration of time necessary for acquiring a permanent residence permit was no longer affected by the period of absence. However, an additional condition for granting permanent residence, i.e. the knowledge of the Croatian language and Latin script, was prescribed.

Based on a justification that Croatia needs to further comply with the EU law, a new Aliens Act was passed in 2011 on the basis of an urgent procedure and entered into force on 1 January 2012. This Act abolished work permits; instead, a third country national who intends to work in Croatia is granted permission to temporarily stay and work within or outside of an annual quota. Those who intend to reside in the country for the purposes of family reunification, work, secondary school or higher education, scientific research or humanitarian reasons for more than 90 days may receive a one year permit that can be extended for another year(s). A permanent residence status may be granted after eight years (previously five), while for students, the period spent in the country only counts as half of the regular time. In addition to the knowledge of the Croatian language and the Latin alphabet, material means for providing livelihood, health and social insurance are also required. Details related to the conditions for residence and work are set in accompanying by-laws. Provisions related to nationals of EEA Member States or the Swiss Confederation and their family members, as well as to nationals of third countries with permanent residence in an EEA Member State and their family members, entered into force on the date of Croatia's accession to the EU.

Many important changes in the legislation were enacted under the pressure from the EU and the harmonisation of Croatian legislation with the EU *acquis*. This had a significant influence on the status of migrant workers, especially EU citizens and their families. Employment of certain third country nationals also became easier, especially for permanent residents, persons with asylum status and certain persons with temporary residence status, such as family members, victims of trafficking, fulltime school pupils, university students, researchers and holders of a special permission to stay, as well as posted workers.

In 2004, the transfer of competence for approving annual quotas and the issuance of work permits from the Croatian Employment Bureau to the MOI was an important change. Since then, the quota decreased from 7,589 in 2004 to 1,837 in 2006, only to rise again to

10,242 permits in 2008. After 2008, the annual quota was sharply reduced. For example, it decreased by 77.3 per cent to 2,329 permits in 2013, and to 1,730 permits in 2015. Out of all permits foreseen for 2015, 1,500 concerns the extension of already existing permits, while the rest is reserved for jobs in tourism and hospitality sectors (106), culture (28), transport (20), agriculture and forestry (20), science and education (17), manufacturing (15) and health care (9).<sup>147</sup> Most work permits in the 1995-2004 period, were granted to citizens of Bosnia and Herzegovina and Serbia; there was a gradual increase of work permits issued to EU citizens, mainly from Germany, Austria, France, Italy and the UK, only in the period before Croatia's accession to the EU (Gregurović & Mlinarić 2012).

Before 2007, the registered needs for workers were 25 times greater than the annual number of granted work permits (Obadić 2008).<sup>148</sup> Restrictive quotas mainly affect sectors, which traditionally employ migrant workers, such as construction, shipbuilding, tourism and services. It is presumed that the cutting of quotas puts more pressure on workers to work in the grey economy in these same sectors. This also points to a very protectionist regime for the employment of domestic labour and discriminative by-laws applicable to foreigners. Thus, a more restrictive quota regime seems to securitise domestic labour force but de-securitise lesser numbers of labour immigrants by pushing them to the grey economy area.

The latest Aliens Act indicates a change in the legislator's perception in order to envisage Croatia as slowly becoming an immigration country. Foreigners are guaranteed employment rights, as determined by Croatian national regulations and multilateral agreements with the EU. Special attention is given to the entry, residence and work of nationals of the EEA countries and members of their families, and to the work of highly qualified third country nationals. These innovations aim to protect migrant workers and prescribe the amount of working hours, minimum wage, health and safety regulations, and non-discrimination rules, but it remains to be seen to which extent these rights will be respected.

Concerning undocumented and irregular migrants, the latest Act

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<sup>147</sup> Government of Republic of Croatia: *Decision on the Annual Quota of Permits for Foreigners in 2015* ([http://narodne-novine.nn.hr/clanci/sluzbeni/2014\\_12\\_151\\_2835.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2014_12_151_2835.html)).

<sup>148</sup> The Croatian economy of the (post-)war period until today is characterised by a very low total involvement in the labour market. The current picture reveals a difficult position of domestic workers, reduced overall employment rate and a distorted ratio of working age and employed population in favour of economically inactive and retired people. The registered unemployment rate shows negative trends in the last decade, for example from 11.1 per cent in 2006 it rose to 19.2 per cent in November 2014 (see: [http://www.dzs.hr/Hrv/system/first\\_results.htm](http://www.dzs.hr/Hrv/system/first_results.htm)).



stipulates that persons caught without the necessary documents may be detained if forcible expulsion, i.e. deportation, cannot be immediately implemented. Such a restriction of movement may last up to six months and may exceptionally be additionally extended for up to twelve months. According to the Act and related by-laws, a person in the Reception Centre for Foreigners is ensured equal treatment regardless of their race, skin colour, sex, language, religion, political or other belief, national or social origin, economic status, education or other characteristics. During regular visits to the Centre and interviews with detained persons, Bužinkić, Kranjec and Župarić-Iljić (2010) found that the Centre respected standards relating to accommodation, provided meals according to religious and medical needs, the availability of an attorney and the possibility of telephone communication with the outside world. Nevertheless, the Centre is a closed-type facility without organised psychosocial programmes.

The largest problem is related to the impossibility of gaining an insight into and monitoring deportation cases, particularly with respect to the *non-refoulement* principle, the preparation of voluntary repatriation and deportation of minors. Although ‘The Ordinance on the Amendments of the Ordinance on the Treatment Accorded to Foreigners’,<sup>149</sup> which was adopted in October 2014, prescribes that the MOI shall conclude a contract with an organisation that would be responsible for the monitoring of returns, such an organisation has not been selected yet. Additional question remains: what happens to people who were given an expulsion order and do not have sufficient financial resources and documents that would enable them to legally leave the country? Significant financial resources and efforts have been invested in developing mechanisms of the border police and in highly sophisticated equipment for border monitoring and control. These investments in the protection of ‘Fortress Europe’ resulted in a decline of irregular border crossings over the past ten years. Nevertheless, the MOI is building two new closed-type reception (detention) centres in 2015 due to expected higher inflows of migrants entering, trespassing or staying in Croatia.

#### 4.2 Citizenship policy and Croatian diaspora

The Act on Citizenship, adopted soon after the declaration of independence in 1991,<sup>150</sup> was an important instrument for the creation of the new Croatian state in terms of determining the ‘proper’ Croatian

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<sup>149</sup> *Official Gazette*, No. 126/2014.

<sup>150</sup> The Act on Citizenship, *Official Gazette*, Nos. 53/1991, 70/1991, 28/1992, 113/1993, 4/1994 and 130/2011.

nation. With the dissolution of Yugoslavia, the Yugoslav federal citizenship ceased to exist, and the former republican citizenship thus became the only criterion for the (re)acquisition of new citizenships of successor states. This posed an irresolvable problem for ‘internal’ migrants from other republics, pushing them into areas of illegality and invisibility, and making them legal or illegal residents with no right to acquire the status of citizens practically over night (Štiks 2010). Štiks (2010) divides the development of Croatian citizenship legislation into three periods. The first period (1991-2000) is characterised by a clearly defined, exclusive and ethnically homogeneous conception of the political community of the consolidated Croatian state. This meant that while persons who were of Croatian ethnicity, regardless of whether they were born or ever lived in Croatia, were welcomed to obtain the citizenship, the right to citizenship for others was not prohibited by law, but there were many administrative obstacles that most foreigners could not fulfil.

In the admission of foreigners into citizenship by naturalisation, a candidate had to meet the following criteria: continuous stay in Croatia for at least five years; renounce any other citizenship or provide proof of release from earlier citizenship, which was almost impossible for citizens of other former Yugoslav republics since the conflict has already spread; the knowledge of the Croatian language, including Latin script; exercising proper behaviour that adheres to the rule of law and expresses loyalty to the traditions of the Republic of Croatia; and, finally, accept the Croatian culture. Among the practical problems, the most significant was related to the fact that according to the Law, MOI employees had jurisdiction over decisions about establishing the facts in the proceedings for naturalisation with discretionary right in negative decisions until 1993 (Štiks 2010). It was only after 1993, following the Constitutional Court’s ruling, that such decisions have to be interpreted.

After the 2000 elections and the change of Government, the citizenship regime was marked by liberalisation and the evolution of cultural and political rights of national minorities, as well as the debate regarding the scope of political rights that should be granted to members of the diaspora. Accordingly, this led to changes in administrative practices towards ethnic non-Croats (mostly Serbian refugees from Croatia), who no longer face obstacles in acquiring Croatian citizenship. Štiks (2010) described this period as one in which an ‘inclusion of the excluded’ occurred once again, but with further privileges awarded to the invited, the so-called Croatian emigrants from the diaspora, to repatriate, return and ‘re-integrate’ by acquiring Croatian citizenship.

The third phase, which started in the late 2000s, is marked by the alignment of Croatian legislation with the EU *acquis* and by changes to the acts on foreigners and citizenship. Conditions for a regular acquisition of Croatian citizenship by naturalisation were modified by prolonging the necessary duration of foreigners' stay in Croatia from five to eight years. Furthermore, the amended 2011 Act defines the term 'member of Croatian people' and introduces a third generation limit for expatriates, prescribing a degree of kinship with original Croatian emigrants. It also lays down requirements for the verification of knowledge of the Croatian language and script, culture and social order. The Act also facilitates the acquisition of Croatian citizenship to persons who held a permanent resident status in Croatia on 8 October 1991, but had not yet acquired Croatian citizenship.

The Croatian migration policy is interconnected with its citizenship policy to the extent that it acquired a significant position in past debates on citizenship issues. While citizenship rights in the 1990s were highly dependent on the ethno-national origin of applicants, the existing Act on Croatian Citizenship is a combination of *jus sanguinis* and *jus soli* principles allowing second generation immigrants to acquire Croatian citizenship more easily than in other central European immigration countries (Božić 2007). The largest number of immigrants came from successor states of former Yugoslavia and their integration into Croatian society is made much easier, especially when language skills and the knowledge of Croatian culture helps their inclusion into society. As Štiks (2010) points out, hundreds of thousands of Croatian and EU citizens will be living in neighbouring non-EU countries after Croatia's accession to the EU. This will be possible because the ethnic Croat population in the 'near abroad', mostly in neighbouring Bosnia, were 'invited' to acquire citizenship in line with the principle of *jus sanguinis*. Out of 1,15 million people naturalised into Croatian citizenship in the 1991-2006 period, up to 800,000 were from Bosnia and Herzegovina (Štiks 2010:1631). Furthermore, the 2011 'Act on Relations of the Republic of Croatia with Croats Abroad' guarantees protective measures for Croats living abroad to be granted Croatian citizenship and obliges the Government to deepen economic and cultural ties with the diaspora and ensure the return of its members.<sup>151</sup>

There were also bilateral agreements and protocols signed with Serbian and Bosnian Governments, most recently in November 2011. In the 'Joint Declaration on Ending Displacement and Ensuring Durable Solutions for Vulnerable Refugees and Internally Displaced

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<sup>151</sup> *Official Gazette*, Nos. 124/2011 and 16/2012.

Persons', Ministers of Foreign Affairs of Croatia, Bosnia and Herzegovina, Serbia and Montenegro obliged the parties to find definite durable solutions for DPs in the region in order to ensure 'good-neighbourly relations and stability'.<sup>152</sup> Returnees, i.e. people who had citizenship of the former Croatian republican and lived in Croatia until August 1995, when they left their previous place of residence in the aftermath of military actions, went abroad and then returned after the war, represent one of the most affected groups after 1995. Due to the impossibility of regulating their Croatian citizenship upon return, they were accepting the citizenships of Serbia and Bosnia-Herzegovina. Those refugees, who are returning under the 1998 'National Program of Return and Rehabilitation for IDPs, Refugees and Other Displaced Persons', which was signed with Serbian and Bosnian Governments, and do not have Croatian citizenship, must regulate their stay in Croatia in accordance with the Aliens Act. They are no longer required to first seek a temporary stay, but may request permanent residence, if they had permanent residence in the Republic of Croatia on 8 October 1991.

#### 4.3 Asylum laws and regulations

In the early 1990s, Croatia had an established system for the reception of war refugees from former Yugoslavia. It was after 2003 when Croatia, similarly to other EU candidate states, begun to build an asylum system comparable to the systems in other EU Member States (Šelo Šabić, Čvrljak & Baričević 2011). In order to meet accession requirements, the construction of the system was strongly influenced by fundamental principles of asylum policy enshrined in the EU *acquis* and minimal standards within the Common European Asylum System. However, limited economic, social and institutional factors in the post-transition period contributed to the (non-)compliance of the system with international and European standards (Lalić Novak 2010).

The first Asylum Act, which was adopted in 2003,<sup>153</sup> was to a large extent in discord with international and EU standards. It foresaw the possibility of obtaining asylum status or temporary protection, which would be decided upon by the MOI at the first instance and, following appeals of asylum seekers and asylees, by the Government Commission at the second instance. This way of decision-making was criticised by the UNHCR and the European Commission. In this period, one asylum request out of more than 600 submitted applications only was granted.

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<sup>152</sup> See: <http://www.unhcr.org/4ec22a979.html> (accessed on 15 April 2014).

<sup>153</sup> *Official Gazette*, No. 103/2003.

In 2007, a new Asylum Act was passed together with the new Aliens Act.<sup>154</sup> In order to be further adjusted to the minimal standards of EU directives, a few new mechanisms were introduced, such as the status of ‘subsidiary protection’. Some experts challenged this concept as a potential misuse that would lead to lowering the standards of protection (Bužinkić et al. 2010). The period for taking the final decision on applications was accelerated and certain new integration rights were introduced, i.e. the asylum seekers’ right to work after one year in procedure, the right to education up to the secondary school level and the extension of the concept of family members for the purposes of reunification. Significant innovations relate to the definition of asylum applications, serious harm, vulnerable groups, safe country of origin and *refugee sur place*<sup>155</sup>, thus guaranteeing a higher degree of protection of human rights. The Act also introduced provisions that define the agents of persecution or serious harm and the provision of protection in the country of origin. Given the fact that asylum is granted to a person, who, in addition to fulfilling other legal requirements, is persecuted on the grounds of race, religion, nationality, affiliation with a particular social group or political opinion, the new Act developed the initial definition and meaning of these terms (Lalić Novak 2010).

Following numerous criticisms, changes were introduced in the very process of seeking asylum. The Government Commission was replaced by the Commission for Asylum, which differs from the previous one in its composition, the method of electing its President and members, and the funding, which is a prerequisite for ensuring a greater degree of independence. It is possible to appeal against the decision of the Commission by filing a complaint at the Administrative Court, but appeal proceedings do not have the effect of suspending the previously adopted decision on asylum and the question remains whether the purpose of judicial protection and the role of the Administrative Court are appropriate. With the 2010 amendments, the Commission was replaced by an Administrative court in Zagreb, which deals with all asylum appeals. The state does not provide free legal aid at the first instance proceedings. This can be obtained through the Croatian Law Centre, an NGO financed by the UNHCR. Another novelty that was introduced by the new Act refers to a unified

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<sup>154</sup> *Official Gazette*, Nos. 79/2007, 88/2010 and 143/2013.

<sup>155</sup> A well-founded fear of being persecuted or a real risk of suffering serious harm may be based on events which have taken place after an asylum seeker had left the country of origin; or activities of an asylum seeker which have taken place after he or she had left the country of origin, in particular where it is established that the activities relied upon constitute the expression and continuation of beliefs or orientations he or she has held in the country of origin.

procedure, which means that the MOI examines the basis for both types of protection in a single procedure, i.e. if a person is not eligible for asylum, the Ministry determines *ex officio* whether conditions for subsidiary protection exist.

In summary, the majority of most important changes in the asylum system resulted from external influences, expressed particularly by the European Commission during the (pre-)accession process, as well as after succession. Provisions of the Dublin III Directive were transposed into Croatian legislation with the latest amendments of the Asylum Act at the very end of 2013. Regardless of practical difficulties in the process of implementation, the adaptation to the EU *acquis* did not take into account the displacement and experience of Croatian and other refugees in the Balkans region in the past two decades. Although the normative level of Croatian legislation is well in line with international conventions and the EU law, there are problems in implementing practices. The lack of accommodation capacities and an underdeveloped and insufficient system of integration on both national and local levels add to a limited number of recognised cases. Although asylum seekers have no restriction regarding their movement and accommodation in the territory of Croatia (provided that applicants have enough of their own funds), most of them are accommodated in Reception Centres for Asylum Seekers in Kutina and Zagreb. Some are placed in the Reception (Detention) Centre for Foreigners in Ježevo (near Zagreb), mainly because of security considerations, the lack of accommodation in open-type facilities or because they applied for asylum after their deportation was initiated. This Centre imposes strict restrictions on the freedom of movement, which is why occasional, though mostly short-term, hunger strikes were held by asylum seekers accommodated in the Centre.

Persons under the age of eighteen should not be detained in the Ježevo detention centre. However, there were cases when a person claimed that he or she was under the age of eighteen, but was placed with adults. At the moment, unaccompanied minors who cross the border illegally are accommodated in Zagreb, within the Institution for Re-education of Children and Juveniles. By the end of 2015, a special facility for unaccompanied minors will be built within the walls of the Ježevo detention centre. According to the MOI, they will have access to social life and freedom of movement, although human and refugee rights activists strongly disagree with such a solution for minors and express doubts with respect to the quality of social inclusion and proper care for unaccompanied minors.

## 5 Migration and integration policies

### 5.1 Migration policy

In 2007, the first Strategy of Migration Policy of the Republic of Croatia for 2007-2008<sup>156</sup> was adopted. It was founded on the presumption that stronger emigration flows after Croatia's accession to the EU in 2013 might occur, while regional migration will continue to influence the population dynamics in Croatia and net migration in the region (Božić 2007). From the state-security perspective, however, the policy focussed mainly on the problems of irregular migration, transit migration and undocumented workers.

Migration Policy of the Republic of Croatia for the 2013-2015 Period, which the Croatian Parliament adopted on 22 February 2013, represents the continuation of the first Strategy.<sup>157</sup> Although a comprehensive evaluation of the implementation of the first Strategy was lacking and should be voted on at the end of 2012, policymakers claimed that these documents are adjusted to and harmonised with EU standards in order to deal with anticipated immigration flows. The drafting of a comprehensive policy for all migrants, including persons under protection, was conducted in cooperation and consultation with the UNHCR, relevant NGOs and experts, but most comments and suggestions were not included in the draft.

Migration Policy addresses the issues of visas, aliens' status, Croatian citizenship, integration of immigrants, asylum policy and measures for controlling irregular migration. It prioritises biometric identity cards for foreigners as one of the measures for achieving better regulation of the status of foreign nationals. When taking into consideration that this is a technical issue and bearing other difficulties in this area in mind, it is unusual to have this issue formulated as a priority. Rather, there is an obvious need to undertake an analysis of the situation and conditions in practice in order to identify specific problems related to aliens' status, which may have more substantial and serious consequences for foreigners.

The analysis of conditions in the labour market and appropriate measures aimed at meeting the needs of the labour force, which would serve as a basis for future determination of quotas for the employment of foreigners, is also considered a priority. In addition the visa policy and asylum harmonisation with the EU *acquis* is also prioritised. Given that the Common European Asylum System is one of the areas where

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<sup>156</sup> *Official Gazette*, No. 83/2007.

<sup>157</sup> Migration Policy of the Republic of Croatia for the 2013-2015 Period. *Official Gazette*, No. 27/2013.

the EU *acquis* is frequently amended, the Croatian policy document views further alignment of national legislation in this area essential. Priority is also given to finding an adequate location that would permanently resolve the issue of accommodating a growing number of asylum seekers during their asylum application procedure.

In spite of efforts invested in policymaking, migration policies in Croatia could only be understood as ‘declarative’ programmatic policies. They are rather unsystematic and incoherent, lacking real implementation measures and responsibilities shared among different actors. They could be characterised as *ad hoc* measures within more reactive rather than proactive policies, since they merely react to problems and challenges without having clear goals. For example, text of the policy document does not make it clear how this policy would contribute to the policy’s defined purpose ‘to ensure that migratory movements in the Republic of Croatia are beneficial to the economic and social development of the country and society’ (Government of the Republic of Croatia 2013:7). Apart from the fact that the general purpose is not articulated through clearer goals, the manner in which each of the measures is supposed to contribute to the fulfilment of the purpose is rather vague. There is a lack of a comprehensive analysis and data obtained by scientific research, which would represent the basis for a clear and unambiguous determination of policy’s aims and objectives and, accordingly, its appropriate actions. For example, the text states that it is impossible to assess the impact of full membership in the EU in the fields of immigration and emigration, which is one of the key pieces of data necessary for determining the strategic management of migration. The lack of concrete data regarding the funding of specific actions, deadlines for their implementation, as well as associates and partners involved in their implementation, is also observed.

A narrow view of the migration phenomenon, which is almost exclusively tied to administrative and legal aspects of migration, while specific economic, social, demographic, cultural and human rights aspects are completely ignored, is another important aspect of migration management in Croatia. The fact that only one aspect of migratory movements, particularly when it comes to the irregular migration phenomenon, is emphasised, leads to the prescription of very restrictive measures that potentially pose a risk of non-compliance with international obligations, as well as potential human rights violations. According to the Ombudsman (2014), Migration Policy considers migration as a security issue and focuses solely on the regularisation of asylum flows, as well as on the prevention of illegal migration. It thus



neglects other potential effects of migration, such as economic, social or cultural benefits for host society.

The pre-context analysis underpinning the rationale for this policy is based on legislative changes made during the past few years. This is certainly an important element, but lacks the analysis of problems related to the application and implementation of such legislative solutions. For illustration, harmonisation with the EU *acquis* is a priority in the field of asylum, while practice shows numerous urgent asylum problems. Furthermore, the lack of vision with respect to economic development, its direction and dynamics, the lack of systemic research into the needs of the labour market, the influence of large corporate employers' (above all in construction), as well as service industries' dictates, leads one to conclude that Croatia is not ready to manage economic migration flows yet (Mežnarić 2008).

It is characteristic of Croatia to accept all relevant EU documents regulating this area on one hand, while there are huge disparities related to the implementation of these regulations in practice on the other hand. Another problem lies in the fact that migration policy is not associated with potential implications for population policies, as a desirable population that could help rejuvenate an already disturbed age pyramid characterised by an increasingly older population, negative natural growth and depopulation.

Conclusively, the Croatian migration policy has been determined by higher political interests of the process of accession to the EU and the process of Europeanisation of migration and asylum policy. The latter has not been inspired by humanitarian considerations, but by policies of many EU Member States aimed at discouraging and preventing irregular migrants and asylum seekers to enter their territories (Lalić, Novak & Padjen 2009). Croatia has adjusted its domestic legislation and policies to specific EU requirements in the area of Justice and Home Affairs, measures for granting asylum and migration management, which predominantly focus on issues related to border control, police cooperation and crime prevention. Arguably, the Europeanisation process has represented the main restrictive requirement when preparing to become an EU member and follow the Common European Asylum System. Even though the harmonisation of asylum legislation sometimes goes beyond minimal standards prescribed by EU directives, specifically on family reunification, it fails

to fulfil these standards in practice, particularly when it comes to integration (Bužinkić et al. 2010).<sup>158</sup>

## 5.2 Integration policy

The Croatian integration system was established in 2013 and proved that Croatia is unprepared for the potential growth of the number of various types and categories of migrants at several levels. After all, integration is not a prominent topic of public and political debates, and is not high on the agenda of political parties in Croatia. There are few policy documents dealing with the topic of integration. Although The Migration Policy of the Republic of Croatia for the 2013-2015 Period recognises that integration is one of the major problems of the migration system in Croatia, there are merely a few measures addressing this issue.

Due to the importance of integration for the successful functioning of any community, the Government of the Republic of Croatia established a Standing Committee for the implementation of foreigners' integration into Croatian society. The Working Group of the Standing Committee was in charge of operational implementation and drew up an *Action Plan on the Removal of Obstacles to the Exercising of Particular Rights in the Area of the Integration of Foreigners 2013-2015*. Apart from competent ministries, members of civil society organisations and academia also participated in this process. The Action Plan is considered as one of the measures required to secure the integration of foreigners in a chapter entitled Integration Policy as a part of Migration Policy. Since most measures in the Action Plan target refugees, subsidiary protection beneficiaries and to some extent asylum seekers, not all migrant groups benefit from all policy measures (Kuti 2014). The peculiarity of this system is that integration policies for third country immigrants are, in terms of their socio-cultural aspects, developed through policies for the inclusion of asylum seekers and grantees.

Croatia remains a preferred destination for labour migrants from the Balkans region, as it is the leading country in terms of the standards of economic development and has a lower unemployment rate in comparison with other countries in the region. Furthermore, immigrants

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<sup>158</sup> For example, the Croatian Asylum Act enables residence for the purpose of family reunification of a foreign citizen under subsidiary protection to a family member who has arrived in Croatia with the foreign citizen under subsidiary or temporary protection, when that family member has not lodged an asylum application nor been granted protection. This provision goes beyond minimal standards prescribed by Directive 2003/86/EC on family reunification (see Bužinkić et al. 2010).

from former Yugoslav territories might be akin to actively integrate into Croatian society as well as into existing ethnic minority communities in Croatia with whom they share the same linguistic, ethnic, religious and cultural patterns. This may also represent a significant pull factor (Božić 2007).

In the field of migration and integration policies' evaluation, a comprehensive analysis of their implementation is lacking and no special budget is reserved for developing and sustaining integration measures. No evaluations concerning the content or quality of implementation have been made until now. However, according to the Report on the Implementation of the Action Plan issued by the Office for Human Rights and the Rights of National Minorities, most of the previously stated measures are considered accomplished or partly accomplished, although the reasoning clearly states that no specific activities had been implemented in order to improve foreigners' integration. Scarce data on these issues obtained by scientific researches could serve as a basis for future appropriate actions.

Most implemented measures are part of a regular scope of activity of relevant institutions and/or were implemented sporadically. For instance, the most prominent example is the lack of systematic implementation of Croatian language courses, which have been guaranteed by law since 2011. Still, some people have been unable to receive tuition, except through voluntary assistance provided by two NGOs. Unfamiliarity with the Croatian language prevents the exercise of other rights, makes integration more difficult and makes migrants economically dependent on social security income. Moreover, state programmes of care and support to survivors of human rights violations, such as torture, trafficking and related violence, are not accessible to asylum seekers and refugees. Victim determination procedures are only dealt with within projects carried out by civil society organisations, which do not guarantee a systematic and continuous help and support. In addition, there are still significant areas of nonconformity and large gaps in the application of other regulations (Bužinkić & Kranjec 2011). Croatian legislation only recognises two categories of residents, i.e. nationals and foreigners, which means that many aspects of life for groups, such as asylum seekers, refugees and foreigners under subsidiary protection, remain unregulated, thus preventing the realisation of their basic rights and services.

## 6 Current political debates on migration, asylum and integration issues

Asylum and migration issues have not received much attention in Croatia, not even at the political level after joining the EU. No political party placed these topics high on their agenda. They are not publicly debated and the Government has only just made the very first step in order to coordinate efforts aimed at tackling this issue in a comprehensive manner. Croatian political elites would need to show more interest in and responsibility for the challenges of integrating persons under protection into Croatian society. In contrast to some EU Member States, where migration is an issue that gains or loses electorate's votes, migration issues are not perceived as important in Croatia, except when it comes to foreign workers.

The previous Government led by the Croatian Democratic Union (HDZ), the largest centre-right party, never publicly and officially dealt with this sphere, except in relation to aspects promoting the immigration of Croats from Bosnia and Herzegovina and the return of Croatian diaspora to Croatia. The presently ruling 'Kukuriku coalition', which consists of the Social Democratic Party of Croatia (*Socijaldemokratska partija Hrvatske*), Croatian People's Party – Liberal Democrats (*Hrvatska narodna stranka - Liberalni demokrati*), the liberal Istrian Democratic Assembly (*Istarski demokratski sabor*) and the Croatian Party of Pensioners (*Hrvatska stranka umirovljenika*), included migration issues on their political agenda during the electoral campaign. Their political programme states:

'It can be expected that Croatia will change from a traditional emigration country to an immigration country over the next five years. Immigrants will arrive with their families, which means that the social impact of immigration will be broader than the impact on the labour market. It will affect education, health and pension systems, and will certainly affect the general climate in society with respect to the issue of human rights and various forms of discrimination. Croatia has no experience in and is unprepared for the situation it will face over the next five years. As can be seen from the example of others, even the oldest members of the EU, this situation may pose risks leading to a degradation of the level of human and civil rights, reviving or strengthening right-wing political extremism and even instigating the possibility of larger social conflicts. Particular attention should be placed on the level of human rights of female migrants, as this is a particularly vulnerable group often subjected to multiple discrimination. It is thus important that the policy regulating our preparation for handling the phenomenon of migration of workers and their families to Croatia, as well as institutional and social adaptation to these new circumstances, is one of the numerous other policies, which are to be formulated in consultation with other departments. In foreign

policy activities, special attention should be paid to cooperation with those countries from which most immigrants will arrive.<sup>159</sup>

Since December 2011, when the new Government took office, some progress has been made in this area in terms of drafting and adopting the Migration Policy and the Action Plan, but not much has been done in order to properly implement its measures. The fact that the Croatian public is not particularly welcoming towards asylum seekers and immigrants in general is an important problem (Benčić et al. 2005, Čačić-Kumpes, Gregurović & Kumpes 2012). Low numbers of asylum grantees and the lack of public awareness contribute to the ‘invisibility’ of this issue in public. Nevertheless, local communities opposed the construction of a shelter for asylum seekers by exaggerating potential negative influences of their presence. In Croatian society, asylum grantees are perceived as a distinct category of ‘newcomers or new refugees’, compared to ‘traditional displaced persons’ due to wars in the Western Balkans. In the Croatian context, the term *refugee* still refers to a person fleeing wars in former Yugoslavia (mainly Bosnia and Herzegovina) and citizens thus tend to see asylum grantees not as ‘genuine’ refugees, but more as ‘false refugees’, i.e. either as economic migrants or as potential criminals and terrorists (Šelo Šabić et al. 2011). Such a perception of imaginary threats is related to different dimensions of security, economic, socio-cultural and national identity threats.

The absence of a broader public discussion on migration policy documents influenced the initial ignorance of politicians, parties and their political agendas, as well as all other actors in the system, particularly the media and academics. Public debates and normative statements of politicians emphasise the return of labour migrants and Croatian diaspora, but offer no real policies to achieve that. Public attitudes towards immigration issues express concern that a potentially high number of foreigners in the country will gradually lead to ‘the national loss of land and coastline’ (Božić 2007:15), even though, due to the marginalisation of this issue in the public discourse, there is no evidence that immigrants would pose an economic threat or a potential employment threat to Croatian workers or a financial burden on the country’s budget in case they depended on social assistance.

Croatian society is largely ethnically, culturally and denominationally homogeneous (in the 2011 census, 90 per cent of people identified themselves as Croats and 86 per cent as Catholics). Research conducted by the Centre for Peace Studies (CPS

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<sup>159</sup> Kukuriku Coalition (2011, page 35), Plan 21 (see: <http://www.kukuriku.org/files/plan21.pdf>).

2013)<sup>160</sup> shows that when it comes to xenophobia towards certain national, religious and political groups, negative attitudes are mostly expressed towards the Roma (up to 44 per cent), Serbs (up to 28 per cent) and towards asylum seekers and refugees (up to 37 per cent). Furthermore, the research finds that Croatian citizens would more likely agree with a restrictive than a liberal citizenship policy, while they generally showed a slightly more positive attitude towards multiculturalism. Racist and anti-immigrant comments, mainly directed towards irregular migrants, particularly towards Chinese immigrants, can also be found in the media (Božić 2007:39).

For the media, this topic became especially interesting during 2012, mostly due to a few important cases of extradition, particularly a case of Turkish journalist, and the arrival of a stray boat carrying 66 irregular migrants in the Dubrovnik harbour. The combination of scarce media coverage and negative reporting on these topics is particularly problematic. The use of phrases, such as ‘exploitation of our welcome’, ‘invasion from the east and south’,<sup>161</sup> as well as distorted and incomplete information about the context of arrival and transit of asylum seekers and irregular migrants, their background, as well as reasons and circumstances of their arrival to Croatia, greatly contributes to the increase of xenophobia and creates a climate of hostility and misunderstanding. Media images and discussions focus on the issues of security, prejudice and undesirability. In 2014, an important case marking the first serious public reaction against racism or xenophobia was recorded.<sup>162</sup> Elements of humanity, human rights and helping people in need are hardly mentioned in the media, although Croatian citizens themselves have recently experienced war and refugee flows, as well as distress arising from seeking shelter and protection in other countries.

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<sup>160</sup> The Centre for Peace Studies has sub-contracted a public opinion survey agency to conduct a research study among Croatian citizens on these topics. The research was conducted on a representative sample of adult population of Croatian citizens using the methodology of a structured questionnaire. Questionnaires were filled in individually in respondents’ homes and the participation in the research was voluntary and anonymous. The total sample consisted of 800 respondents, whose average age was 45.3. 52.7 per cent of respondents were women and 47.3 per cent were men. The research was conducted in the period from April to July 2013.

<sup>161</sup> E.g. Gordan Zub: Na udaru Vis i Lastovo: Šest tisuća policajaca branit će nas od invazije useljenika [The Islands of Vis and Lastovo in the Firing Line: Six Thousand Police Officers to Defend Us from an Invasion of Immigrants], the *Slobodna Dalmacija* daily newspaper, 30 January 2012, <http://slobodnadalmacija.hr/Hrvatska/tabid/66/articleType/ArticleView/articleId/162887/Default.aspx> (accessed on 14 April 2014).

<sup>162</sup> Following a statement made by the Centre for Peace Studies and the Ethic Committee of the Croatian Journalist Association, there was a positive public reaction against a racist and xenophobic article on asylum seekers written by Heidi Karakas Jakubin, a journalist, and published in the *Jutarnji list* daily. Source: <http://www.cms.hr/azil/teza-opomena-vijeca-casti-hrvatskog-novinarskog-drustva>.

## 7 Conclusion and future challenges

Since 1991, the socio-political changes and socio-economic transitions in Croatia have been characterised by the need to face war atrocities and post-war reconciliation in a society burdened with the legacy of ethnic conflicts. The transition from a centrally planned and state-protective economy towards a liberal and open market-based economy failed to prevent deficiencies and pitfalls of the neo-liberal model in order to ensure a welfare state for all. Nevertheless, the quest(ion) of joining the EU became one of the most important political goals of all Governments.

Croatia became a fully-fledged member of the EU on 1 July 2013. Assuming that Croatia will follow the experience of other Central-Eastern European countries, one might expect changes to migration patterns (Gregurović & Mlinarić 2012). Croatia could become a final or preferred destination for some migrants. Immigration of nationals of other countries in the region into Croatia, transit flows of irregular and involuntary migrants, and, to some extent, the potential return of the Croatian diaspora represent some of the anticipated scenarios. The regional character of migration to and from Croatia and ties between populations in this region resemble historical, social, political, economic and cultural heritage, which stems from the fact that countries in the region have a shared membership in former Yugoslavia. Cultural similarities and familiarity of languages spoken by ethnically and economically motivated migrants in the region are factors helping their integration in society.

As Croatian citizens exercise the same rights as other EU citizens, such as freedom to live, work and obtain education in other EU Member States, further gradual increase in emigration of Croatian citizens to other EU Member States might also be expected. Better job opportunities and social security in EU member states and Switzerland, as well as family ties, are still strong pull factors producing new streams of emigration from Croatia. Although the labour force from Croatia will have limited access to EU labour markets in the first seven years after Croatia's accession to the EU, new opportunities are producing new modes of mobility (seasonal work, circulation). Recently, harsh economic conditions and a high level of unemployment in Croatia remain the strongest push factors for quite an extensive emigration from Croatia. When the coveted economic stabilisation finally occurs, moderate immigration flows might be expected from countries of 'former Yugoslavia', non-EU countries of Eastern Europe and presumably within the EU, mainly from Bulgaria and Romania. Immigrants will probably come with their families or reunite with them

at a later stage, which means that the socio-economic impact of immigration will be broader and will, to some extent, affect the national demographic structure.

Croatia proved to be unprepared for the potential growth in the number of various types and categories of migrants at several levels. At the same time, there are no measures that would focus on the retention of potential emigrants or strategies aimed at finding ways to foster immigration (or re-migration) of highly qualified experts and professions in shortage. Although the legislation and development of institutional mechanisms show numerous advances, the fields of asylum and irregular migration lack the dedication, will and capacity to develop quality asylum policies and significant gaps in the application of regulations are still present. Rather than anticipating migration movements through a balanced approach to economic, social, political, demographic, humanitarian and development factors, emphasis is mostly placed on security issues, which substantially reduces the focus on overall migration issues.

Recently, orientation towards new issues has been aroused when Croatia's long land border with Bosnia and Herzegovina, Serbia and Montenegro became the EU's external border. The geostrategic position of Croatia on the important Western Balkans route means that the country could be the first EU destination for some migrants on their way to the EU. With respect to the territorial share of responsibility for asylum applications, according to the Dublin System, and other readmission agreements, this means that Croatia would become responsible for many asylum applicants. By becoming a member of the EURODAC and Frontex systems (for border surveillance and irregular migration management), Croatia is using substantial amounts of the EU's financial resources in order to strengthen the system of border controls. Presumably, a higher number of irregular entries would lead to the strengthening of the border control system and to the continuation of 'burden sharing' through readmission agreements and practices. The future of Croatia's asylum and irregular migration agenda thus most likely lies in the lowering of standards for refugees in need of international protection.



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## Bulgarian Migration Profile

*Anna Krasteva*

### 1 Introduction

Democracy, market economy and civil society – such is the triple essence of the post-communist transition. Ralf Darhendorf establishes the following schedule: six months to democratic institutions, six years for the transition to the market economy, six years to build a strong civil society, independent and vital. All of these priorities present the transition from the state perspective. The citizens' perspective is summed up in three words: migration, migration, migration. Many individuals living in post-communist societies, every tenth person in Bulgaria, have chosen to disentangle their projects from their states; voting with feet was common and still prevails; networks happened to be more effective than institutions; individual temporalities have withdrawn from state temporality.

Migration was one of the first freedoms citizens enjoyed. It also helped to better understand a major sociological phenomenon: the emergence of the figure of post-communist individuals (Krasteva 2008a), who are no longer shaped and guided by the state authorities and socialising institutions, but becomes social actors taking less of an inspiration from the public good and major societal challenges rather than from their own project, their desire to self-fulfilment, their determination to live in their own temporality without paying the price of slow reforms.

Numerous and radical changes have occurred in a mere two decades – people witnessed a transition from a closed to an open state, from asylum seeking to labour emigration, from a sending to a destination country, from a Balkan to a European migration profile. This chapter analyses the aforementioned changes in several steps: the communist biopolitics as a total control over population movements, the post-communist discovery of both emigration and immigration, the multiplication and diversification of migration forms and types, the Bulgarian migration profile, the politicisation of migration in terms of both policies and politics.<sup>163</sup>

The lack of access to reliable up-to-date information is a major problem. Bulgaria is the only EU country that does not have comparable annual statistics on migration (Open Society Institute (OSI)

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<sup>163</sup> This chapter is based on the studies conducted by the author of the Bulgarian migration phenomenon in a comparative – Balkan and European – perspective (Krasteva 2004, 2005, 2005a, 2006, 2007, 2007a, 2008, 2008a, Krasteva et al. 2009, 2011, 2011a, 2012).

2010: 52). A number of local institutions have data on certain aspects of the migration situation, such as number of issued work permits, visas and long-term residence permits, but there is no publicly accessible centralised system for data collection on migration flows.

A report of the Open Society Institute (2010: 52) emphasises that irregular data collection brings forth certain statistical paradoxes, which are hard to explain to international observers and are of no use to the local ones: for example, in 2001, Bulgaria reported a huge emigration rate of over 25 per cent after years of zero migration. What caused this boom in migration? In fact, there was no boom in migration in 2001; the event had nothing to do with mobility, but with statistics, as this was the year when the census was taken.

2009 marks another year, in which emigration reaches considerable figures. Again, the data do not reflect any real migrational dynamics, but the peculiarities of the administration calendar. Identity cards expired in 2009 and upon their renewal many people specified an address abroad: 'They did not emigrate in 2009, they just renewed their identity cards in that year' (OSI 2010: 53). The Open Society Institute (2010: 53) reports that the requests processed were as follows: 19,000 requests for changing the address of residence from Bulgaria to one abroad and over 3,000 from abroad to Bulgaria.

Data is collected in line with different methodologies, which make it difficult to compare. It is onerous and time consuming for certain state institutions to access data collected by other state institutions. Public access to such data is even more restricted and difficult. In 2008, the National Statistics Institute (NSI) presented information from an interesting study where every month, for the period of one week, they observed eight border points where 80 per cent of traffic to and from this country is concentrated. This served as the basis on which the emigration flow was estimated at 10,000 persons, and immigration at 6,000 persons, i.e. the net migration was negative, estimated as 4,000. After 2008, the NSI has not published any public information, although it continues to monitor the traffic of those who travel (OSI 2010: 54).

The lack of reliable, long-term and comprehensive statistical data on migration is a major deficit and a challenge when formulating and implementing an effective policy on migration. No clear measures to overcome this information deficit have been taken yet.

## **2 Bulgaria during communism: minimum migration, maximum migration policy**

The conception of biopolitics discussed by Michel Foucault shows the key importance of population control for any modern state. It is even more valid for communist societies. Migration used to be the top political priority for three reasons. Firstly, the subjects of the state were politically not conceived in individual terms as citizens with rights and duties, but as a collective body, i.e. the population. Secondly, the first and final word in deciding the individual mobility did not belong to individuals themselves but to the state. This was applied even when deciding upon individuals' labour mobility within the country and even more so for the international one. Thirdly, all types of mobility and migration, including labour ones, were conceived as political (Krasteva 2007).

The double deficit – of freedom and mobility, and their combination – was established as the rule. There were three exceptions for the movements within and out of the country that confirmed the rule.

There were three types of outflows – ethnic, refugee and labour. The first had not been stimulated, but tolerated, the second had been strictly forbidden, and the third had been limited, but encouraged by the regime.

Migration in Bulgaria's modern history is predominantly ethnically driven; in the communist period, the emigration of Bulgarian citizens of Turkish origin to Turkey dominated. In this regard, the communist regime marked a continuation of a series of waves of Turkish emigration after 1878, when by the Treaty of Berlin an autonomous Bulgarian state was created (remaining under Ottoman sovereignty until 1908). Ethnic emigration continued even after Bulgaria's democratisation. These waves can be characterised as the following:

- from 1878 to 1912, about 350,000 Muslims (Turks, Pomaks, Circassians, Tatars) emigrated from Bulgaria to Turkey;
- from 1934 to 1939, 10,000 persons emigrated annually from Bulgaria under international treaties;
- from 1934 to 1939, the number of emigrants varied from 70,000 to 90,000 according to different sources;
- during the Second World War (1940 to 1944), approximately 15,000 persons left the country for Turkey;
- forcible land collectivisation drove some 155,000 Turks to emigrate to Turkey in 1950 and 1951;

- after signing the Bulgarian-Turkish agreement for the reunion of divided families, more than 130,000 people left for Turkey from 1968 to 1978 (Zhelyazkova 1998: 302).

Because emigration was banned under the communist rule, the emigration of Bulgarian citizens could but take the form of refugees: about 20,000 Bulgarians left the country from the end of the 1950s until 1989. In contrast to other countries in Central and Eastern Europe that experienced dramatic outflows of refugees, the figures for Bulgaria show that refugee migration was relatively stable over time – about 370 persons per year. According to Soultanova (2006) the UNHCR lists the following figures of applications for asylum submitted by Bulgarian citizens in the 1980s:

**Table 1** *Asylum applications by Bulgarian nationals, 1980-1988*

Year	1980	1981	1982	1983	1984	1985	1986	1987	1988
Number	379	401	352	284	331	339	390	326	562

*Source:* Soultanova 2006.

The increase of refugees in 1988 amounted to 150 per cent of the refugee flow of the early 1980s. This was in contrast to the 1988 increases of refugee flows in other east European countries, which rose by up to 440 per cent. The main destinations of asylum seekers included the Federal Republic of Germany (44 per cent of applications for asylum for the 1980-1989 period), Austria (27 per cent), Italy (9 per cent), Sweden (4 per cent) and Switzerland (3 per cent) (Soultanova 2006).

The labour migration concerned only highly qualified experts, mainly doctors and medical personnel, and engineers whom the communist regime ‘exported’ to brotherly countries of the Third World, such as Libya, Algeria and Tunisia. Such migration was temporary and strictly controlled by the state under bilateral agreements. The state played an ambiguous role: on one hand, it facilitated the emigration within the agreements, while taking considerable parts of the salary paid to experts by the receiving country.

Preventing free emigration was a top priority: there were several people willing to emigrate and a few inclined to immigrate. The rare exceptions were politically supervised and concerned students, refugees and labour migrants. Students from Third World countries with the specific purpose of providing higher education to left-wing intellectuals were able to migrate to Bulgaria as part of a long-term strategy for the preparation of a world revolution. The same applied to activists with leftist ideological beliefs from neighbouring countries, such as Turkey



and Greece. An exception to this dominating political logic was the acceptance of economic migrants from Vietnam during the 1980s in response to the demand for labour in certain economic sectors, such as construction. The Vietnamese remained the only figure of ‘*Gastarbeiter*’ during the communist period. Even in this case, the political considerations were crucial – the ‘international’ solidarity with the brotherly country of Vietnam.

### **3 The post-communist society: minimum migration policy, maximum migration**

#### 3.1 Refugees: end of outflows, beginning of inflows

This subsection presents two opposite trends that characterise asylum seeking: (1) the flows of Bulgarian refugees decrease and practically stop at the end of the first decade following democratic transition; (2) an important new trend emerges, i.e. applications for refugee status granted according to the 1951 Convention relating to the Status of Refugees (Geneva Convention).

#### *Bulgarians as refugees*

The communist refugees used to be ideal migrants – not numerous, illustrating the superiority of liberal democracy and well received by western Governments. The refugee flows continued for a while after the transition, but with opposing characteristics when compared to the previous period. The number of refugees was increasing: there were 7,263 refugees in 1989, while their number rose to 16,082 in 1990, 19,260 in 1991 and 34,845 in 1992 (Soultanova 2006).

During the communist period, asylum seekers were very likely to acquire refugee status. After democratic changes, the ratio of granted applications decreased more rapidly than the flow. The percentages of emigrants granted refugee or other types of humanitarian status dropped from 27 per cent in 1989 to 0 in just a few years. In 1989, 27 per cent of applications were successful, while their number dropped to 14 per cent in 1990, 4 per cent in 1991, 1 per cent in 1992 and 0 in 1993 (Soultanova 2006).

As Bulgaria’s democracy strengthened, and the number of successful asylum applications declined, the number of applications decreased accordingly:

**Table 2** *Asylum applications by Bulgarian nationals, 1994-2000*

Year	1994	1995	1996	1997	1998	1999	2000
Number	6,344	4,123	4,068	3,892	2,057	2,308	3,086

Source: Soultanova 2006.

### *Refugees in Bulgaria*

As soon as Bulgarians stopped asking for asylum, they started granting asylum. Bulgaria has been party to the 1951 Geneva Convention since 1993. According to data provided by the State Agency for Refugees, 21,009 people have requested asylum in Bulgaria from the beginning of 1993 until the end 2012. Refugees in Bulgaria are both similar to and different from other refugees in neighbouring countries. The first peculiarity is that their movement has not been constant, but refugees have arrived in waves. These occurred in four distinctive periods:

- Period of fluctuations: 1993-1998. The number of applications varied. In 1994, it doubled in comparison to the previous year (561); it then reached the initial figure two years later and increased again at the end (429). These fluctuations are very low – between 250 and 550 applications per year.
- Period of rapid growth: 1999-2002. In the first year, the number of asylum seekers is four times higher than in 1993; the annual growth varies between 400 and 670, which is more than the total amount during the previous period. The peak of 2002 is ten times higher than the number observed at the beginning of statistics' collection, i.e. 2,888 applications. Even then the figures were not threatening.
- Period of progressive decrease: 2003-2006. 2003 marks an important decrease, as there were 1,339 fewer applications than in the previous year. Afterwards the number of applications decreased progressively and amounted to 422 in 2004 and 305 in 2005.
- Period of European integration after Bulgaria's accession to the EU in 2007: the forecast for a sharp and considerable increase of refugee waves have not been validated by the number of applications, which maintain moderate figures fluctuating around 1,000 (2007 – 975, 2008 – 746, 2009 – 853, 2010 – 1,025, 2011 – 890, 2012 – 1,12).<sup>164</sup>

With respect to demographic and cultural characteristics of refugee flows, men are more numerous than women:<sup>165</sup> only one woman has sought asylum for every five male asylum seekers.<sup>166</sup> 30 countries of origin recorded no applications from women. Children

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<sup>164</sup> Data provided by the State Agency for Refugees on 1 January 2013. <http://www.aref.government.bg/?cat=8>

<sup>165</sup> In global refugee flows, women and men are equally represented.

<sup>166</sup> Men – 70%, women – 17%, children – 13%. 1 January 2013. <http://www.aref.government.bg/?cat=8>

seeking asylum were comparable to the number of women, with the exception of asylum seekers from Afghanistan, where asylum seekers are 2.5 times more likely to be children than women.

The cultural diversity of the refugee community is impressive. They arrive from 78 countries of origin. The most numerous applications originate from Afghanistan (5,821), followed by Iraq (5,257), Armenia (1,885), stateless persons (1,026), Iran (976), Serbia (776) and Syria (711). The top countries changed in 2012 because of the crisis in Syria, which now comes first with 353 applications, followed by Iran (305), stateless persons (112) and Afghanistan (104).<sup>167</sup>

The refugee profile is similar to other EU countries. Asylum seekers originate from distant countries, such as Afghanistan, Iran, Syria and Somalia, and differs from several countries of former Yugoslavia where refugees predominantly originate from neighbouring countries.

### 3. 2 Emigration as a post-communist freedom

Migration was among the first and most visible expressions of freedom that post-communist citizens enjoyed in great numbers. Mass emigration is a typical phenomenon of post-communist countries in transition, Bulgaria being at the middle of the ranking with about 10-15 per cent of the population.

As explained in the introduction, the situation regarding statistics is deplorable: one institution, e.g. the National Statistical Institute, blames another institution, i.e. the Ministry of the Interior (OSI 2010: 54-55), which forms a vicious circle without a clear solution and causes enormous problems for both research and policy-making. This paper compensates the aforementioned deficit by providing a more qualitative approach focussing on the main types and destinations.

The structure of Bulgarian emigration has five poles: two of them concern the mobility of the two largest minorities, i.e. the Turks and Roma; one represents the worst example of forced migration in peaceful times and a modern form of slavery, i.e. trafficking in human beings; while the remaining two represent the two poles of labour migration, i.e. highly qualified ('mobile brains') and low skilled workers for '3D' – difficult, dirty and dangerous jobs.

*Migration of Bulgarian Turks: from ethnic and forced to economic*

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<sup>167</sup> <http://www.aref.government.bg/?cat=8>

*logic*

350,000 Bulgarian Turks were expelled from Bulgaria in 1989, the largest migration wave in Europe after the Second World War and prior to the wars in former Yugoslavia. An estimated 150,000 of these citizens later returned. The emigration of Bulgarian Turks has continued due to economic rather than political reasons, however, their numbers are much lower.<sup>168</sup> At the threshold of transition, citizens of Turkish origin were expelled by the communist state as part of the violent politics of name change. In the winter of 1984-1985, the communist regime of Todor Zhivkov launched a campaign of forcible change of Turkish and Arab names into Bulgarian ones. This is the most repressive expression of assimilation policy. Only a few years later, the economic crisis and unemployment that disproportionately affected areas populated by the Turkish minority pushed additional persons to join their families in Turkey and to try their chance in a more dynamic economic environment. Others preferred to migrate to EU countries, mainly to Germany because of its strong Turkish networks.

The Turkish migration is an interesting example of transition from ethnic and forced to economic logic.

*Migration of Roma*

The Roma represent the most visible and politicised form of minority migration from Romania and Bulgaria to several EU countries, especially to France and Italy. France has expelled Roma migrants from Romania and Bulgaria several times. There are three crucial policies for managing ethnic diversity in the Balkans: exchange of population,<sup>169</sup> assimilation, and toleration. None of these has been applied to the Roma. Moreover, they have been transformed into a scapegoat and blamed for all types of transition malaise. For most of them, migration is the only alternative to unemployment, discrimination and extremely high negative attitudes.

*Trafficking in human beings*

Trafficking in human beings is the fastest growing global crime, more profitable than drug trafficking, because a person can be bought, used and sold several times. The democratic paradox of this modern form of slavery is that it did not exist during the communist regimes; the latter efficiently prevented not only the positive forms of mobility, but also

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<sup>168</sup> The Turkish minority has a political representation. The Turkish party *Dvijeniето za prava i svobodi* (Movement for Rights and Freedoms) is an influential political actor.

<sup>169</sup> After the First World War, mainly between Greece and Turkey.

the negative ones. Trafficking in human beings emerged during the post-communist transition. Additionally, Central and Eastern European Countries happened to be very efficient in the extremely competitive market of trafficking in human beings and succeeded in acquiring a major role, pushing other important players from Africa, Asia and Latin America to the margins. The Balkans represent the origin or a transit area of important trafficking and smuggling routes, which lead from the Balkans through Greece and Italy to other EU countries, from Turkey through the Balkans to Italy and Austria. Bulgaria is a case in point, being both a country of origin and transit country. In opposition to other Balkan countries, such as Kosovo and Bosnia and Herzegovina, Bulgaria is (almost) never a destination country.

### *Labour migration*

Low skilled workers represent the most typical and numerous migration. It has two forms: permanent and seasonal or temporary. The former prevailed the first decade of post-communist mobility, while the latter has showed tendencies to become more attractive in recent years.

The dual labour market theory convincingly explains that the less paid, the less secured, the less attractive jobs are the ones most often offered to immigrants. It is not surprising that most migrants work in the field of construction, care services, restaurant and hotel sectors. Bulgarians are but a confirmation to the rule.

The main destinations of migrant workers are quite similar with small national variations; Bulgarians mainly prefer to move to traditional migration countries, such as Germany and the US, as well as to new ones, such as Spain, Italy and Greece, while the UK is becoming increasingly attractive.

Two opposite, though equally important, trends should be emphasised: (i) de-qualification – several migrants work under the level of their qualification, which represents a loss of human capital for the migrant, the countries of origin and destination and (ii) despite their 3D jobs, most migrants are satisfied. This paradox has two explanations: economic – due to high unemployment, a poor social security system, and salaries that are much lower than the 3D ones at home, the 3D job remains a better alternative and sociological – what the migrants lose in terms of qualification, they gain in terms of agency: they are the authors of their migration project; they decide on their work and life and this new democratic freedom of self-determination is highly appreciated.

The highly qualified migrants are among the most dynamic

groups, practicing a variety of migration forms – temporary migration, high mobility, transnational patterns.

Emigration of the highly qualified nationals is the most painful for any Government, including for Bulgarian authorities. The political discourse varies in the gamut from lamentation to general appeals to return, but no concrete policies are developed. The Ministry of Labour and Social Policy organises regular fairs in a few EU Member States with high concentration of Bulgarian migrants to inform them about the possibilities offered by the labour market in Bulgaria.

### 3.3 Immigration or the attractiveness of an emigration country

The migration balance is negative; the outflows have dominated and still determine the Bulgarian migration profile. Table 3 illustrates the negative migration balance after the EU accession, which was reinforced by the economic crisis.

**Table 3** *Migration balance, 2007-2010*

Year	2007	2008	2009	2010
Number	- 1397	-876	-15,729	-24,190

*Source:* Kalchev 2012.

Emigration still prevails over immigration and it is exactly that the reason why the latter becomes so important. If numerous Bulgarian citizens preferred to look for better jobs, education and self-realisation abroad, the country would have an attractive potential for some foreigners. The radical post-communist innovation is expressed in the fact that both emigration and immigration become mainly labour migration.

Following the democratic transition, economic immigration to Bulgaria emerged not as much as a result of purposeful state policy, but more as a spontaneous phenomenon, based on migrants' own migration projects. The three major pull factors included the transition to market economy, the existence of numerous free niches and the opportunity to start a business with a relatively small amount of initial capital.

In the beginning of the 1990s, economic immigration had two main sources. The first was the transformation of education migration into an economic one. Many citizens of the Near and Middle East, who graduated at Bulgarian universities during the communist regime, chose to settle in the country and work as businessmen, doctors, journalists and in similar positions.

The second source was new migrants who came from completely new destinations, such as China, as well as individuals from the same countries from the Near and Middle East, whose relatives and acquaintances had already settled in Bulgaria. They started their own small or medium businesses or found jobs in trade or restaurant sectors, primarily in the companies owned by other immigrants.

Gradually, an invisible change took place on a symbolic and political level. The numerous Russian community, which has never been analysed during communism either as a minority, nor as a form of migration, began to be perceived as a migrant community (Krasteva, 2005). Russian immigration is both family and labour based. Its representatives are spouses in mixed marriages and are well integrated into the Bulgarian labour market.

The approach for the formation of the major contingent of economic immigrants is chiefly bottom-up. The state regulates the process not by stimulating guest workers, but rather by promoting business; it requires newly registered companies to employ at least ten Bulgarian citizens. Foreign investment and the Europeanisation of the Bulgarian institutions stimulate a new source of migration – experts, managers, advisors and investors from the EU and other developed countries.

Nevertheless, the number of immigrants in Bulgaria is relatively small: 55,684 according to the National Strategy (2008). The International Organisation for Migration (2003) counts more foreigners and estimates that they comprise 1.4 per cent of the population, i.e. 104,000 persons. The methodologies used for these calculations are not known, which makes it difficult to compare the present data, but they clearly outline the range of immigration, which is one of the lowest in the EU.

The distribution of immigrants is uneven. Migrants prefer to concentrate in the most developed regions with important urban centres whereas some peripheral regions are considered as unattractive (which). Thus, immigration in Bulgaria is an urban phenomenon. Migrants prefer to concentrate in the capital and in the most developed regions with important urban centres. According to the National Strategy (2008), 35 per cent live in Sofia, 9 per cent in the city and region of Plovdiv, 8 per cent in the city and region of Varna, and 5 per cent in the city and region of Burgas.

Immigrants to Bulgaria mainly originate from five regions. These are Russia and former Soviet countries, EU, Middle and Near East, China and Africa. The largest group with the longest tradition in

immigration originates from Russia, the Ukraine and other countries from the post-Soviet area. National strategy for migration, asylum and integration, 2011-2020 (Ministry 2001: 25), records three of the top five countries of origin from this region: Russia – 21,309; the Ukraine – 5,350, and Moldova – 2,303.<sup>170</sup> The new immigrants join their respective well-integrated communities. A case in point is the Armenian community.

The most recent but growing group is comprised of EU citizens who, according to the European legal norms incorporated into Bulgarian legislation, are not considered foreigners and exercise the right of free movement. There are two types of EU citizens: on one hand they represent highly qualified mobility and include experts, consultants and investors, while on the other hand they can also be found among migrants who arrive for leisure and pension mobility purposes. The first group is diverse in terms of nationalities, while the second is exemplified mainly by Britons.

Immigration from the Near and Middle East is part of a more than half a century old tradition and includes Syrians, Lebanese, Palestinians, Iraqis and Afghans. The representatives of these groups of nationalities have different status – some are permanent residents or refugees, while others have already acquired Bulgarian citizenship.

African immigration is similar to the Arab group<sup>171</sup> in relation to its half-century presence in this country, however, their numbers are much lower. Their immigrations is symbolically perceived as different because of the lack of any historical contacts between Bulgaria and the African countries. It must be noted that immigrants from the Maghreb countries are very few and are considered as part of the Arab community.

Chinese immigration is one of the most recent ones. It practically started from zero after the opening of the country's borders in the early 1990s and represented an expression of the country's entry into global migration flows.

The basic labour profiles of immigrants in Bulgaria are the self-employed or owners of small family-run businesses. The two major areas of employment are petty commerce and restaurant business. Arabs, Chinese, Afghans, Kurds and other migrants from the Near and Middle East occupy these ethnic entrepreneur niches. It is typical of many immigrants to be mostly employed by companies owned by other

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<sup>170</sup> The other two are Macedonia – 4,375 and Turkey – 3,828.

<sup>171</sup> The Arabs represent the majority of immigrants from the Near and Middle East, among whom there are representatives of other nationalities, such as Afghans, Kurds and others.



immigrants, rather than working for Bulgarian companies.

If in many immigration countries a large proportion of immigrants are employed in construction and certain manufacturing industries, this phenomenon had an ephemeral existence in Bulgaria, starting in the period of economic upheaval preceding the crisis and ending with its beginning. Turkish, Vietnamese, and Chinese workers are mostly interesting in this respect.

Employment in administration and education tends to be an exception and is typical almost only of the representatives of Russia and other countries from the Commonwealth of Independent States.

A new and interesting form of employment is offered by call centres, which need the immigrants' language proficiency. It is here that French- and English-speaking African immigrants, as well as people from Western Europe, such as the Dutch, find employment.

A specific group is composed of consultants, experts and managers who find professional realisation with foreign investors, Bulgarian institutions or large Bulgarian companies. They are mostly representatives of western countries (Krasteva 2007, 2008).

Immigrants' level of unemployment (14 per cent) is close to the national average. A survey conducted before the crisis showed that 44 per cent of all immigrants have a full-time job, 11 per cent work part-time, 6 per cent are students, 4 per cent are housewives, and 9 per cent are retired (Georgiev 2006).<sup>172</sup> The vast majority of immigrants are actively employed in the labour market; several of them are self-employed and many also create jobs for native Bulgarians. The professional status profile of immigrants is rather positive: entrepreneurs – 13 per cent, managers – 4 per cent, 'white collar' employees – 36 per cent, freelance – 8 per cent, workers – 31 per cent (Georgiev 2006).<sup>173</sup>

Unlike in typical immigration countries, the immigrants' level of education in Bulgaria is similar to the one of natives. The educational structure of immigrants is also positive: 24 per cent have a university degree and 59 per cent completed secondary education. Several migrants are highly educated, because most arrived during the 1970s and 1980s for studying and later settled.

Immigrants in Bulgaria are quite young. 75 per cent are under 50,

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<sup>172</sup> 3% – other categories, 9% – did not answer.

<sup>173</sup> No answer – 8%. The figures should be interpreted with caution, since they represent the situation before the crisis.

and only 13 per cent are older (Georgiev 2006).<sup>174</sup> The demographic structure of the immigrant community is very different from the one of the Bulgarian population, which is ageing and has a negative demographic growth. With the exception of the Russian immigration, the other forms are relatively recent. This explains why migrants are younger than the national average.

In cultural terms, the majority (57 per cent) are Christians. All denominations are present: 41 per cent of migrants subscribe to orthodox Christianity, 7 per cent are Catholics, and 9 per cent are Protestant. One fifth (21 per cent) of immigrants are Muslim. Almost the same number (18 per cent) did not answer the question and only 4 per cent indicate other religious beliefs. One quarter (26 per cent) of immigrants identify themselves as deeply religious. This percentage is the highest among Muslims (67 per cent) and the lowest among orthodox Christians (14 per cent), while Protestants (30 per cent) and Catholics (26 per cent) are found somewhere in between (Georgiev 2006).

### 3.4 Policy periods and characteristics

The Bulgarian migration policy can be summarised by three characteristics and three periods.

#### *Policy periods*

The first period begins in the 1990s and is marked by the withdrawal of the state. Migration, which was a top priority during the communist regime, became a more marginal political issue, as the initial post-communist system degraded it from high politics to low politics. The fact that total control and restrictions were transformed into a more open and liberal migration regime represents the positive side of these developments. A second positive dimension is that individuals are given more freedom to define their individual and family migration strategies. There are no specialised institutions with the exception of the Agency for Bulgarians Abroad and the State Agency for Refugees. The latter reflects a paradox in the institutionalisation of migration policy – the fewer the migrants, the better institutionalised the respective policy. The number of refugees was very limited, as their number was much lower than the number of immigrants, but only the former enjoyed a specialised Governmental agency. The political discourse is concerned with the brain drain and the massive emigration of young Bulgarians, but appropriate policies are neither developed or applied.

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<sup>174</sup> 9% did not answer the question.

The second period stretches from the beginning of 2000 until 2007 and is characterised by institutionalisation. The institutionalisation is built on two main pillars: Ministry of the Interior - Directorate of Migration and Ministry of Labour and Social Policy – Directorate of Integration. Bulgarian citizenship is increasingly attractive, especially for citizens of Macedonia, Moldova and the Ukraine.

The third period begins in 2007 with the increasing political importance of migration policy. From no strategic document to two national strategies are formulated in a few years, for the periods 2008-2015 and 2011-2020. The strategies were conceived in a manner that is typical of several post-communist public policies. No explanation has been given as to why a working group mandated with the drafting of a new strategy has been created only two years after the adoption of the first national strategy for migration and integration, which leads to the hypothesis that the reasons for doing so are not of public interest. In this phase also a National Council for Migration Policy has been set up, while the Government (2009-2013) highly prioritised the country's entry into the Schengen area. The discrepancy between this top political priority and the unwillingness of some EU Member States to accept Bulgaria's application was one of the main frustrations in the foreign policy of Boyko Borisov's cabinet.

The transition from ministerial to top political level illustrates the increasing importance of migration policy. In the summer of 2012, a debate on the national policy on the Bulgarian Diaspora has been initiated by the vice president of the Republic Margarita Popova and chaired by the president Rossen Plevneliev. It was followed by an autumn meeting in Brussels, where the vice president and representatives of Bulgarian authorities met with members of the diaspora.

### *Policy characteristics*

Three characteristics of Bulgarian migration policy should be emphasised. The first characteristic is late entrance into Government priorities. Migration was only given the status of public policy, for which the state has a strategic vision, almost twenty years after the country's transition. The first Strategy for Immigration and Integration was only adopted in 2008. The second characteristic is rapid acceleration in carrying out the strategic vision development process. The work on the development of a new migration strategy began as early as 2010 and the strategy was then adopted in the beginning of 2011. The third characteristic is in redefining the main priorities in migration policy. While the 2008 strategy focuses mainly on economic

emigration and the integration of foreign citizens in Bulgaria, the stress in the new strategy is chiefly on security issues.

### *National Strategy for Immigration and Integration 2008-2015*

The 2008 Strategy for Immigration and Integration is the first complete document showing how the Bulgarian state sees the migration situation in the country, its vision for an optimum migration profile and the governance mechanisms for the transition from reality to the ideal situation. It is also the first document summarising reliable official data concerning both emigration and immigration.

The document defines two strategic aims:

- Attracting individuals with Bulgarian citizenship, who live on the territory of other countries, as well as individuals of Bulgarian origin with foreign citizenship, to permanently return to the Republic of Bulgaria.
- Adopting and carrying out adequate policy on the admission and integration of foreigners and effective control of migration flows.

The strategy defends the vision of optimum migration, which places the return of new emigrants and the attracting of foreign citizens of Bulgarian origin at its centre-stage. Immigration is defined as a part of a more general trend, where key points include the Bulgarian origin and the contacts with the country: 'Immigration, return and permanent settlement in Bulgaria with subgroups: 1) Bulgarian citizens; 2) Individuals applying for Bulgarian citizenship; 3) Individuals of Bulgarian origin – citizens of third countries; 4) Individuals of Bulgarian origin – citizens of third countries, graduates from Bulgarian universities' (National Strategy 2008: 2).

The argument for this approach is a cultural one. The representatives of the historical diaspora are considered to be linguistically and culturally the closest, hence their integration is taken as natural. According to the Strategy (2008: 19), the individuals of Bulgarian origin are 'integrated by origin and their integration presents no problem because of their knowledge of the Bulgarian language, customs, and culture'. This approach is positive, but seems more in the sphere of wishful thinking than being analytical. It unfolds in the primordial perspective and stems from the premise of strong identities of origin and individual migration projects, whose aim is to manifest these identities. With respect to the diaspora, this means that its members want to settle in Bulgaria in order to return to their land of origin and contribute to its development. However, theory shows, and practice proves it, that the chief motivation for migration is pragmatic;

that identities are not instrumentalised for achieving cultural but economic goals. Independent observers point to cases of citizens of third countries, such as Moldova, who receive Bulgarian passports without being proficient in the Bulgarian language and use them to move freely in the western countries of the EU. Some of them belong to the criminal contingent and damage the image of Bulgaria. It is also important to note that the hypothesis of easy integration is essentially not confirmed, because integration in Bulgarian society is non-existent. The cultural approach has another weakness because it evaluates integration into the labour market as an effective integration mechanism. For illustration, a Palestinian doctor or a Syrian businessman, who graduated in Bulgaria and married a local woman, has a good mastery of the Bulgarian language and successful professional realisation, could represent more convincing examples of integration.

As it was already shown, the Strategy primarily formulates optimal migration in ethnic and cultural terms. Economic considerations are only of secondary nature. The National Strategy (2008: 20) defines the second target group as 'citizens of third countries having qualifications corresponding to the need of sectors in Bulgarian economy where there is a shortage of labour'.

However, the Strategy puts more stress on foreign direct investments (FDI)<sup>175</sup> than on economic immigration. In terms of FDI, Cyprus, the USA, Germany, Austria, the UK and Italy represent the leading countries (Strategy 2008: 13). These amounted to 16.96 billion Euro in the 1996-2006 period. Foreign companies form over 95 per cent of the total value of FDI. They invest predominantly in medium and large enterprises. Foreign natural persons invest mainly in small and micro enterprises. Individual investors come chiefly from Turkey, Russia, Macedonia, Greece, China, Syria, and Armenia. In 2007, there was also a noticeable interest in investing in real estate by citizens of the United Kingdom (National Strategy 2008: 14). For most of individual investors, the primary aim of the investment is to live in Bulgaria, where they find more favourable conditions for business and life. The Strategy defines them as a type of economic migrants. These migrants illustrate the most typical profile of a migrant in this country, which will be discussed below.

The Strategy determines the hierarchy of economic migration and clearly defines the groups prioritised by the policy: labour force from other EU Member States, the European Economic Area (EEA) and

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<sup>175</sup> Any foreign participation that exceeds 10 % of the capital of a company is considered as a FDI.

Switzerland, foreigners of Bulgarian origin, students who have a Bulgarian degree, researchers and highly skilled specialists.

These three groups characterised by implicit considerations determine the following priorities: the European commitments made by Bulgaria, the ethnic and cultural logic of the strategy and the need for highly skilled labour force.

It is necessary to specify that this paper analyses the political vision about migration. It has to be added that it is far from being implemented on a Government level, especially as far as attracting highly skilled workers is concerned. And yet, the 2008 strategy envisages some instruments for optimising the link between the needs of the labour market and the migration policy, such as determining the annual branch quotas for accepting workers from third countries, and the participation of social partners in identifying the deficits of labour force with specific qualifications.

In conclusion, several characteristics of the Strategy for migration and integration can be summarised. The 2008 strategy presents a cautious first attempt at defining migration policy. It outlines the migration profile desired by the state for the very first time. It is definitely focused on cultural diversity and puts emphasis on language and cultural premises for integration, which are expected to be the highest among the members of the historical Bulgarian diaspora. Attracting them, as well as those of the new economic emigration, are the undisputed favourites of this strategic document. The strategy was written during the time of economic upheaval and shortage of labour force in certain sectors, which determines its second focus – economic immigration and the necessity to react to the deficit of certain types of qualifications (Krasteva et al. 2011).

#### *National Strategy for Migration, Asylum and Integration 2011-2020*

The new migration strategy defines three objectives:

- Preventing and combating illegal migration;
- More effective management of economic migration and integration;
- Migration and mobility as positive factors for development envisaged in economic and demographic plans.

Irregular migration, trafficking, border control and visa policy are the key words of the new strategy, which clearly illustrates the security-oriented shift of the Bulgarian migration policy. There are two reasons that explain the shift from integration to security. One relates to the European aspect – the emphasis on security issues and approaches is a

major trend in the EU migration policy. The other relates to the national aspect, linked to the Government in the period 2009 to 2013 and the two dominant figures, i.e. the Prime Minister Boyko Borisov, who used to be the chief secretary of the Ministry of the Interior, and the deputy Prime Minister Tzvetan Tzveytov, who also acted as the minister of the interior, have expertise and experience in security policies and prioritise them in all related fields.

#### **4 Politics: lack of anti-immigration politics, lack of immigrant political participation**

The politicisation of migration is still to occur in Bulgaria. Unlike numerous EU countries with strong anti-immigration parties and the crucial role of discourses on immigration in political campaigns, new migration countries, such as Bulgaria, do not face the same challenges. There are no extremist or right-wing parties exploiting migration themes. The extremist party with the symptomatic name ‘Attack’ mobilises anti-minority rhetoric against the Roma and Turks, but not against migrants. The paradox is that Attack’s activists actually support some migrant communities, i.e. the Kurdish one, because they share anti-Turkish attitudes.

In terms of politics, the political dimension of migration could be summarised in four trends and phenomena: (i) the emergence of the first party – *Drugata Bulgaria* (The Other Bulgaria) – aimed at representing Bulgarians abroad and ‘Bulgarians who feel abroad in Bulgaria’. This first attempt was not successful, because the party does not have any political influence; (ii) political initiatives of Bulgarians abroad. Some active members of the diaspora launched initiatives for a better political representation of emigrants, such as social councils for Bulgarians abroad or special constituencies for emigrants, so that they elect their deputies; (iii) emigration is the easiest and fastest way to enter the top political elite. Several ministers of finance, including the current one, are huppies without a day of political activity.<sup>176</sup> The most spectacular case was the former king Simeon who claimed his seat as the prime minister directly from emigration; and (iv) lack of favourable conditions for the political participation of immigrants. The Migrant Integration Policy Index (MIPEX) report (2011: 41) is very critical in this regard: ‘Non-EU residents are excluded from democratic life in Bulgaria, as in several other central European countries, such as Romania. They cannot vote or stand in any election, unlike in the 19 MIPEX countries. Structural immigration bodies are not part of

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<sup>176</sup> This Chapter was written at the end of 2012, editor’s note.

integration governance. Also, the State does not encourage new communities to organise themselves and represent their civic and political interests’.

## 5 Conclusion

Bulgarian migration policy has three major characteristics. The first characteristic is related to the late prioritisation of this policy. Immediately after the democratic changes in 1989, there was a widespread process of emigration as many Bulgarians chose to ‘vote with their feet’ instead of voting at ballot boxes. The new political freedom was primarily invoked as a freedom of mobility. At the same time, immigration to the country began. Despite these intensive migration processes, the first National Strategy for Migration and Integration was only adopted in 2008. The same late-coming focus on immigration is found in its institutionalisation: the Migration Directorate at the Ministry of the Interior was set up in 2004.

The second feature is the European logic of institutionalisation. It is exactly institutionalisation that can explain the apparent paradox that asylum seekers and refugees are incomparably fewer than economic migrants, but it is the first two that are the subject to the first institutional dealing with migration – the State Agency for the Refugees (SAR) which was set up as early as 1992. Its aim is to implement Bulgaria’s commitments as a party to the Geneva Convention. Despite the fact that economic migration is much more numerous, there is still no centralised institution similar to the SAR. The Migration Directorate at the Ministry of the Interior was set up 12 years after the SAR, i.e. in 2004, as part of the roadmap for Bulgaria’s EU accession. A National Council for Migration Policy has been set up for coordinating the activities of various ministries.

The third characteristic of migration policy-making can be found in the intensification of the political efforts for rethinking and redefining migration policy. In the initial 17-year period between 1990 and 2007, Bulgaria did not have a migration strategy. In the short period between 2008 and 2011, however, two strategies were adopted.

The fourth characteristic is the idea for satisfying labour demand through immigration. In public debates held a few years before the crisis, i.e. in the 2006-2008 period, immigration was defined as a response to the deficit of qualified workers. This discourse, which was relatively new for this country, was initiated by employers and had two functions. The first was the basic and decisive one – to find a reliable solution for the need of workers in construction and some industry



sectors. The second function has not been made explicit and employers were sometimes probably not even aware of it, but it has a disciplining effect over local labour force, which is clearly informed that it can be replaced, if it does not meet the requirements of the business.

Public discourse on immigration as a means of satisfying the lack of labour force has almost completely faded away at the times of economic crisis. Even in this situation, employers' organisations state that there are sectors where there is a shortage of qualified labour. Both employers and analysts expect this issue to become topical once again in the near future.

The Bulgarian migration phenomenon can be summarised by its three peculiarities: (i) Emigration still prevails over immigration, but the processes of European integration are likely to de-emphasise emigration and reinforce immigration in the mid-term perspective. (ii) Immigrants in Bulgaria are economically active and several are self-employed. In terms of economic activity, employment and education, they are close to the average of the Bulgarian population and in a better position with respect to certain indicators, such as age. (iii) Immigrants have undoubtedly increased the ethnic, linguistic and religious diversity of Bulgaria, while avoiding cultural clashes. Everyday racism does exist and a new and vociferous xenophobic party has emerged on the political scene, but its main target remains the traditional minorities, such as the Roma, and not the migrant communities.

The Bulgarian citizens, who enjoy the freedom of emigration, and better opportunities for employment and education, vote with their feet, look for self-realisation abroad and de-territorialise the country. The immigrants, who come on the grounds of love and family reunion, work and business, invest their energy, connect their life and professional projects with Bulgaria and thus re-territorialise the country.

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## **Malta: At the crossroads of irregular immigration**

*Ivan Sammut*

### **1 Introduction**

Malta has been a country of emigration for many decades. It was only after 2002 when the increasing inflow of migrants, which started in the early 1990s, that Malta began to realise that it was gradually becoming a country of immigration. Since joining the European Union (EU) in 2004, Malta has seen a significant increase in the number of undocumented migrants arriving by boat from Africa. Authorities are struggling to cope with this influx and observers are concerned that the country's heavily criticised detention centres are not adequately designed to house as many people. Criticism has also been levelled at the Government's policy regarding mandatory detention of asylum seekers. Malta has sought the so-called 'burden sharing' assistance from both the EU and the international community to improve its capacity to receive, house and process irregular migrants and asylum seekers.

Malta's political approach to immigration is generally quite protectionist and mostly based on the very same observation that led so many Maltese to emigrate in the past, i.e. that Malta is a small densely populated country with limited resources and therefore has no space for newcomers. Since the 1980s, emigration, which mainly targeted Australia, the UK, Canada and the USA and reached its peak during the first two decades after the end of the Second World War, has gradually slowed down and the recently observed trend actually indicates that the numbers have reversed. In fact, the overall population increased by around 50,000 over the past three decades (Thomson 2006: 2). Given the low number of Maltese residents, which amounted to 416,055 according to the latest census held in 2011, the high population density in an area of 316 square kilometres and the lack of natural resources, a slight increase in the size of the population, which would have gone unnoticed in other countries, could thus cause a very pronounced strain on Malta's resources.

Recent debates on immigration in Malta have been characterised by two separate yet intertwined issues: (i) Malta's entry into the EU and (ii) irregular immigration. Both issues have drawn on fears that the country, being a small and densely populated island, would not be able to adequately cope with the potential arrival of large numbers of immigrants from the EU and the South, i.e. North Africa. Malta's location in the Mediterranean between mainland Southern Europe and North Africa has added to these fears and to the prevailing

course of exclusion. Malta's sense of vulnerability with respect to the perceived negative aspects of globalisation, such as irregular migration flows, has been translated into the adoption of a protectionist stance vis-à-vis immigration, as indicated above. Malta hence succeeded in negotiating a seven-year moratorium on the free entry of EU workers prior to joining the EU due to widespread concerns that it would have to face high levels of immigration from Sicily if entry restrictions for EU citizens were dropped.

In the run-up to the EU enlargement, there were also concerns that joining the EU could mean that Malta would possibly be exposed to higher levels of irregular immigration from the South. Firstly, there was fear that Malta may become a target destination for undocumented migrants as it could serve as a stepping stone into the EU, which would mean that migrants landing in Malta would eventually move to Northern Europe. Migrants mainly came from Eastern African countries, such as Somalia, Eritrea and Sudan, and travelled to the EU through Libya. For example, in 2002, a total of 1,686 irregular immigrants arrived in Malta. Their number fell to 502 in 2003, only to rise to 1,388 in 2004.<sup>177</sup> The numbers of immigrants kept fluctuating along these lines throughout the decade until the present day. Secondly, there was also fear that the more affluent the island becomes, the more of a target would be considered in its own right. Finally, such a sudden influx of people was also believed to threaten the social balance thus creating unrest and causing an increase in crime. This is the context in which the Maltese immigration and asylum law and policy are being shaped.

## **2 Longstanding tradition of emigration**

Large-scale emigration has been a regular feature of life in Malta since the early nineteenth century when the first efforts to encourage and assist the Maltese to emigrate began under the colonial British rule for economic reasons. Most emigrants moved to North Africa and the Middle East. By 1900, for example, British consular estimates suggest that there were 15,326 Maltese in Tunisia, while it was claimed that 15,000 people of Maltese origin were living in Algeria in 1903 (Attard 1989). The rates of return migration to Malta were also high (Jones 1973).

During the two World Wars, the aforementioned outflow developed on a more permanent basis and the Government even established a

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<sup>177</sup> Police General Headquarters – Immigration Section of the NSO (National Statistics Office), June 2012.

Department of Emigration, which was only dismantled in January 1995.<sup>178</sup> The aim of this Department was to facilitate emigration for economic reasons mainly to other parts of the British Empire. After the Second World War, emigration reached its peak due to the economic downturn. Malta's biggest employer at the time, the Drydocks, which employed over 11,000 workers, began to downsize. Economic crises coupled with the post-war baby boom triggered a new phase of economic emigration. According to King (1979: 245), around 140,000 Maltese left Malta between 1946 and 1979 through the assisted passage scheme. 57.6 per cent of the total number went to Australia, 22 per cent to the UK, thirteen per cent to Canada and seven per cent to the USA. This means that 30 per cent of the population emigrated. Consequently, the population of Malta decreased (by 5,404) between 1957 and 1967 (Attard 1989, National Statistics Office 2012: xvii). During the 1970s, economic emigration started decreasing and the country began experiencing the first influx of returnees. Returns had always been part of general migration programmes and one in four former emigrants usually came back thus contributing to the total of around 39,000 returnees between 1946 and 1996.

In spite of extensive emigration, Malta was also attractive for some groups of immigrants due to historical reasons and its location. For example, at end of 2009, Malta hosted 18,100 foreign nationals, i.e. 4.4 per cent of its total population, well below the then EU average of 6.4 percent. Two per cent of these were EU citizens, predominantly active or retired British nationals and their dependents centred in Sliema and its surrounding modern suburbs, as well as Italians and other nationalities, while 2.4 per cent were from non-EU countries.<sup>179</sup> Many smaller foreign groups, including Italians, the French and Lebanese, assimilated into Maltese nation over the decades.<sup>180</sup> Emigration has been particularly low since the mid-1980s. With the EU accession in 2004, a number of people left Malta mainly to take up jobs with the EU institutions, particularly in Belgium and Luxembourg. However, this cannot be compared with the economic migration of the 1950s and 1960s. In fact, this outflow represents a small number of expatriates who only leave for a couple of years to get a different work

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<sup>178</sup> National Statistics Office – Malta, News release No. 126/2004, 5 July 2004, available at: [http://www.nso.gov.mt/statdoc/document\\_file.aspx?id=588](http://www.nso.gov.mt/statdoc/document_file.aspx?id=588) (consulted on 2 July 2014).

<sup>179</sup> Eurostat Press release 129/2010 - 7 September 2010, Population of foreign citizens in the EU27 in 2009, available at: [http://epp.eurostat.ec.europa.eu/cache/ITY\\_PUBLIC/3-07092010-AP/EN/3-07092010-AP-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/3-07092010-AP/EN/3-07092010-AP-EN.PDF) (consulted on 2 July 2014).

<sup>180</sup> Demographics of Malta, available at: [https://www.princeton.edu/~achaney/tmve/wiki100k/docs/Demographics\\_of\\_Malta.html](https://www.princeton.edu/~achaney/tmve/wiki100k/docs/Demographics_of_Malta.html) (consulted on 2 July 2014)

experience. Most eventually return to be replaced by a younger generation.

### 3 Rapid change to a transit country

In the 1990s, migration outflows started reversing and Malta became a transit country for migration routes from Africa towards Europe. According to the Ministry of Justice, Malta received between 50 and 60 migrants per year (not including EU citizens and returnees) before 2000, most of whom came from North Africa and were generally claiming asylum upon arrival (Baldacchino 2002). During the first Gulf War, i.e. in 1990 and 1991, a few hundreds of Iraqis arrived in Malta with the aim of eventually moving on to Northern Europe and North America. Most of them were resettled.

In the first decade of the twenty-first century, the number of immigrants arriving in Malta increased sharply. Most of them arrived by boats during the summer carrying irregular migrants from sub-Saharan Africa who travelled through Libya. In 2002, a record of 21 boat landings brought a total of 1,868 irregular immigrants, who had no personal documents or other means of identification. In 2005, 2006 and 2007, Malta witnessed about 1,800 immigrants arriving each year. After reaching a peak in 2008 when 2,775 people arrived in Malta, landings involved 1,475 people in 2009, 47 in 2010, 1,579 in 2011, 1,890 in 2012 and 2,008 in 2013. Most immigrants were then resettled elsewhere in Europe and North America.

**Table 1** *Number of boats carrying irregular immigrants arriving in Malta, 2002-2013*

Year	No. of boats arriving	No. of people on board	Average no. of people on board per boat
2002	21	1,868	80
2003	12	502	42
2004	52	1,388	27
2005	48	1,822	38
2006	57	1,780	31
2007	68	1,702	25
2008	84	2,775	33
2009	17	1,475	87
2010	2	47	24
2011	9	1,579	175
2012*	27	1,890	70
2013*	24	2,008	83

Source: Police General Headquarters – Immigration Section of the NSO (National Statistics Office), June 2012, \* UNCHR, Malta: 2013 Malta Asylum Trend, <http://www.unhcr.org/mt/statistics/722>.

Malta was caught unprepared and had to face with a considerable strain on its existing infrastructure. The majority, i.e. between 70 to 90 per cent or more, of undocumented migrants landing in Malta were asylum seekers in need of international protection. With respect to the size of asylum seekers' population, Malta became one of the main recipients of asylum applications in the EU.

**Table 2** *Asylum applications lodged at the Office of the Refugee Commissioner, 2002-2013*

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Number of applications	350	455	955	1,615	1,261	1,386	2,608	2,387	176	1,891	2,080	2,245

*Source:* Police General Headquarters – Immigration Section of the NSO (National Statistics Office), June 2012, \*Eurostat (online data codes: migr\_asyappctza and migr\_asyunaa)

They had to be dealt with by the Office of the Refugee Commissioner (REFCOM) which had become operational merely a few months before their first arrival. When the REFCOM was set up, no one had envisaged such an extensive caseload on the basis of previous experience. Therefore, coping with the arrival of such large numbers of asylum seekers in a relatively short period of time was not an easy task. Moreover, Malta found itself in a particularly disadvantaged position due to the implementation of the so-called Dublin System in the EU context, according to which the Member State usually responsible for handling an asylum claim is the state through which the asylum seeker concerned first entered the EU. Hence, it is not surprising that immigration and asylum issues became hot topics in Malta.

#### **4 Migration and asylum policy**

In November 2001, Malta experienced the first substantial arrival of irregular immigrants when a boat carrying 57 people landed on its shores. Since then, the influx of immigrants has been steadily ongoing. This constitutes a new phenomenon for a small island country situated in the middle of the Mediterranean Sea, as it suddenly became a destination for migrants seeking a better life in Europe. Consequently, the country, which has historically been characterised by emigration rather than immigration, experienced this situation as a problem. This Section presents an analysis of immigration law and policy and its development since 2001 by focussing on issues, which have been subject to intense debates during the formulation of such law and policy in Malta.



#### 4.1 Migrants arriving by sea and detention policy

In the period following an increase of what is popularly referred to as ‘boat people’, i.e. immigrants arriving under difficult conditions, often travelling in un-seaworthy vessels in order to reach Maltese shores, the issue of irregular immigration, or ‘illegal immigration’ as some commentators prefer to call it, became highly politicised and was often presented as a key issue to be dealt with. For example, in a public speech made by Deputy Prime Minister Tonio Borg in 2006 entitled ‘How Malta is dealing with immigration issues’, he stated that ‘[f]or Malta it is, I dare say, probably the most important social and cultural challenge it has faced for a very long time’.<sup>181</sup>

Since Malta has historically been a country of emigration rather than immigration, the sudden rise in irregular immigration has caught the state off guard when dealing with the situation. The immigration issue has thus become centre stage in the public discourse where the state portrays itself as being small, vulnerable and economically underdeveloped, and thus unable to deal with the consequences of the recent irregular population movement into its territory. The most developed state policy document so far, which was published in 2005 by the Ministry of Justice and Home Affairs, states that:

‘Owing to its strategic position, exposed coastline and size, Malta is definitely much more vulnerable than other European countries when it comes to irregular migratory flows. Moreover, the Maltese islands are characterised by a high population density of 1200 person/km squared and a built-up area of 23 per cent.<sup>182</sup> These characteristics not only reflect the country’s physical restrictions but result in a range of social, cultural and environmental challenges’ (Government of Malta 2005: 6).

The discourse of Malta’s vulnerability and inability to manage the situation at hand, which is typical of the way the Government portrays the situation, contributed to the fact that the issue of irregular migratory flows became a priority issue in a document entitled *Irregular Immigrants, Refugees and Integration*:

‘Malta considers the fight against irregular migration as a priority issue, not only because such migration patterns undermine national stability and pose challenges to the labour market but also because it considers itself legally and morally obliged to combat human trafficking.’ (Government of Malta 2005: 7)

<sup>181</sup> Speech by the Deputy Prime Minister at the European Union Journalists Seminar, 14 December 2006, available at: [http://www.mjha.gov.mt/news/-press\\_releases\\_/pdf2006/12december/pr\\_euseminar\\_14122006.pdf](http://www.mjha.gov.mt/news/-press_releases_/pdf2006/12december/pr_euseminar_14122006.pdf), (consulted on 15 December 2012).

<sup>182</sup> In 2013, population density reached 1,346 persons per km<sup>2</sup> (NSO 2014: vii), while in 2012, the built-up area represented 33 per cent of the total area (Malta Today: ‘Malta has highest proportion of built-up area in all EU’, 25 October 2013, available at: <http://www.maltatoday.com.mt/lifestyle/environment/30964/malta-has-highest-proportion-of-built-up-area-in-all-eu-20131025#.VI3zmm9IYS0> (consulted on 5 July 2014).

In this context, the issue of irregular immigration is not only seen as an unmanageable logistical issue, but also as an issue that needs to be dealt with in the realm of public order and national security. The above quote exemplifies a broader discourse regarding exclusion and securitisation in Malta, where the ‘challenge’ of immigration is always depicted as pre-existing grounds for a subsequent policy response of the state. The problem arises first, while the policy is an instrumental reaction to it. Although the State of Malta may perceive itself as currently unable to manage immigration, its objective is to stop the inflow of people and its policy is motivated by the concepts of security and restriction. As a result of such a perception, detention is the key policy that was developed to manage the issue of the ‘boat people’.

### *‘Prohibited immigrants’*

Malta’s immigration law was first enacted in 1970 through the Malta Immigration Act, the provisions of which are now included in Chapter 217 of the Laws of Malta.<sup>183</sup> This Chapter has been amended several times and the latest amendment was introduced in 2009. Most of the recent amendments to Chapter 217 (in particular those set forth by Acts IV and IX of 2000 and Act XXIII of 2002) were introduced to align Malta’s immigration law with the EU law.

The Immigration Act provides criteria for legal entry and residence in Malta, as well as for the administrative detention and removal of ‘prohibited immigrants’. Part IV of the Act defines ‘prohibited immigrants’ as, *inter alia*, any person who does not have the right to enter or reside in Malta; has been refused entry to the country; is unable to support himself or herself as well as his or her dependants; suffers from a mental disorder; is convicted of crime punishable with a minimum of one year imprisonment; is a prostitute; or is a dependent of a prohibited immigrant. Article 10 of the Immigration Act provides that people who are detained after being refused entry into Malta are considered not to have formally entered the country. Article 10 states: ‘Where leave to land is refused to any person arriving in Malta on an aircraft, such person may be placed temporarily on land and detained in some place approved by the Minister ... until the departure of such aircraft is imminent. Where leave to land is refused to any person arriving in Malta by any other means, such person at his own request [may] be placed temporarily on shore and detained in some place approved by the Minister.’<sup>184</sup> Persons detained

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<sup>183</sup> Available at:

<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8722&l=1>.

<sup>184</sup> See Art. 10(1) and (2) of the Immigration Act.

under this act ‘shall be deemed to be in legal custody and not to have landed’.<sup>185</sup> ‘For the purposes of the Immigration Act’, approved places of detention are listed in a subsidiary piece of legislation entitled ‘Places of Detention Designation Order’ from 1995 and its subsequent amendments.<sup>186</sup>

Non-citizens considered to be present in the country unlawfully are obliged to leave Malta immediately and voluntarily.<sup>187</sup> The Principal Immigration Officer and the Immigration Appeals Board may issue a ‘removal order’ to any person considered a ‘prohibited immigrant’; such persons may be detained in custody until removed to their country of origin or to any other state that permits their entry, including states that have concluded readmission agreements with Malta.<sup>188</sup> Air and sea carriers transporting passengers who are not in possession of appropriate entry documents may be fined and are required to convey undocumented migrants to another destination stipulated by the law.<sup>189</sup> Carriers must confine anyone who is refused entry to Malta on board their vessel.<sup>190</sup> The Minister of Justice and Home Affairs may issue a deportation order to ‘any person’<sup>191</sup> under conditions deemed ‘proper’ by the Minister. Such persons are required to leave Malta and ‘may be detained in a manner approved by the Minister until they leave Malta’.<sup>192</sup> Any person who was issued a removal or deportation order may be required to pay for any expenses incurred ‘in relation to the maintenance, medical treatment or expulsion of a prohibited immigrant or his or her dependants’.<sup>193</sup>

Appeals against removal and deportation orders may be made to the Immigration Appeals Board in line with Article 25A. Release may be granted if the length of detention is considered unreasonable and deportation is considered unlikely.<sup>194</sup>

The UN Working Group on Arbitrary Detention (WGAD) raised concerns with respect to the fact that the Appeals Board only rules on the ‘reasonableness’ of the duration of detention and not on its ‘legality’. The WGAD also questioned its effectiveness as it ‘meets once a week for half a day and has to take all immigration related

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<sup>185</sup> Art. 10(3) of the Immigration Act.

<sup>186</sup> Available at:

[http://www.globaldetentionproject.org/fileadmin/DIVERSE/Places\\_of\\_Detention.pdf](http://www.globaldetentionproject.org/fileadmin/DIVERSE/Places_of_Detention.pdf).

<sup>187</sup> See Art. 14(3) of the Immigration Act.

<sup>188</sup> See Art. 14(1), (2), (3) and (4) of the Immigration Act.

<sup>189</sup> See Art. 15 of the Immigration Act.

<sup>190</sup> See Art. 21 of the Immigration Act.

<sup>191</sup> See Art. 22(1), (2), (3), (4), (5) and (6) of the Immigration Act.

<sup>192</sup> See Art. 10 of the Immigration Act.

<sup>193</sup> See Art. 14(6) and (7) of the Immigration Act

<sup>194</sup> Art. 25A(8), (9) and (10) of the Immigration Act.

decisions, not just those concerning detention'.<sup>195</sup> The UN body further claimed that Malta's administrative detention regime is not in line with international human rights law, as immigrants are subject to mandatory detention 'without genuine recourse to a court of law'.<sup>196</sup> The European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) and Médecins Sans Frontière (MSF) have separately reported that the maximum length of detention in Malta is 18 months.<sup>197</sup> However, in 2009, the WGAD reported that the Maltese law does not specify any maximum length of administrative detention. Rather, the length of administrative detention is only based on Government practice, which 'sets a maximum period of one year of detention for asylum seekers whose application is still pending. Rejected asylum seekers and all immigrants in an irregular situation are generally released only after 18 months of detention if return to their home countries or to third countries has not been carried out. Again, this maximum period is not stipulated by the law and the Working Group has been informed that it is at times exceeded in contravention of official Government policy'.<sup>198</sup>

#### 4.2 The Refugees Act

The majority of migrants who entered Malta during the last decade came to the country in search of asylum. Until 2000, asylum seekers who found themselves in Malta had no proper formal procedure to undertake in order to determine their status. Asylum seekers used to fill in an application to acquire refugee status and be interviewed. Information gathered during the interview would then be sent to the United Nations High Commissioner for Refugees (UNHCR) Branch Office in Rome for consideration and final resolution of the application. However, following the increase in the number of migrants arriving in Malta, the aforementioned procedure proved to be inadequate, which led to discussions regarding the need to establish proper legal infrastructure at the local level. Local regulations were necessary in order to enable appropriate local bodies to handle such cases and establish a standard procedure to be followed by anyone wishing to

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<sup>195</sup> UN Working Group on Arbitrary Detention (WGAD). 2009 Annex. "Annex to the press release on the visit of the United Nations Working Group on Arbitrary Detention to Malta." United Nations Press Release. 26 January 2009.

<sup>196</sup> Ibid.

<sup>197</sup> Report by the LIBE Committee delegation on its visit to the administrative detention centres in Malta, Brussels, 30 March 2006, [http://jrsmalta.jesuit.org.mt/wp-content/uploads/downloads/2011/08/1-LIBE\\_Malta\\_Report\\_2006.pdf](http://jrsmalta.jesuit.org.mt/wp-content/uploads/downloads/2011/08/1-LIBE_Malta_Report_2006.pdf), [Médecins Sans Frontières/Doctors Without Borders \(MSF\)](http://www.msf.org.uk/activityreports.aspx), <http://www.msf.org.uk/activityreports.aspx> (consulted on 7 July 2014).

<sup>198</sup> Refer also to Section 5, Migrants and Human Rights.

apply for refugee status. Therefore all applications would be examined and determined by the same authority. If accepted, the applicant would be granted one of the two forms of protection, i.e. a refugee status or humanitarian protection (Camilleri 2000). The Office of the Refugee Commissioner started operating in June 2001, but during the first six months, the power of taking the final decision still resided in Rome. It was only in January 2002 that cases started being processed independently of any foreign body.

The Refugees Act of 2000, which is now part of Chapter 420 of the Laws of Malta, was approved by the Parliament on 25 July 2000 and entered into force in October 2001.<sup>199</sup> The Act provides the legal framework for the implementation of asylum policy. It also governs the setting up of an authority responsible for hearing and determining applications for refugee status. In addition, it establishes domestic procedures for such determination. Procedural rules for asylum application were drafted by the administration in Legal Notice 253 of 2001.<sup>200</sup> This procedure is open to all migrants who are in Malta legally or 'illegally'. Those arriving 'illegally' are referred to the Refugee Commissioner and, as explained earlier, held in detention.

According to the 2001 Legal Notice, an immigration officer should interview a person seeking asylum as soon as practicable. The officer should ask whether the person desires to apply for refugee status. If the person answers affirmatively, the officer should hand the asylum seeker a declaration form to fill in. The prescribed declaration form should, where possible, be compiled in a language understandable to the applicant. This subsidiary piece of legislation states which obligations immigration officers have to fulfil when interacting with asylum seekers, since they usually represent the first person whom immigrants arriving in Malta establish contact with. Immigration officers shall inform the applicant: (a) that all information provided by him shall remain confidential; (b) that he is entitled to the assistance of a lawyer throughout the asylum procedures; (c) that he is entitled to contact the High Commissioner; (d) that he is entitled to present his case fully and to make any submissions to the Commissioner; (e) of his obligation to fully co-operate with the authorities, in particular with the Commissioner, and to furnish any information relevant to his application; and (f) that a refusal on his part, without valid reasons, to furnish any information requested by the Commissioner or to co-

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<sup>199</sup> Available at:

[http://www.globaldetentionproject.org/fileadmin/DIVERSE/Malta\\_Refugees\\_Act.pdf](http://www.globaldetentionproject.org/fileadmin/DIVERSE/Malta_Refugees_Act.pdf).

<sup>200</sup> Asylum Procedures (Application for a Declaration) Regulations, available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10658&l=1>.

operate fully with the authorities may lead to the suspension or termination of the asylum procedures with regards to both his application and, where applicable, to that of any dependent member of his family.<sup>201</sup>

In line with amendments to the Refugees Act introduced in 2004,<sup>202</sup> an application for refugee status shall be valid if it is lodged within two months of the applicant's arrival in Malta. However, the amendment provides that the Refugee Commissioner can waive this restriction for special and exceptional circumstances, for example when one's lawfully acquired visa expires and the person wishes to apply for asylum at that point.<sup>203</sup>

An interview with the Refugee Commissioner is the next step foreseen by the procedure. The function and authority of the Refugee Commissioner are stated in Art. 4(3) of the Refugees Act: 'The Commissioner shall perform such functions as are conferred on him by this Act, and without prejudice to the generality of the above, shall examine applications for refugee status and shall have the power to administer oath to any person.'

The interview should be held within a week from the date the application was lodged. The interview is to be conducted in private. If the applicant does not understand the language in which the interview is held, he or she has the right to be assisted by an interpreter. Information gathered during the interview shall remain strictly confidential, as this is an inalienable right of the asylum seeker, which should not be violated. In this context, the right to confidentiality serves as a form of protection safeguarding asylum seekers from potential threats emanating from their country of origin that acts as the persecuting agent or where persecution takes place. It is exercised in parallel with the right to non-refoulement. As a measure of control, the Refugee Commissioner has the right of audience during any interview of such persons.

The Commissioner then examines the case, reaches a decision and makes a recommendation to the Minister responsible for immigration.<sup>204</sup> In order to bring the procedure to an appropriate conclusion, the Commissioner should make sure that the applicant has

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<sup>201</sup> Art 3 of the Asylum Procedures (Application for a Declaration) Regulations, Legal Notice 253 of 2001.

<sup>202</sup> Act VIII of 2004, Art. 8(2A), see also Procedural Standards in Examining Applications for Refugee Status Regulations, Legal Notice 243 of 2005, available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10663&l=1>.

<sup>203</sup> Refer also to Art. 4 (4) of Procedural Standards in Examining Applications for Refugee Status Regulations, Legal Notice 243 of 2005.

<sup>204</sup> See Art. 8(5) of the Refugees Act.

presented his or her case fully and supported it with proper testimonies, including documents, affidavits or evidence brought from abroad. The final recommendation may be one of the following: the asylum seeker should be granted refugee status; the asylum seeker should be granted humanitarian protection; or the asylum seeker's application is rejected.<sup>205</sup> It is of fundamental importance that the decision of the Commissioner be drafted in writing and include appropriate reasons supporting it. Such decisions do not have the same effect as judgments issued in the scope of regular court proceedings where decisions delivered are well sustained by arguments that have lead the court to reach such a decision. Instead, decisions taken by the Refugee Commissioner are more of a communication note explaining the gist of the reasoning to the applicant (CFR-CDF 2003: 35-36).

At this stage, there are a number of paths that may be followed on the basis of decisions taken. The Commissioner may have given a positive decision, which is also endorsed by the Minister. In this case, the procedure would be completed and the case would be deemed closed. However, the Minister may not agree with the decision and has the right to appeal against it in accordance with Art. 7 of the Act. In this case, the Commissioner would recommend that the asylum seeker be given humanitarian protection that cannot be appealed against by the Minister. If the Commissioner had rejected the application, the asylum seeker would have the right to appeal to the Refugee Appeals Board within two weeks from receiving the notification. In this context, the applicant also has the right to free legal aid. If both the Commissioner and the Minister are in agreement, the applicant should be awarded refugee status. Art. 11 of the Act, which deals with the rights of refugees, stipulates that a person declared to be a refugee shall, *inter alia*, have the right to be granted personal documents, including a residence permit.

Part II, Title II of the Refugees Act also refers to the Refugee Appeals Board. It establishes its constitution, appointment and removal of its members. Article 7 sets the procedure to be followed by the appellant who might be either an applicant or the Minister. If an appeal is lodged by the Minister, any person who is detained should be freed until the day of appeal. In any case, the appeal shall be made within two weeks from the date on which the applicant was notified of the recommendation made by the Commissioner. With respect to the service of the appeal documentation, an appeal notice should be served both on the Minister and on the Commissioner if the appeal was

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<sup>205</sup> See Art. 8(6), (7) and (8) of the Refugees Act.

initiated by the applicant and on both the applicant and the Commissioner if the appeal was lodged by the Minister. The Act thus unequivocally grants two procedural rights to the applicant, which are in line with one's fundamental right to a fair trial, including a) the attendance of an interpreter to assist the applicant during hearings and b) the right to free legal aid under the same conditions as those granted to Maltese nationals.<sup>206</sup>

Whilst the right to legal assistance may be invoked throughout the whole procedure, it is actually reinforced at the appellate stage as legal aid is granted freely, where necessary. The sittings of the Board are held *in camera* provided that all parties agree to such an arrangement. Nevertheless, the High Commissioner has the right to be present at the sittings of the Board. At this stage, evidence that has already been presented cannot be re-examined. However, if new evidence becomes available, the Board will consider it.<sup>207</sup> Decisions taken by the Board are final and conclusive, and may not be challenged, which means that there is no possibility of appeal to any court after this phase, except on the grounds of violation of human rights, in which case an appeal may be brought to a civil court having constitutional jurisdiction.

Finally, the Refugees Act also makes special reference to cases of children or youth below the age of eighteen who are in need of care. It stipulates that they shall be allowed to apply for asylum and shall be assisted by the civil law regulating minors in Malta.<sup>208</sup> In practice, unaccompanied minors cannot actually be interviewed by the Refugee Commissioner. Minors are therefore referred to *Appoġġ*, a Maltese Government agency responsible for taking care of minors' needs, and a legal guardian is appointed to represent the child. Only then, an interview may be held with the minor who is accompanied by the appointed legal guardian.

In conclusion, the provisions of the Refugees Act are in line with the requirements of the 1951 Refugee Convention and with the general principles adopted by other states. However, the Act itself is quite basic and one could argue that it only addresses the bare minimum of refugees' rights. Nevertheless, refugee protection does not emanate only from this particular piece of legislation. Firstly, the recognition of each individual's fundamental rights is a customary international norm

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<sup>206</sup> See Art. 7(4) and (5) of the Refugees Act.

<sup>207</sup> See Art. 5(1) of the Refugees Appeals Board (Procedures) Regulations, Legal Notice 252 of 2001, available at: <http://www.asylumineurope.org/reports/country/malta/overview-legal-framework#sthash.VByBfdhF.dpuf>.

<sup>208</sup> See Art. 12 of the Refugees Act.



and any state is indirectly presumed to abide by this rule. Malta is also a signatory to the Universal Declaration on Human Rights (UDHR), which means, that it has, in principle, an obligation to guarantee that everyone has the right to seek and enjoy in other countries asylum free from persecution<sup>209</sup> together with other specific rights concerning asylum seekers, such as the provisions of Article 10 stipulating that everyone has the right to a fair and public hearing. Moreover, both the Constitution of Malta and the European Convention of Human Rights (ECHR), adopted into Maltese law by means of the European Convention Act of 1987,<sup>210</sup> provide guarantees to asylum seekers in a rather more direct manner. For example, Article 3 of the ECHR prohibits the subjection of any person to torture or to inhuman or degrading treatment or punishment. This can be also be applied in the context of asylum seekers' treatment, thus controlling their detention system as well as prohibiting their refoulement if there is a risk that they could be subjected to torture or inhuman treatment once they returned to their country. Apart from rights stemming from the written law system, it seems that asylum seekers' right to a fair trial is also safeguarded by the principles of natural justice applied through the administrative law regime. Furthermore, NGOs also serve as a tool for assisting particular groups of society. With regards to asylum seekers in Malta, the Jesuit Refugee Service (JRS) is one of the NGOs that is heavily concerned with the issue and is effectively helping asylum seekers.

#### 4.3 Asylum applicants and recognition rate

According to Gatt (2012: 104), Malta has to shoulder the largest asylum responsibility among all EU Member States when considering its capacities, regardless of the indicator or formula applied to measure such capacities. In fact, over the past years Malta received a disproportionately large number of asylum seekers, who are mostly eligible for international protection, which resulted in Malta having one of the highest asylum recognition rates among EU Member States. At the same time, its reception and absorption capacities are limited due to structural limitations, specifically its geographic and demographic characteristics. This leads to a particular situation of pressure and a disproportionate degree of asylum responsibility.

While the number of asylum applications lodged in Malta appears relatively low when compared to absolute numbers of applications in some other EU Member States, the UNHCR statistics show that in 2008

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<sup>209</sup> See Art. 14(1) of the UDHR.

<sup>210</sup> Chapter 319 of the Laws of Malta.

Malta received the largest number of asylum applications per capita, i.e. 6.4 applications per 1,000 inhabitants, among all industrialised countries. When compared to other EU Member States, Malta received the largest number of asylum applications in proportion with country size, which is calculated by weighing the population, land area and gross domestic product. This demonstrates that Malta received the largest proportion of asylum applications in the EU by far, since this amounted to almost 60 times the EU average (Gatt 2012: 104). Similarly, Eurostat reports that Malta received 5.8 applications per 1,000 inhabitants in 2009, which is the second highest proportion among all industrialised countries only to be surpassed by Liechtenstein, and well over the average of 0.5 applications lodged in the EU as a whole per 1,000 EU inhabitants. Over the 2005-2011 period, Malta received the second largest number of applications per capita with 21.6 applications per 1,000 inhabitants and was only overtaken by Cyprus, which received 30.1 applications per 1,000 inhabitants. Malta was followed at a distance by Sweden with 13.7 applications per 1,000 inhabitants.<sup>211</sup>

In 2013, the EU28 saw 860 asylum applicants per one million inhabitants. Compared with the population of each Member State, the highest rates of registered applicants were recorded in Sweden (5,700 applicants per one million inhabitants), Malta (5,300), Austria (2,100), Luxembourg (2,000), Hungary and Belgium (both 1,900).<sup>212</sup>

Most irregular immigrants apply for international protection within a few days of their arrival in Malta. In 2008, 98 per cent of irregular immigrants lodged an asylum application, while 90 per cent applied in 2009. This means that almost all irregular migrants become asylum seekers and, conversely, that almost all asylum seekers enter Malta irregularly. As stated by Gatt (2012: 104), irregular immigration and asylum are thus inextricably linked in Malta's scenario.

As shown in Table 5, Malta also records a high recognition rate, as the proportion of positive decisions has been at around 50 per cent since 2002 and increased to around 65 per cent in 2009, which is considerably higher than in other EU Member States. In 2012, positive decisions reached almost 90 per cent and decreased to the still high 82 per cent in 2013. Out of all applicants recognised as eligible for

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<sup>211</sup> Eurostat, 'Asylum in the EU in 2008', News release 66/2009, 8 May 2009; Eurostat, 'Asylum Decision in the EU 27', News release 89/2010, 18 June 2010.

<sup>212</sup> Eurostat, Asylum in the EU28 Large increase to almost 435 000 asylum applicants registered in the EU28 in 2013 Largest group from Syria, News release 89/2010, 46/2014 - 24 March 2014. <http://ec.europa.eu/eurostat/documents/2995521/5181422/3-24032014-AP-EN.PDF/36a73587-7914-4a51-94a4-8c558a086fba?version=1.0>.

international protection, a few were awarded refugee status while the rest were granted subsidiary protection and protection due to humanitarian reasons.

**Table 5** *Asylum decisions taken by the Office of the Refugee Commissioner, 2002-2013*

Year	Total	Granted refugee status	Subsidiary or other forms of protection*	Rejections
2002	419	22	111	286
2003	568	53	328	187
2004	868	49	560	259
2005	1,102	36	510	556
2006	1,045	22	481	542
2007	959	7	623	329
2008	2,697	19	1,397	1,281
2009	2,575	20	1,671	884
2010	348	43	179	126
2011	1,606	70	814	722
2012*	1,590	35	1,395	155
2013*	1,950	45	1,560	300

\* Before 2006, asylum decisions resulted in ‘temporary humanitarian status’ instead of in ‘subsidiary protection status’.

Source: Police General Headquarters – Immigration Section of the NSO (National Statistics Office), June 2012, \* Eurostat, First instance decisions on applications by type of decision - annual aggregated data,

<http://ec.europa.eu/eurostat/tgm/refreshTableAction.do?tab=table&plugin=1&pcode=tps00192&language=en>

As shown in Table 6, most irregular migrants come from the troubled Horn of Africa. In 2011, most asylum applications were submitted by nationals of Somalia, Nigeria, Eritrea and Syria. In 2012, Somalian nationals alone lodged more than half of all requests. In 2013, as reported by Eurostat, the main nationalities of all 2,245 applicants included Somalians – 1,015 (45 per cent), Eritreans – 475 (21 per cent) and Syrians – 250 (11 per cent).<sup>213</sup>

Once applicants are recognised as eligible for international protection, Malta remains responsible for providing that protection and affording the rights associated with it, while the main objective is that of integration. However, persons granted refugee status, subsidiary or other form of protection encounter considerable difficulties due to the

<sup>213</sup> Eurostat, Asylum in the EU28 Large increase to almost 435 000 asylum applicants registered in the EU28 in 2013 Largest group from Syria, News release 89/2010 and 46/2014, 24 March 2014. <http://ec.europa.eu/eurostat/documents/2995521/5181422/3-24032014-AP-EN.PDF/36a73587-7914-4a51-94a4-8c558a086fba?version=1.0>.

country's limited absorption capacity. A relatively small labour market means that finding employment is difficult, which consequently makes integration even more strenuous. In addition, the vast majority, if not all, persons under international protection never considered Malta to be their intended destination, as they only arrived in Malta after being rescued at sea and disembarked on the island. In fact, they would prefer to leave Malta altogether, which this often results in a certain reluctance with respect to their integration into Maltese society.

**Table 6** *Boats arriving in Malta with irregular immigrants by nationality, 2011*

Nationality	Number
Total	1,597
Africa	1,518
Burkina Faso	11
Cameroon	14
Chad	15
Egypt	10
Eritrea	280
Ethiopia	103
Gambia	8
Ghana	114
Libya	5
Mali	86
Niger	16
Nigeria	239
Senegal	5
Sierra Leone	4
Somalia	455
Sudan	54
Togo	5
Other African countries	4
Asia	61
Bangladesh	31
Pakistan	29
Other Asian countries	1

Source: Police General Headquarters – Immigration Section of the NSO (National Statistics Office), June 2012

#### 4.4 Immigrants and the Maltese labour market

In general, Malta has a rigid protectionist approach to labour immigration aimed at safeguarding the national labour force from external competition. As indicated above, the Immigration Act, which was amended mainly due to Malta's alignment with the EU law, now

regulates all matters related to entry, visa regime and border control, as well as temporary and permanent residence permits, and permissions for foreigners to work in Malta. There is a Work Permit Scheme that grants labour migrants' permission to reside and work in the country for a definite period of time. The scheme is part of an immigration control strategy and its objective is to allow for the employment of foreigners on one hand, while protecting the long-term interests of the resident work force on the other.

Employment licences are issued by the Department of Citizenship and Expatriate Affairs for a determined period of time, i.e. usually for one year, and for a specific purpose. In order to obtain a licence, which has to be applied for by the employer, it is normally necessary to prove that efforts to hire a Maltese citizen or a citizen of another EU Member State for the same job were fruitless.

The participation of irregular migrants in the Maltese labour market has been one of the topical issues in an ongoing debate about the implications of the influx of irregular migrants to Malta. Work is such a central activity in any society that the inaccessibility of the labour market whether by default or design is considered as an obstacle to individuals' integration in society. The repertoire of skills and competences that irregular migrants bring to the table seems to be commensurate with the demands of the Maltese economic sector. Even though the obstacles, which immigrants claim to be facing in their attempts to integrate in the Maltese labour market, may result from the cultural artifact of Maltese society, they might have also been induced by the constraints of the economy of a small sovereign island coping with changes dictated by the imperatives of the global economy. These changes have been marked by a new phase of development in industrialisation of Malta and brought about a shift in its occupational structure (Rizzo 2012: 142).

A review of the Maltese labour market raises a number of issues, which may impede the employment of migrants. One of these issues raised by employers refers to the rigidities in the labour market (Rizzo 2012: 161). Employers claim that a less regulated market would enable them to raise the demand for labour and implement the principles of flexibility. Another factor militating against persons trying to enter the labour market is the lack of temporary work agencies in Malta, which could help to usher job seekers into the labour market and provide them with the first work experience. Naturally, one may question the validity of these arguments; however, one cannot ignore the fact that the Maltese labour market is very heavily regulated. In addition, one can easily question the quality of jobs created by an unregulated market.

Hence, asylum seekers often end up either without a job or in an unstable, poorly paid job.

Timeliness is a crucial factor for the integration of immigrants in the Maltese labour market. The influx of irregular immigrants to Malta occurred at a time when the Maltese economy was going through a restructuring phase, which resulted in a changed composition of its labour force and its occupational structure. Malta has now moved from low skilled labour intensive industries, such as textiles, to the services industry and highly skilled up-market manufacturing sector. This up-market trend tends to provide better opportunities for an educated work force with post-secondary and tertiary education. Most immigrants do not fit into this category, which is why it is very difficult, if not impossible, for them to find jobs. As a result, immigrants find it even more difficult to integrate into Maltese society.

## 5 Migrants and human rights

Malta's human rights record is generally positive and comparable with the best western countries. However, Malta's reputation took a dip in 2002 when it recorded a substantial influx of irregular immigrants. As a result of its detention policy, Malta constructed makeshift detention centres under the auspices of the Armed Forces of Malta (AFM). These catered for basic humanitarian needs. However, the unexpected increase in the arrival of immigrants worsened the situation. Consequently, Malta's detention policy became the target of tough criticism expressed by various NGOs. Much of the criticism was directed to Malta's detention policy due to the lack of infrastructure, and overcrowding, and to its deportation policy. In 2002, Amnesty International has already called on the Maltese Government to suspend deportations of Eritreans back to Eritrea until a thorough, independent investigation was conducted with respect to their fate and until it was determined whether Eritreans could be forcibly returned in safety and in dignity, with full respect of their human rights. At the time, Amnesty International stated: 'The Maltese Government should ensure that all returns of Eritreans take place in conditions of safety and dignity and that those deported will not be subjected to human rights violations on return.'<sup>214</sup> Human Rights Watch's (2012) research found that Malta routinely detained unaccompanied migrant children pending their age assessment and recommended that Malta revised its laws and policies

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<sup>214</sup>Amnesty International, 'The government should suspend deportations of Eritreans', Press Release, Ref EUR 33/001/2002, London: Amnesty International 2002. <http://www.amnesty.org/en/library/asset/EUR33/001/2002/en/37f3a8f8-d79f-11dd-b024-21932cd2170d/eur330012002en.html> (consulted on 9 July 2014).

pertaining to immigration detention, so that migrants would not be detained simply because they have entered without permission, and allow for detention of asylum seekers only exceptionally.<sup>215</sup>

In February 2013, the UN Committee on the Rights of the Child condemned Malta's policy of mandatory immigration detention resulting in detention of children pending their age determination and urged Malta to completely cease the detention of children in irregular migration situations, including children detained pending their age determination procedures.<sup>216</sup> Malta's migration detention was also the subject of adverse rulings by the European Court of Human Rights, including those pronounced in July 2010 in *Louled Massoud v. Malta*, and in July 2013 in *Suso Musa v. Malta* and *Aden Ahmed v. Malta*. The latter judgment of the Court also recommends general measures for improving detention conditions (and limiting the duration of immigration detention).<sup>217</sup>

While the State acknowledges that the situation could be improved, one has to keep the following two issues in mind: (i) the unexpectedness of the influx which completely reversed the trend from emigration into immigration and (ii) high population density coupled with the lack of resources needed to face such a high and unexpected influx. Even though Malta has taken steps to improve the situation, one has to realise that it cannot assume the entire burden on its own due to numerous reasons referred to throughout the paper. Hence, the human rights situation for migrants could improve mainly if the 'burden sharing' was more equally distributed among all EU Member States. As an EU Member State, Malta is bound to abide by the Dublin System, which is a collection of laws set up to manage asylum applications in the EU.<sup>218</sup> Southern European Member States have claimed that the Dublin System puts an unfair and unjust burden on Member States having an external EU border, particularly those making up the southern external border, since they receive the largest number of irregular immigrants. The argument here is that blaming post-2002

<sup>215</sup> Human Rights Watch, 'Open Letter to the Prime Minister of Malta', News Release, 5 August 2013, <http://www.hrw.org/news/2013/08/05/open-letter-prime-minister-malta>, (consulted 16 December 2014).

<sup>216</sup> Committee on the Rights of the Child (CRC), Concluding Observations of the Committee on the Rights of the Child: Malta (CRC/MLT/CO/2), 18 June 2013, <http://www2.ohchr.org/english/bodies/crc/crcs62.htm> (consulted 16 December 2014).

<sup>217</sup> European Court of Human Rights, *Louled Massoud v. Malta*, judgment of 27 October 2010, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-100143> *Suso Musa v. Malta*, judgment of 23 July 2013, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-122893> *Aden Ahmed v. Malta*, judgment of 23 July 2013, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-122894> (consulted 16 December 2014).

<sup>218</sup> Council Regulation No. 343/2003 of 18 February 2003, OJ L 50/1, 2003.

irregular migration for Malta's plummeting international human rights image is a misinterpretation of the situation. The combination of the gravity of violations, the number of immigrants involved and the shock expressed by the international media played an important role in attracting a greater number of investigations from various international human rights bodies. This led to the creation of a particularly incorrect image of 'deteriorating' human rights, which implied that prior to the advent of 'mass' immigration Malta had a thriving human rights record. As pointed out by DeBono (2012: 257), fellow EU Member States should stop criticising Malta and accept compulsory burden sharing. It is also worth emphasising that the US has been more willing to help than certain EU countries.

Given the politicisation of immigration and asylum policies across Europe, it is evident that calls for 'burden sharing' will be met with reluctance, if not resistance, from those Member States that are not subjected to relatively heavy asylum flows themselves. Nevertheless, with respect to Malta's case, crying out that decent standards are not observed is futile unless some form of 'burden sharing' is accepted. If Malta is left alone, it will not be able to cope and standards are going to decrease. Hence, a successful and truly Common European Asylum System, which requires each Member State to shoulder its fair share of responsibility and awards equal rights and opportunities to asylum seekers and beneficiaries of international protection across the EU, is absolutely essential.

## 6 Current political debates

One could say that irregular immigration has been one of the main hot issues in political debates over the last decade or so. In recent years, intensified concerns related to the issue of national identity could be most bluntly illustrated by the rise of a number of political movements that criticise the presence of foreigners and, as they see it, the Government's soft approach to curb irregular immigration. In 2005, a pressure group called *Alleanza Nazzjonali Repubblikana* (ANR) was created on a religiously inspired conservative and nationalist platform. This National Republican Alliance organised two controversial demonstrations in Valletta against 'illegal immigration', which were held in September 2005<sup>219</sup> and in June 2006.<sup>220</sup> In June 2007, a new

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<sup>219</sup> Times of Malta (2005), 'Tempers Flare at Valletta Protest', by Ariadne Massa, 4 October 2005, [http://www.amren.com/mtnews/archives/2005/10/tempers\\_flare-\\_a.php](http://www.amren.com/mtnews/archives/2005/10/tempers_flare-_a.php), (consulted on 1 October 2014).

<sup>220</sup> Malta Today (2006), 'PN to take steps against former Mayor in ANR rally', by Matthew Vella, 11 June 2006, [http://www.maltatoday.com.mt/2006/-\\_06/11/t2.html](http://www.maltatoday.com.mt/2006/-_06/11/t2.html), (consulted on 1 October 2014).



political party, i.e. the National Action Party (*Azzjoni Nazzjonali* – AN), was formed, which claimed that it does not embrace either a right-wing or a left-wing ideology but is set to work for the benefit of Malta as a whole. The AN, whose policy on immigration was highly restrictive, was active until 2010. It argued, for example, that ‘illegal immigrants’ reaching Malta would be hosted for one month and subsequently resettled in other states. Both the AN and the ANR were often carefully disassociating themselves from any notion of racism, but shared an argumentation on immigration issues that is based on the concept of invasion. During their protest against immigration in Valletta, Mr Phillip Beattie, the leader of the ANR, said:

‘We appeal to all those against us not to call us racist. We are proud to be Maltese and we just don’t want to become the toilet of the Mediterranean.’<sup>221</sup>

Although movements, such as the ANR and AN are tiny and lack wide popular support, they sprung in the context of an increased public criticism of immigration and racially motivated violence that peaked in 2006 with a number of attacks targeted at individuals or organisations advocating migrant and refugee rights.

The main political parties, i.e. the centre-right Nationalist Party (*Partit Nazzjonalista* – PN), which was in Government from 1998 to 2013, the currently governing centre-left Labour Party (*Partit Laburista* – PL) and even the green Democratic Alternative Party (*Alternattiva Demokratika* – AD), denounce the migration discourse used by movements, such as the AN and the ANR, but their own rhetoric on immigration remains equally questionable, albeit expressed in more moderate terms.

The rhetoric of the Nationalist Party-led Government has been strongly focussed on trying to hinder immigration by sealing off the southern border through increased surveillance, externalising Malta’s co-operation with countries of origin and transit, and maintaining a strict detention policy.

The Labour Party has generally been in favour of the PN policies and has sometimes even attempted to outdo them with respect to their securitarian reasoning. For example, in 2005 Malta Today asked Alfred Sant, the then PL leader, whether a future Labour Government would honour United Nations conventions protecting irregular migrants from automatic repatriation, he said that ‘although human rights are important, ultimately the national interest should prevail over any other

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<sup>221</sup> Refer to footnote 43.

consideration.<sup>222</sup> In other instances, PL officials deployed a discourse that many were surprised by. For example, according to Malta Today, Joseph Sammut, the Labour Member of Parliament for Zurrieq and B'Bugia, said the following when addressing the House of Representatives during adjournment:

‘It’s become impossible to get on the bus... Literally, any bus numbered 13, which is there for the benefit of B’Bugia residents, is always packed with these ‘klandestini’. (The Government) must either increase the service on this route or come up with something else. Introduce a bus service just for them, but our citizens cannot be ignored...’<sup>223</sup>

Although disagreeing with the Government’s policy regarding certain details of detention policy, for example, one could argue that the discourse of the AD, the Green Party, is also following the logic of the ‘Sieve Europe’ rhetoric. In its Position Paper on Irregular Immigration, the Green Party approves of the central tenets of Government policy, including its focus on external border police cooperation, agrees that detention policy represents ‘a necessary evil’ and proposes further state activity in the area of integration and social inclusion, such as immigrants being assisted by trained professionals during their ‘first months of freedom’, as well as having the possibility of obtaining language and cultural education during their time in detention.<sup>224</sup> It is possible to argue that such an intense public discourse of exclusion triggered a counter discourse, which is mainly represented by pro-immigration movements, such as the leftist pressure group called Moviment Graffiti, and human rights NGOs, such as Amnesty International and the Jesuit Refugee Service. In an interview with the Malta Star in 2012, for example, a representative of the Moviment Graffiti criticising the Government’s supposed effort to build ‘Fortress Europe’ through its policy stated:

‘Frontex is the most recent step in the strengthening of the “Fortress Europe”. It is clear that the aim of this mission is to send migrants back to Libya, irrelevant of the fact that here they cannot apply for protection and that they can therefore be sent back to countries where they will face persecution. Europe also seems to turn a blind eye to the continuous harassment, even by the Libyan institutions, of migrants in this country.’<sup>225</sup>

As observed by Kårén (2009: 25), a similar critique of ‘Fortress

<sup>222</sup> See Malta Today (2005), <http://www.maltatoday.com.mt/2005/09/11/t1.html> as referred to at <http://www.stormfront.org/forum/t231565/> (consulted on 1 October 2014).

<sup>223</sup> Malta Today (2007), ‘From loony left to radical right’, 8 July 2007, <http://www.maltatoday.com.mt/2007/07/08/n2.html>, (consulted on 1 October 2014).

<sup>224</sup> Available at: <http://www.docstoc.com/docs/81611434/position-paper-on-irregular-immigration--Position-Paper-on> (consulted on 3 October 2014).

<sup>225</sup> Malta Star Saturday, March 15, 2008 “‘We want Maltese to understand us” – refugees’, [http://www.hiiraan.com/news2/2008/mar/ we\\_want\\_maltese\\_to\\_understand\\_us\\_refugees.aspx](http://www.hiiraan.com/news2/2008/mar/ we_want_maltese_to_understand_us_refugees.aspx) (consulted on 3 October 2014).

Europe' can be found in the Movement's position paper on asylum seekers. This discourse can be further exemplified by various critiques of Malta's asylum management and detention policy by human rights organisations, such as the Jesuit Refugee Service and Amnesty International, as well as by various public statements made by human rights organisations opposing the EU's immigration control policy in the Mediterranean. Examples of such discourse include Statewatch's (2005, 2006) critique of securitisation discussions, the involvement of Frontex which resulted in the death of immigrants in Maltese search and rescue waters and their critique of the EU's policy towards Libya which supposedly represented an effort to 'export Fortress Europe'.

## **7 Conclusion: Future challenges**

Immigration will remain a challenge for the foreseeable future. The EU's immigration policy is developing cautiously. A good balancing act, which is required, would undoubtedly be somewhere in the middle. The open method of cooperation should perhaps be considered as a way forward for the EU's future immigration policy. While EU citizens are free to live and work wherever they choose within the EU, immigration perspectives of third country nationals remain restricted to national policymaking (Cavities 2004). In a bid to stimulate a more dynamic pace of change, the European Commission proposed the introduction of an open method of cooperation in the realm of immigration policy to encourage Member States to advance their levels of national policy experimentation and coordination through a non-binding yet common governance mechanism (Rigo 2005). Such a policy could help to improve the situation of irregular immigrants in Malta.

Nevertheless, 'burden sharing' is the key to solve Malta's problems, as outlined several times throughout this paper. Malta remains a tiny territory with the highest population density in the EU. Its population density is not merely the highest, but more similar to that of an extensive urban sprawl than that of a state. Even though Malta should strive to do its utmost to carry its fair share of immigration burden without relying on the assistance of other EU Member States, the situation at the local level will only get worse. Ultimately, Malta's responsibility is the responsibility of the EU as a whole.

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## Synthesis and Reflections

*Felicita Medved*

This concluding Chapter pursues three main objectives. Firstly, it aims to synthesise migration situations in selected new EU Member States. Secondly, it endeavours to examine the development of migration policies in these countries from a comparative perspective. Apart from pointing out the main similarities and differences, the emphasis is put on the main phases of its development, and particularly on the role of the EU, which has had a powerful impact on the policymaking process in these states in the following four areas of migration policy: asylum, irregular migration, economic migration and integration. Finally, it aims to reflect upon the findings presented in this book and provide some thoughts for future policy development in national and EU contexts.

### **Development of migration situation**

Since the mid-nineteenth century, the development of migration situation in countries of Central and Eastern Europe can be divided into three distinctive periods, which differ from one another in terms of many aspects, such as demographic, socio-economic, political, geographic and geopolitical aspects. The first period lasted up to the beginning of the Second World War. The second period, including the turbulent involuntary movements caused by the war, lasted from 1945 until the end of the Cold War. The third period, which is still ongoing, began in 1990 with a distinct sub-period starting after the accession of these countries to the EU. One of the principal differences between these periods is the net migration pattern: in the first two periods, these countries were predominately areas of emigration, while their transition towards being transit and destination countries for international migrants only started in the 1990s.

*Prior to the First World War*, the lands that now constitute the Czech Republic, Hungary, Slovenia, Croatia and the south-eastern part of present-day Poland belonged to the Austro-Hungarian Monarchy. The remainder of present-day Poland was split between the two German empires and the Russian empire. The Bulgarian state was created in 1878 with the Treaty of Berlin and remained under Ottoman sovereignty until 1908.

The flows of migration mainly stemmed from two factors: the relative backwardness in modernisation and the multi-ethnic character of political entities to which those countries belonged. In the last

decades of the nineteenth century and during the first decade of the twentieth century, they all experienced massive emigration. Hungary, according to Attila Juhász, experienced the largest exodus in modern history, mainly to the USA. More than 3.5 million Poles were settled abroad by the outbreak of the First World War in both Americas and in the industrial and metropolitan centres of Germany and France. In addition, some 1.6 million Czechs headed for both Americas, the Slavic parts of the former Habsburg Empire, as well as urban and industrial centres elsewhere Europe. From Croatia, some 350,000 people left to overseas destinations, such as the USA, South America and Australia. A similar emigration pattern was observed in Slovenia: according to the US census, there were 21,000 immigrants whose mother tongue was Slovene in the US in 1920.

In Malta, which became part of the British Empire in 1814, economic emigration was encouraged and assisted under the colonial rule mainly to other parts of the British Empire. In this period, some 30,000 Maltese moved to North Africa and the Middle East, but the outflow developed on a more permanent basis. The Department of Emigration, established for this purpose, was only dismantled in 1995.

In the aftermath of the First World War, the geopolitical map of Central and Eastern Europe had been reshaped. Czechoslovakia declared its independence and the present Czech Republic constituted a federal state with Slovak lands and Carpathian Ruthenia until 1938. Croatia and parts of present-day Slovenia joined the short-lived State of Slovenes, Croats and Serbs, soon to merge into the Kingdom of Serbs, Croats and Slovenes, and renamed Yugoslavia in 1929. On the basis of the Trianon Peace Treaty, Hungary got the territory more or less identical with the present one, leaving a large part of the Hungarian community in Romania and Slovakia, but also in Ukraine and Serbian Vojvodina. Poland was restored as a sovereign political entity, its territory strongly differing from the present one. It embraced parts of present-day Lithuania, Belarus and Ukraine, but not its present northern and western lands that belonged to Germany.

The changed political map, the spread of fascism and the approaching winds of war led to ethnically motivated trans-border population movements and a surge in politically motivated emigration. Following the establishment of a new state, many Czechs and Slovaks returned to Czechoslovakia. The country, along with Poland, also became a host for thousands of refugees from Russia after 1917 and Germany after 1933. Many Germans and Hungarians more or less forcibly left Croatia. Some 50,000 Slovenes from the then Italian littoral fled under increasingly harsh demands for ideological and

ethnic purity, to South America or Yugoslavia. Jews, the Roma and members of the communist opposition were impelled to leave Hungary, subsequently to save their very lives. About 350,000 Muslims (Turks, Pomaks, Circassians, Tatars) who left Bulgaria for Turkey were joined by some 70,000 to 90,000 persons emigrating under international treaties.

In a climate dominated by stricter immigration control by the principal receiving countries and due to the economic crisis of the 1929-1933 period, economic emigration declined. Some migrants also returned. Nevertheless, about 1.6 million Poles and over half a million Czechs and Slovaks, as well as around 100,000 Croats and Slovenes continued to leave their countries due to economic and family reasons.

*The Second World War* brought about huge involuntary movements of the population and a short period of two to three years after the war witnessed massive population resettlements and the return of displaced persons, prisoners of war, as well as emigrants returning to their home countries. In Hungary, the first deportations of Jews already took place in the summer of 1941, but after the war, the majority of emigrants were Nazi collaborators. Approximately 250,000 people left Croatia and Slovenia at the end of the war, including defeated Nazi collaborators, soldiers, opponents to the new regime and members of German, Italian and Hungarian minorities, who 'opted' for their countries of origin. Approximately 2.8 million Germans were expelled from Czechoslovakia, while Czechs and Slovaks, as well as Bulgarians and the Roma from Slovakia were encouraged to move to the border regions that were previously inhabited by the German population. In addition, up to 220,000 Czechs and Slovaks, most of whom were displaced persons, returned from abroad. Some 3,885,000 persons, mostly Germans, Ukrainians and Jews, emigrated from Poland, mainly being deported, while some 3.7 million Poles were resettled from the USSR.

Due to a change in international politics in 1948, which led to the proclamation of the Cold War, population resettlements based on ethnic grounds were stopped, but by no means ended in that year. Their follow-up was observed in various other periods of the post-war history under the label of 'repatriation' or 'family reunion'. In the latter half of the 1950s, around 250,000 ethnic Poles and Jews of Polish origin were repatriated from the USSR to Poland, ethnic Germans left Poland for Germany, while Jews were repatriated from Poland to Israel and some other countries. In Bulgaria, forcible land collectivisation drove some 155,000 Turks out of the country in 1950 and 1951. During the 1968-1978 period, more than 130,000 people left for Turkey under the



Bulgarian-Turkish agreement for the reunion of divided families.

Restrictions on other international movements became severe. In most countries of Central and Eastern Europe, emigration was considered a criminal offence with serious consequences for everyone who attempted to emigrate, their families and relatives. Nevertheless, net migration continued to be negative with the number of emigrants strongly dependent on internal political cycle. The stronger the political regime, the harder the grip on the outflow and vice versa. Massive flights of people were caused by political upheavals, such as the communist *coup d'état* in Czechoslovakia in 1948, the 1956 Hungarian Revolution, the Prague Spring of 1968 that led to the invasion of Czechoslovakia by the Warsaw Pact troops, and the rise of the Solidarity Movement in Poland in 1980 and 1981.

After almost 200,000 people fled Hungary towards Austria in 1956, Hungarian borders were effectively closed in 1957 and migration remained insignificant until the period preceding the regime change in 1989. 'Illegal' emigration from Czechoslovakia to Western Europe and to traditional immigration countries amounted to more than 550,000 people in the 1950-1989 period. In Poland, the 1970s marked the beginning of the gradual liberalisation of passport regulations, which led hundreds of thousands of Polish travellers to effectively become immigrants in the West. About 20,000 Bulgarians left the country from the end of the 1950s until 1989, mainly seeking asylum in Western Germany, Austria, Italy, Sweden and Switzerland. On the other hand, few seemed to be willing to immigrate. Immigration remained very low, mainly related to returning migrants or family unification. Regular international migration was limited to citizens of other communist countries or political allies of the USSR in the framework of mutual economic assistance under strictly controlled agreements. Anna Krasteva reports that Bulgarian labour migration only concerned highly qualified experts, mainly doctors and medical personnel, and engineers whom the communist regime 'exported' to brotherly countries of the Third World, such as Libya, Algeria and Tunisia. The only exceptions to the dominating political logic were the Vietnamese *Gastarbeiter* in Bulgaria during the 1980s, as labour was in demand in certain economic sectors, such as construction. Poland displayed a continuous excess of labour supply and experienced a rapid increase in labour migration. In the 1980s, as many as 148,000 Polish workers were employed abroad, though predominantly in other Soviet-bloc countries on the basis of various bilateral agreements or state-sponsored contracts. Another channel common to all these countries was the admission of foreign students and workers in traineeship programmes,

where priority was awarded to citizens of the USSR or pro-Soviet countries or to compatriots living abroad. These migrants were isolated and almost invisible to the majority of the population. They mostly returned to their home countries, but a number of foreign students married a person from the hosting country, which often led to their settlement.

In contrast to Soviet-bloc countries, Yugoslavia tolerated and sometimes facilitated regular labour emigration after the 1965 social reform as a way to relieve the labour market pressure and unemployment at home. In the early 1970s, there were between 300,000 and 400,000 Yugoslav 'guest workers on temporary work abroad', mainly in West Germany, Switzerland and Austria. Almost 40 per cent were Croatian and some 55,000 were Slovenes. At the same time, workers from less developed southern areas of Yugoslavia (Serbia, Bosnia and Herzegovina, Montenegro, Kosovo and Macedonia) started coming to Slovenia and Croatia. With the integration of Yugoslavia into the Western European migration system, Slovenia – to a somewhat greater degree than Croatia, where a great deal of the inflow from other republics consisted of ethnic Croats – became a substitute destination for labour emigration when Western Europe stopped economic immigration after the 1973 'oil crisis'.

The inflow of people in need of asylum or humanitarian protection was not numerous. Nevertheless, pro-communist political asylees from non-communist countries, e.g. Greeks in late 1940s and early 1950s, Chileans after 1973, Palestinians and other Middle Eastern nationals since 1967, were readily accepted. Among the selected countries, Yugoslavia was the only one that was a party to the Geneva Convention on Refugees.

Ethnic homogenisation, which was represented both by harsh ethnic cleansing in the aftermath of the Second World War and its continuation in the form of repatriation or family reunion in the 1950s and 1970s, was a common characteristic of this period of migration. Bulgaria expelled some 350,000 Bulgarian Turks in 1989, just on the eve of transition from communism to democracy. An estimated 150,000 of these citizens later returned, but this was, as Anna Krasteva points out, the largest migration wave in Europe after the Second World War and prior to the wars in former Yugoslavia. Due to closed state borders, with relative exception of the former Yugoslavia, and planned programmes of temporary migration, most people in Central and Eastern European countries hardly had any experience with immigrants. The number of registered foreigners was low, while there were practically no undocumented foreign citizens. For example, only

around 20,000 foreigners, the large majority of whom held Soviet citizenship, were registered as residents of Poland in 1989. In Czechoslovakia, the number of foreign residents was slightly higher, just over 35,000.

Malta experienced a new wave of emigration after the Second World War. Economic crises coupled with the post-war baby boom triggered around 140,000 or 30 per cent of the Maltese population to leave the islands between 1946 and 1979 through the assisted passage scheme; more than half of them went to Australia, while others mainly emigrated to the UK, Canada and the USA. As part of general migration programmes, one in four former emigrants returned. Due to historical reasons and its location, Malta was also attractive for some groups of immigrants. At the end of 2009, Malta hosted 18,100 foreign nationals, predominantly active or retired British nationals, as well as Italians and other nationalities. Emigration has been particularly low since the mid-1980s.

*The early 1990s* were a time of dynamic and profound transformation of the legal and political systems for the countries of Central and Eastern Europe. Within a changing regional system of power, new states were constituted in the territory of the former Yugoslav federation. The Czech Republic emerged from the process of Czechoslovakia's disintegration. Poland, Hungary and Bulgaria bordered new states. All countries in the region were experiencing economic and political transformation, recreating national identities and had to re-establish interstate relations. In post-partition states, residents from other parts of the former federations became 'foreigners' overnight. Citizenship acts of these states facilitated the inclusion of these formerly 'internal' migrants into their initial body of citizens. In Croatia, in particular, as quoted by Julija Kranjec and Drago Župarić-Ilić, citizenship was an important instrument for the creation of the new state in terms of determining the 'proper' Croatian nation. In some other examined countries, change was less visible as it took place on symbolic and political levels. In Bulgaria, for example, the numerous Russian community, which has never been analysed during communism either as a minority or as a form of migration, began to be perceived as a migrant community.

Migration situation changed dramatically. Wars following the Yugoslav succession resulted in major refugee flows affecting the region. Slovenia and Croatia were mostly marked by the war-induced displacements in the 1990s. Slovenia received some 30,000 refugees. Most of them later returned to their homes or moved on to European and other destinations. Croatia received around 403,000 Bosnian

refugees, mostly Muslims/Bosniaks and Bosnian Croats. Many Bosnian Croats remained and obtained Croatian citizenship. Additionally, some 30,000 and 35,000 Serbian Croats were more or less voluntarily moved from Serbia to Croatia, while the state sponsored the settlement of some 1,700 Kosovar Croats. In 1999, refugees temporarily arrived from Macedonia and Kosovo, around 7,000 to Croatia and 9,000 to Slovenia. In 1995, more than 250,000 of Croatian Serbs fled to Serbia and Republika Srpska, a Serbian entity within Bosnia and Herzegovina, and around half of them returned to Croatia before the end of 2010. In July 2013, there were still 49,175 refugees from Croatia in neighbouring countries, out of which two thirds were in Serbia.

In the 1990s, Croatia was also marked by 30,429 diaspora returnees, even though only sixteen per cent may be counted as 'real repatriates', i.e. those who actually settled in Croatia. In general, the recorded net migration has been steadily dropping since 1998 and became negative in 2009. Immigration of foreign nationals has been increasing since 2011.

The countries of the former Soviet bloc witnessed the lifting of nearly all travel restrictions, which made entry into many Western countries easier. As Anna Krasteva puts it, migration was among the first and most visible expressions of freedom. Different types of migration took new forms. For illustration, Bulgarian emigration changed from asylum seeking to labour migration of both highly qualified and low skilled workers, while the Turkish minority's emigration transformed from ethnic and forced to economic one, though in much lower numbers.

Paradoxically, emigration from Poland decreased and a large majority of migrants engaged in short-term circular movements. However, the immigration scene changed, which is mainly attributable to political changes in the Soviet Union and other countries in the region that granted their citizens freedom to travel abroad. According to Krystyna Iglicka, Poland was one of the very few countries that admitted these people easily because of previously concluded agreements. The number of citizens of former USSR states alone grew from less than three million in 1989 to fourteen million in 1997. The majority of them were engaged in recurrent visits, which gradually changed towards more 'regular' work or settlement. For migrants who were permitted to freely enter Poland and those who were not, Poland also became a gateway to Germany and further to the West. The business of migrant smuggling and occasionally trafficking bloomed until the end of the 1990s: tens of thousands of migrants from Somalia, Armenia, Vietnam, Iran, Iraq, China, Afghanistan, Sri Lanka, Pakistan,

India and Chechnya were smuggled through Polish borders every year. Labour migration, which was based on work permits issued prior to entering Poland, was another source of migrant inflow; it grew from 3,000 in 1990 to 25,000 in 2002 and roughly 12,000 in 2006. Work permit procedure and a substantial fee discouraged both employers and potential migrant workers from applying and it has been estimated that hundreds of thousands of foreigners might have been involved in irregular work in Poland every year throughout the 1990s. In addition, the number of applications for international protection, a new phenomenon, was growing but fluctuating in the 1990s, only to reach its peak again around the turn of millennium with the arrival of large groups of Chechens, officially citizens of the Russian Federation.

In correlation with economic development, the Czech Republic experienced immigration that more than doubled during the 1990s (from 70,000 in 1993 to 229,000 in 1999). In the 2000s, immigration decreased due to economic recession, monetary crisis and restrictive legislative changes affecting entry and stay, and particularly visa requirements for nationals of the most important countries of origin, i.e. Ukraine and the Russian Federation.

In Hungary, this period did not bring about a major difference in respect to immigration. To some degree, Hungary became a destination, particularly for ethnic Hungarians living in neighbouring countries, and a transit country for both refugees and irregular migrants along major transportation routes from Serbia, Ukraine and Romania.

The next milestone experienced by the examined countries was their accession to the EU. Numbers and patterns of migration changed significantly.

### *Asylum*

Since 2004, in contrast to other forms of migration in Central and Eastern Europe, the inflows of asylum seekers have been progressively decreasing in most countries in this part of Europe. In the Czech Republic, for example, the number of applications decreased from more than 18,000 in 2001 to merely 756 in 2011. In Poland, the number of persons seeking refugee status culminated again in 2009 to 10,600, mainly due to a huge inflow of Georgian citizens. On the other hand, Malta, located on the southern EU frontier, became one of the main recipients of asylum applications in the EU in the last decade with respect to the size of asylum seekers' population. The majority of people are landing in this island country after undertaking hazardous journeys across the Mediterranean.

In the EU as a whole, the number of asylum applicants started rising steadily after the onset of the conflict in Syria in 2011. In 2013, the examined countries received ten per cent of the total flow (45,565), whereas its concentration on the EU external borders was even higher. Table 1 shows that the highest number of applicants may be found in Hungary, followed by Poland and Bulgaria.

**Table 1** *Number of non-EU asylum applicants in the EU-28 and selected new EU Member States, 2013*

	EU-28	Hungary	Poland	Bulgaria	Malta	Croatia	Czech Republic	Slovenia
Total number (rounded figures)	434,450	18,895	15,240	7,145	2,245	1,075	695	270
Minors (%)	27	7	50	32	24	13	19	24
Accompanied	97	98	98	97	85	95	100	89
Unaccompanied	3	2	2	3	15	5	0	11

Source: Eurostat, migr\_asyappctza and migr\_asyunaa, own adaptation

### *Irregular migration*

The impact of the accession to the EU and to the Schengen area has had a huge importance on irregular migration in the countries examined. Irregular migration decreased significantly, especially between 2008 and 2011 and then after stabilised. The situation for individual countries however, varies in trend and level due to specific factors, such as geographical position, history of migration, type and length of borders as well as the effectiveness of national policies and laws related to irregular migration.

Selected new EU Member States are mainly transit territories for irregular migrants between West and East and South and North, only to lesser degree their final destination. Irregular migration, and trafficking in human beings, occurs mostly along major transportation routes. For example, to Hungary from Serbia, the Ukraine and Romania, to Croatia and Slovenia along the '(West) Balkans route', to Malta from across the Mediterranean. When apprehended, most migrants typically apply for asylum and it is estimated that some, in Hungary 60 per cent of them, use this opportunity to further cross the EU internal borders in order to reach Western destinations. Poland however, though also a transit country, continued to be a target country for large numbers of circulating foreigners, usually from the nearby Ukraine, who sought employment in the shadow economy.

According to Eurostat, around 325,000 non-EU citizens were refused entry at the external borders of the EU-28 in 2013, nearly half less than six years before.<sup>226</sup> In the countries examined, the trend was the opposite: total number of entry refusals has gradually increased, specifically in Poland with 12.4 per cent of the total number of EU-28 refusals (40,385), due largely to the high number of entry refusals of Russians, Ukrainians, Georgians, Belarusians and Armenians (97 per cent). Also Hungary (11,055 or 3.4 per cent) and Croatia (10,015 or 3.1 per cent) are among the EU Member States having a high number of entry refusals to non-EU citizens, specifically from Serbia. Slovenia and Bulgaria ranked in the top ten of entry refusals at land borders in 2013, though in lower numbers. As regards sea borders of Malta, Bulgaria and Croatia as well air borders, e.g. in the Czech Republic, refusal numbers are much lower. Albanians were mainly refused entry at Croatian and Slovenian land borders.

Total number of unauthorised immigrants is unknown. In Slovenia for example, the recorded unauthorised residence of non-EU citizens was increasing after 2007, with the highest number, i.e. 4,000, recorded in 2011. In Poland, where Ukrainian citizens, Vietnamese and Armenians dominate this population, it is estimated that one in two Vietnamese is probably staying irregularly, which translates to between 12,000 and 22,000 people. Number of apprehensions in the countries examined is rather low. According to Eurostat, Poland, Hungary and Bulgaria recorded less than 10,000 apprehensions each in 2013 and other countries examined even less. In the EU as a whole the number of apprehensions of non-EU citizens has fallen between 2008 and 2013 to 429,000, with a cumulative drop of almost 30 per cent. However, this trend does not necessarily reflect a growth in the numbers of non-EU citizens staying in EU territory without authorisation since some Member States may have changed their policy on the checks they perform.

Also the number of non-EU citizens ordered to leave the EU territory has decreased between 2008 and 2013 from 603,000 in 2008 to 430,000. 43 per cent of those ordered to leave in 2013 returned to a non-EU country. The countries examined did not record significant numbers in the orders to leave as compared with some older Member States. Still, the gap between these decisions and the effective returns causes concern since the evidence of migrants returning to their homes is rather scarce.

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<sup>226</sup> Statistics on enforcement of immigration legislation, [http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics\\_on\\_enforcement\\_of\\_immigration\\_legislation#cite\\_note-3](http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics_on_enforcement_of_immigration_legislation#cite_note-3)

In overall, it is difficult to assess the scale of irregular migration, but the evidence shows that it is predominantly a male issue. Most of apprehended migrants, more than 60 per cent are also young, aged 18–34. The number of children is once again recording significant growth, making up some ten per cent of irregular border crossings. In Croatia for example, nearly 85 per cent of them are unaccompanied.

### *Regular immigration*

In some of the countries examined, the number of foreign nationals, both EU and non-EU citizens, began to grow rapidly after the accession to the EU. In the Czech Republic it reached its peak of 439,000 in 2008. In the following year, the number of newly arrived immigrants decreased by 46 per cent. According to Tereza Blahoutová, the net migration was positive in the past few years and is slightly above the EU average with respect to the relative number of immigrants coming to the country. Immigration to Slovenia has been increasing annually at an average rate of 50 per cent, but after 2008, the number of immigrants is declining, for example immigration decreased by 7.7 per cent in 2013 compared to a previous year.

In Croatia, last to the EU in 2013, the immigration of foreign nationals has been increasing since 2011 and currently represents slightly more than half of all immigrants per year. In overall however, the net migration is negative already since 2009. According to Anna Krasteva, emigration still prevails over immigration in Bulgaria. Hungary continues to have a small migration surplus.

Poland, as described by Iglicka, contrary to expectations that following the economic boom, which was related to its accession to the EU, did not attract many more non-EU migrants than before and no upsurge in immigration flow was observed, at least until 2008. Poland continued to be a target country for a large numbers of circulating foreigners who sought seasonal employment in the shadow economy, usually from the nearby Ukraine. Decisive shift from irregular to regular work was associated with the ‘scheme of employer’s declarations’ in 2007 and 2009.

At the end of this description of immigration, it seems reasonable to present the most recent Eurostat data relating to first residence permits (Table 2). In 2013, EU Member States issued around 2.36 million first residence permits to non-EU citizens or 12 per cent more compared to the previous year. Ranking second in the EU, after the UK, Poland issued 274,000 permits. Considering ratio between the number of permits issued and the size of the resident the highest number of



permits was granted by Malta (24 permits for 1000 residents).

**Table 2** *Total number of first residence permits issued by reason, 2013*

	Total	Employment		Family		Education		Other	
		No	%	No	%	No	%	No	%
EU28	2,357,583	535,478	22.7	672,914	28.5	464,040	19.7	685,151	29.1
Poland	273,886	141,688	51.7	2,628	1.0	23,007	8.4	106,582	38.9
Slovenia	8,271	3,674	44.4	3,923	47.4	596	7.2	78	0.9
Czech Republic	45,544	18,263	40.1	10,311	22.6	6,215	13.6	10,755	23.6
Malta	10,187	2,612	25.6	2,762	27.1	2,187	21.5	2,626	28.8
Hungary	16,833	3,561	21.2	4,058	24.1	5,515	32.8	3,699	22.0
Croatia	3,320	599	18.0	2,154	64.9	185	5.6	382	11.5
Bulgaria	6,436	334	5.2	2,242	34.8	935	14.5	2,925	45.4

*Source:* Eurostat, migr\_resfirst, own adaptation

Poland represents the EU Member State with the highest number of permits issued for employment reasons and is the principal destination for Ukrainians, the top non-EU citizens granted first residence permit in the EU in 2013. The share of permits for family reunification and formation, the main reason for issuing residence permits in more than half of the EU Member States, is among the countries examined highest in Croatia (65 per cent), while Hungary has the largest share of total permits issued for education. In Bulgaria miscellaneous category of permits for other reasons such as international protection, residence without the right to work (e.g. for pensioners), diplomatic duties accounted for more than 45 per cent of total permits issued, while in Slovenia this share is one of the lowest in the EU (less than 1 per cent). Immigration source countries are increasingly diverse, particularly in terms of people seeking asylum, who originate from distant countries. Still, family and labour-based migration manifests a connection to traditional patterns with new immigrants joining their respective communities. The Slovene labour market is still dominated by nationals from Bosnia and Herzegovina and other parts of former Yugoslavia; most immigrants to Croatia are also still coming from Bosnia and Herzegovina (more than two thirds are Croatian and most probably dual citizens). In Bulgaria, the largest group with the longest tradition in immigration originates from Russia, Ukraine and other post-Soviet countries, while immigration from the Near and Middle East is part of a more than half a century old tradition and includes Syrians, Lebanese, Palestinians, Iraqis and Afghans. The representatives of these groups of nationalities have different status – some are permanent residents or refugees, while others have already

acquired Bulgarian citizenship. Most migrants in Poland are coming from Ukraine, Russia and Belarus. The main countries of origin of immigrants to the Czech Republic are Slovakia, Ukraine, Poland, Russia, Romania, Germany, Bulgaria and China. The entry into global migration flows is represented by immigration from Asian countries, particularly from China. Hungary has the most populous and oldest Chinese community in Central and Eastern Europe (around 20,000 to 30,000). The most recent but growing group in Croatia, for example, which represented a quarter of all immigrants in 2013, is comprised of EU citizens who exercise the right to free movement.

### *Intra-EU mobility and emigration*

The protectionist fears expressed by some older EU countries in 2004 claiming that workers from Central and Eastern Europe will overwhelm their labour markets did not materialise. However, transition periods of maximum seven years for workers from new EU Member States elapsed and new opportunities opened for job seekers from these countries and coupled with deep economic crisis that led to increased intra-EU mobility and emigration. Recent emigration, especially of skilled workers and university graduates, is attracting attention in most examined countries. Attila Juhász even compares the recent wave of Hungarian emigration to Western Europe, mainly to the UK, Austria and Germany, to the exodus at the end of the nineteenth century. He partly attributes this trend to political developments in Hungary and a weak belief in the economic upturn, as 48 per cent of those under 30 are planning to leave.

High propensity to emigrate is also of concern in Slovenia. The country has been recording a negative net migration of its citizens since 2000, most frequently to Germany and Austria, while women recently prevailing among emigrants. The onset of the economic crisis also significantly contributed to daily or weekly commuting of Slovene workers to neighbouring EU countries, notably to Austria (around 18,000).

The mobility of the Roma, especially to Italy and France, the latter expelling them several times, rose to become one of the most visible and politicised forms of minority migration in recent years. For most of them, as argued by Anna Krasteva, migration is the only alternative to unemployment, discrimination and extremely high negative attitudes.

In Poland, the stock of short-term mobility abroad in 2007 represented six per cent of the total resident population, an increase to 2.3 million from one million in 2004. The trend reversed under the

impact of the economic crisis, but since the end of 2010, the long-term outflow returned to a consistent increase. The pattern of mobility has been changing radically: for decades, the predominantly circular migration of Polish workers shows a growing tendency of settlement in destination countries, mainly due to family formation. Apart from the UK, where about a third of Polish migrants reside, other attractive destinations include Ireland, the Netherlands, Spain and Italy. The USA, another leading target country of the past, lost its importance, as did Germany. Krystyna Iglicka states that the recorded steep decline in the number of permanent and long-term Polish migrants in 2014 cannot be attributed to a rather stable economic situation in Poland, but to political factors, i.e. to the uncertainties concerning the rules governing the free movement of people and the political debate on immigration in the UK that is generally perceived to be 'against' Poles. Additionally, there is the 'fear of war/conflict' between Ukraine and Russia, in an area closest to the Polish eastern neighbourhood.

Czech workers are rather less flexible than Polish workers, however, the younger generations are increasingly willing to study and work abroad, especially in Germany, France, the UK and Spain. The annual number of Czech emigrants to the EU (Slovakia, Poland, Germany, Austria), as well as Switzerland, the USA, Canada and Australia, amounts to approximately 3,000.

After the accession to the EU in 2013, some 10 per cent more Croats than in 2011 moved to Germany, Austria, Switzerland and Italy and there is growing tendency between young mobile Croats to become more or less permanent emigrants. However, the main emigration flow of Croatian nationals to the neighbouring countries of former Yugoslavia continues to be 'ethnically motivated'.

In contrast, according to Ivan Sammut, the EU accession did not affect Malta in terms of emigration. A small number of Maltese left mainly to take up jobs with the EU institutions.

Emigration of the highly qualified young nationals is very painful for the countries examined in this book. The political discourse ranges from lamentation to general appeals to return, but no concrete policies are being developed; when they are, however, as is the case of the Polish P<sub>L</sub>an to Return, they do not yield much success.

### *The stock of immigrants remains rather low*

The above description, albeit crude, might suggest that the paths to immigration as a structural political and socio-economic process have already been paved in the countries studied here. Various flows of

migrants have been arriving for diverse purposes and originating from a variety of different countries over the past half a century. On the other hand, the stock of immigrants remains rather low. In absolute terms, the largest numbers of non-nationals living in the examined countries on 1 January 2013 were found in the Czech Republic (422,300 persons), followed by Hungary (141,100), Slovenia (91,400), Poland (58,900), Bulgaria (45,200), Croatia (27,900) and Malta (22,500). Non-nationals in these seven EU Member States collectively represented 3.97 per cent (809,300 persons) of the total number of non-nationals living in the EU-27. In relative terms, the highest share of non-nationals was in Malta, as they accounted for 5.3 per cent of the total population, followed by Slovenia and the Czech Republic (4.4 and 4.0 per cent). Other countries have a low proportion of non-nationals; Hungary records 1.4 per cent, while others have even less than one per cent. As presented in Table 3, the majority of non-nationals are citizens of third countries; the opposite is true only for Malta and Hungary. According to Eurostat, people born abroad outnumbered foreign citizens in all seven Member States, except the Czech Republic, while the largest proportion of foreign-born population was observed in Slovenia (11.3 per cent) and Malta (8.9 per cent). The number of persons born in other EU-27 Member States was higher than the number of those born outside the EU-27 only in Hungary.

As observed in the EU as a whole, the immigrant population is younger than the national population. In 2012, the median age of the national population in the EU-27 was 43 years, while the median age of foreigners living in the EU was 35 years. Most of immigrants are qualified and unqualified workers, for example in the Czech Republic they make up 70 per cent of the total number of foreigners registered by the labour offices. In most of the countries examined they are employed in agriculture, construction and certain manufacturing industries. In some countries though where the immigrants' level of education is similar to the one of natives, as Krasteva points out for Bulgaria, they also find employment in education or, particularly African immigrants, in new forms of employment such as call centres, which need the immigrants' language proficiency. In all countries examined, immigrants from the Middle East and Asia prefer entrepreneurship to employment. Immigration to new Member States is an urban phenomenon. Migrants prefer to concentrate in the capitals and other important urban centres. For example, 35 per cent of immigrants to Bulgaria live in Sofia, 75 per cent of Chinese immigrants live in the Budapest metropolitan area. The ethnic structure of the of these societies, which has been slightly changing and it is directly related to

the immigrants' major countries of origin, is thus most visible in the larger urban centres.

**Table 3** *Non-national population by group of citizenship and foreign-born population by country of birth, 1 January 2013*

	EU-27	Hungary	Poland	Malta	Bulgaria	Croatia	Czech Republic	Slovenia
Total number (rounded figures)	20,370,400	141,100	58,900	22,500	45,200	27,900	422,300	91,400
(% of the population)	4.1	1.4	0.2	5.3	0.6	0.7	4.0	4.4
Citizens of another EU-27 Member State		79,800	18,600	12,800	11,800	8,700	160,600	6,900
(% of the population)		0.8	0.0	3.0	0.2	0.2	1.5	0.3
Citizens of non-EU country		61,300	40,200	9,600	33,400	19,200	261,700	84,500
(% of the population)		0.6	0.1	2.3	0.5	0.5	2.5	4.1

Source: Eurostat, [migr\\_pop1ctz](#) and [migr\\_pop3ctb](#), own adaptation

### Migration policy development

Conventionally, it is accepted that the moment in which a political system undergoes transformation and democratisation should be considered as a breaking point in migration policy development in the countries of Central and Eastern Europe. However, it has to be taken into account that a normative and institutional system of immigration regulation had existed before 1989. The legal continuity is evident even in cases of Croatia and Slovenia, where the first alien acts were drafted as constitutive parts of the independence legislation. Nevertheless, this date is treated symbolically as a new beginning in the history of these countries and also as a turning point in the history of migration. For Malta, located in the middle of the Mediterranean Sea, the turning point is linked to the sudden influx of migrants at the turn of the millennium.

Particular phases of migration policy formation differ from country to country and it is difficult to identify the starting and final points of particular phases exactly. Nevertheless, the process had many similar stages, which could be – albeit by applying some generalisation – summarised into three periods. The first period of the 1990s is characterised by the opening of state borders and the early

institutionalisation, i.e. the birth of the legal and institutional system based on international framework. This period could be described as a time of shift from rather open and liberal conditions of entry towards ever more restrictive ones and as a time of building technical, legal and normative borders. The second period, lasting from the late 1990s until the accession to the EU, is characterised by the harmonisation to EU standards, i.e. the continuous amendment of migration regulations and the reform of institutional structures. The third period started with the accession to the EU and is characterised by the integration into the EU migration and mobility regime.

### *Early institutionalisation*

For the countries of Central and Eastern Europe, the early 1990s were marked by the opening of state borders. ‘The withdrawal of the state’, as explained by Anna Krasteva, transformed control and restrictions into a more open and liberal migration regime in which individuals were given more freedom to define their individual and family migration strategies. Tereza Blahoutová observes that migration policy was practically non-existent and that policymakers had no experience with migration policy as a specific type of public policy. Rather, in an absence of any strategic document and a lack of migration experts, migration policy was a succession of *ad hoc* solutions related to particular events. In Hungary, to give another example, the early 1990s are represented by the partial regulation of the initial influx of ethnic Hungarians from Transylvania and other Romanian regions, as well as other neighbouring countries, and Chinese migrants. The consequence of such a ‘non-policy’ approach was a variety of immigration patterns and flows: from temporary labour migration, ethnic migration, asylum seekers and refugees to irregular migration, smuggling and trafficking. This undergoing transition from countries of emigration into transit and emigration-immigration countries, however, had a direct impact on the states’ activation in the migration policy field.

To cope with refugee crises, mass inflows from former Yugoslavia and the influx of refugees from Chechnya, which affected Poland in particular, systems for their reception had to be established, while a relatively high number of persons seeking asylum triggered the development of the legal and institutional asylum systems. One by one, all examined countries were integrated into the international asylum regime based on the Geneva Convention and started to be perceived as ‘safe countries’ for refugees. Hungary ratified the Convention as early as 1989 (with geographical limitation to Europe lifted in 1998), Czechoslovakia and Poland in 1991 and Bulgaria in 1993. Malta, faced

with increasing flows of irregular migrants by sea, became part of the Geneva refugee regime by adopting the Refugees Act in 2000. By becoming members of the Council of Europe, the examined countries also acceded to the European Convention on Human Rights. Nevertheless, first generation asylum laws preserved a highly centralised and discretionary character of the system, which was criticised by experts, international institutions, especially UNHCR, and NGOs. More comprehensive refugee regulations, already under the impact of 'Europeanisation', were only enacted in the late 1990s and defined forms of international protection, procedures and reasons for granting protection, competent bodies, as well as conditions for accommodation in asylum facilities and refugees' integration.

Moreover, due to the unique geopolitical location and the time of transition, the issue of flows of international migrants in Central and Eastern Europe arose together with broader discussions on the recently (re-)gained national sovereignty, foreign policy and interregional relations. 'Border control' changed its meaning, along with the rising importance of free movement between the countries formerly closed behind the so-called Iron Curtain and the EU. The visa-free regimes stemming from agreements signed between the former Communist bloc countries were maintained. This meant the opening of the 'gates' for citizens of other countries in Europe and Asia to the wealthier destinations in the EU. Thus, the sequence of visa introduction for citizens of selected countries could be treated not only as a response to increasing security threats and external pressures from the EU countries, but also as an expression of national interests, such as the protection of labour markets or the facilitation of workers' mobility. In case of Poland, the above-mentioned aspirations led to a series of bilateral reciprocal visa-free travelling regimes and a number of international agreements for the exchange of trainees, students and scholars, as well as programmes in the area of international economic cooperation and assistance. The Chapter on Poland presents how the Polish government initiated an active policy aimed at securing a wider access to foreign labour markets for Polish workers, which quickly resulted in a number of relevant bilateral agreements, e.g. with Germany, Belgium and France.

Overall, in spite of the quite liberal approach, immigration started to be viewed through the lenses of security and control, whereas operational efficiency was given priority over legal certainty. Immigration was in the domain of policing authorities, i.e. ministries of the interior, the police or border guard services. There were no specialised governmental institutions for managing migration, except

for agencies for refugees or, in some cases, for co-ethnics abroad. Anna Krasteva correctly observes that this reflects a paradox in the institutionalisation of migration policy – the fewer the migrants, the better institutionalised the respective policy.

A move towards the systematisation of migration and asylum occurred in the late 1990s. One by one, the examined countries enacted new laws or amended old ones in order to introduce more restrictive conditions of entry and stay than those that were binding in the past. The legal system regulating admission became more detailed and less discretionary, but also more systematic. The legislators were mindful of national security – which led to the introduction of stricter criteria of detention and expulsion – but also of potential EU accession and human rights issues.

### *Towards EU standards*

A more systematic regulation of migration and asylum marked the beginning of the second period lasting until EU accession. By anticipating their accession to the EU, and consequently the Schengen area, the examined countries were, as Geddes (2003: 173) describes it, placed on a steep learning curve and had to look towards practices and ideas in EU Member States. By being obliged to harmonise their legislation with *acquis communautaire*, the countries embarked on a continuous, in some cases almost yearly, amendment of migration and asylum regulations. Nevertheless, national interest has been preserved. It is best reflected in citizenship policies related to repatriation and migration, most notably in Hungary, Poland and Croatia. The process of policy consolidation was also expressed in the setting-up or reforming institutional structures and in the first conceptual migration policies formulated in Slovenia and the Czech Republic.

A common visa policy and the differentiation of the legal treatment of EU citizens and their family members and third country nationals were, among others, becoming new aspects in national migration policies. Not least for Poland, where the obligation to implement the Schengen requirements, which meant granting visas to nationals of its eastern neighbours, such as Ukraine and Belarus, as well as Russia, proved to be a difficult issue. Many were concerned that such visa requirements could weaken cross-border trade, cause the export markets of the former Soviet Union to collapse and decrease the income of people dependent on trade-related services. Consequently, the Polish government waited until October 2003 to make such visas mandatory.



In general, the matter of admission of foreigners to the labour market and the system of work permits became better regulated. On one hand, this was a result of the beginning of harmonisation with restrictive requirements of the EU, while on the other hand, it represented a reaction to the economic situation and the stock of regular or irregular migrant workers. Due to the labour market needs or ethnic proximity, admission of selected categories of foreigners was facilitated. In 2001, Poland also regulated the resettlement of people of 'Polish ethnicity or descent', including people living in the Asian part of the former Soviet Union, providing for the acquisition of Polish citizenship.

Shortly before the accession, if not before, the field of asylum policy became clearly divided from economic migration issues. In Poland, this was done late in 2003. Malta refined its Refugees Act in 2004 in an attempt to provide different treatment to asylum applicants than to 'prohibited immigrants' as defined in the Maltese Immigration Act. Croatia harmonised its Aliens Act and Asylum Act with the *acquis* in 2013, and started a significant policy and administrative reform.

Significant changes in new or comprehensively revised aliens acts were related to the establishment of separate government agencies dealing with migration issues. For example, at the beginning of 2000, Hungary established The Office of Immigration and Nationality as an autonomous national agency under the competence of the Ministry of Justice and Law Enforcement, while its local institutions and regional directorates opened a year later. Poland set up the Office for Repatriation and Foreigners on the basis of the 2001 Act. Going beyond the dominant paradigm of treating immigration exclusively as a matter of security, control and, in some cases, repatriation, bodies that were more oriented towards managing labour migration were also set up or reformed. It must be stressed, however, that this process was observed in some countries earlier than in others. Slovenia and the Czech Republic were the first to conceptualise their migration policies (1999 and 2003 respectively). The latter also enacted the Czech Conception of the Integration of Foreigners in 2000, targeting mainly third country nationals. Other governments designed some integration measures, mainly for refugees, and established directorates or similar bodies for their implementation either at the ministry of the interior or within the ministry of labour, social affairs or similar. In most cases, though, responsibility for integration remained dispersed.

### *Integration into the EU migration regime*

With their acceding to the EU and joining the Schengen area, which

Bulgaria and Croatia are legally bound to join, all examined countries became an integral part of the European migration regime. EU membership had, in every sense, undoubtedly had a powerful impact on migration policies of the analysed countries from a variety of aspects – normative and legal basis, institutional apparatus and practical activities. Although the main objectives of the EU, such as combating ‘illegal’ migration, harmonisation of asylum regime and strict external border control, became priorities of the new Member States before their actual accession, the process of harmonisation stimulated the implementation of a more active, more systematic and standardised, as well as more embracing model of migration policy. Additionally, policymakers were obliged to define national viewpoints on migration through direct and active participation in the debate regarding migration policy at the European level. Migration policy became even more focused on immigration and integration of non-EU immigrants after transitional periods for free movement concerning the access to the EU internal market expired. Migration and integration issues have been gradually entering more thorough debates, but, apart from a few occasional exceptions, do not rank high on the political agenda. In turn, migration has not been a matter of particular interest to important political parties and has only figured in a very limited way in debates within labour unions, the media or even the general public. Nevertheless, the findings of this book clearly show that such policies and discussions are framed quite differently depending on the country and circumstances involved. Hereinafter, the emphases are placed on four areas of migration policy: asylum, integration, economic migration, irregular migration and integration.

### *Asylum*

In legal terms, asylum systems in the selected new Member States, which are responsible for asylum seekers and recognised refugees, as well as other categories of persons granted protection, are part of the Common European Asylum System (CEAS). Yet, several authors indicate profound problems related to the operation of the existing asylum system.

In general, recognition rates in the countries of Central and Eastern Europe have been low. For example, only 23 persons out of 270 applications in Slovenia were granted some form of international protection in 2014. Apart from the strict and rigid procedures and a narrow interpretation of asylum laws, the lack of accommodation capacities in some countries and an underdeveloped and insufficient system of integration at both national and local levels add to a low

refugee recognition rate. Primarily due to the departure of applicants to older EU Member States, a large number of applications is also abandoned, as, for example, in Hungary. The transitory character of mixed migratory movements is also observed in Croatia, where most migrants, almost 80 per cent in 2011, probably apply for asylum to avoid deportation. In Malta however, the recognition rate is considerably higher than in other EU Member States. In the 2002-2012 period, it increased from 50 to 90 per cent, though only few applicants, who were recognised as eligible for international protection, were awarded refugee status, while the rest were granted subsidiary protection and protection due to humanitarian reasons.

The detention of asylum seekers is a major point of concern. Furthermore, some authors highlight the humiliating conditions asylum seekers had to endure while detained together with irregular migrants, such as systematic verbal and physical abuse by prison guards in Hungarian detention centres. In 2011, two-thirds of all applicants were detained in Hungary, where they may be detained for as long as twelve months. In Croatia, most asylum seekers are accommodated in two reception centres. With an increasing proportion of minors in the asylum seeking population, it is especially worrying that Croatia will build a special facility for unaccompanied minors within the walls of the detention centre by the end of 2015. Detention policy in Malta, where detention centres operate under the auspices of the Armed Forces of Malta and where asylum applicants are detained together with irregular or 'prohibited immigrants', as defined by the Maltese law, has been a subject of intense criticism. In February 2013, the UN Committee on the Rights of the Child condemned Malta's policy of mandatory immigration detention resulting in detention of children pending their age determination.

A series of amendments to the EU asylum laws adopted in June 2013 seeks to bring about a more consistent practice for the application of common standards, including the ones indicated by the contributors to this book, and the previously unregulated areas at the EU level, such as asylum seekers' detention.<sup>227</sup> In general, these amendments, when applied, are seen to be a measure of progress, although several advocates considered the opportunity missed to put in place essential safeguards in line with human rights (Garlick 2014: 4). Throughout his Chapter on Malta, where the European Asylum Support Office (EASO)

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<sup>227</sup> Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, applicable on 21 July 2015. Asylum Procedures Directive, Qualification Directive, as well as Dublin and EURODAC Regulations have also been amended.

headquarters are located, Ivan Sammut argues that the human rights situation for migrants in Malta could improve mainly if the 'burden sharing' was more equally distributed among all EU Member States.

According to Article 80 of the Lisbon Treaty, EU Member States are required to express 'solidarity and fair sharing of responsibility' on asylum, but these concepts are not defined. Current pressures on asylum systems across Europe refocused public attention and political debate on these concepts. The Dublin system in particular, which was often praised as the cornerstone of the CEAS, has also been vilified as a failure of solidarity and 'burden sharing' among the Member States.

However, the chief purpose of the Dublin system has not been to share or equalise 'asylum burdens', but to create a mechanism that assigns the responsibility for processing an individual asylum application to a single Member State in order to ensure quick access to protection for those in need, discourage abuses, e.g. the so-called 'asylum shopping', as well as reduce 'asylum seekers in orbit'. As implemented, the 2003 Dublin Regulation or Dublin II, which replaced the 1990s Dublin Convention and is accompanied by the EURODAC fingerprint data base and recently also supported by the Visa Information System (VIS), is criticised for failing to achieve its primary goals. Effective transfer rates are low and secondary irregular movement among asylum seekers within the EU remains significant. Moreover, it is claimed that the Dublin system led to unnecessary transfers, particularly when cases could be dealt with quickly as is the case for manifestly unfounded claims, and that Dublin procedures cause delay in the evaluation of protection claims. This puts seekers at risk of potential refoulement or disruption of family unity and enables applicants to be returned to countries that lack the capacity to process their claims or provide them with adequate reception conditions.

The most common criticism refers to the fact that the Dublin system prompted a transfer of asylum processing responsibilities from northern to southern EU Member States. The actual transfers in this direction are relatively small, as the transfer of responsibilities mainly manifests itself as the circulation of responsibilities among the larger destination countries, such as Germany, Switzerland, Italy, Poland, Sweden and Norway (some 400 to 900 annually).<sup>228</sup> The Dublin system is, as presented in the Chapter on Malta, perceived to put an unfair and unjust burden particularly on those southern Member States having an external EU border since they receive the largest number of irregular immigrants.

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<sup>228</sup> Personal communication with the Ministry of the Interior, Slovenia.

The 2013 recast of the Dublin Regulation (Dublin III) seeks to address some of these concerns by clarifying how the Dublin system assigns responsibility for asylum claims by a new hierarchy of criteria, such as family units, by tightening processing deadlines and creating an early warning and preparedness mechanism to support Member States whose asylum systems are under strain. Most significantly, Dublin III recognises the responsibility of the transferring Member States to ensure that applicants' rights are respected at destination. Still, the point of entry is most often applied. Practical effects of the amended regulation remain to be seen and will likely depend on the interpretation of European courts.

While there is a growing agreement that the Dublin system is in need of adjustment to reflect the divergent realities of Member States asylum systems, opinions differ with respect to the extent of adjustments to the responsibility distribution mechanism, particularly information gathering, communication and collaboration among Member States on individual cases, the duration of procedures, causes for delays and the cost of the system at the national level.

Crucially, the regulation does not recognise or address the heart of the problem, i.e. the fact that despite the harmonisation efforts of the CEAS, essential differences remain in the asylum procedures, reception conditions and integration capacity of EU Member States. Therefore, there is a need for continuous efforts to address these differences and it is recommended that more profound changes be also considered, such as the joint processing of asylum applications and mutual recognition of asylum decisions. Moreover, liberal politicians should in my view seriously consider whether it is worth to continue investing in the Dublin system or whether it would be more reasonable to explore more comprehensive changes.

### *Irregular migration*

Irregular migration involves different categories in terms of the people concerned and the different networks through which they pass before arriving, transiting or remaining. It is a complex phenomenon, which must be tackled in all its dimensions. The policy against irregular migration has to strike a balance between prevention and repression and a balance between the right of a state to decide whether to accord or refuse admission to the territory to a foreign national and the obligation to protect those in need of international protection.

The aim of the policy for preventing and 'combating' irregular migration is to substantially reduce irregular migration flows and

irregular immigration. It is intended to complement the policy concerning the fair and efficient asylum system, but it also has to be complemented by legal, particularly economic, immigration and integration. Such an approach presupposes common concepts and practices with regard to visa policies, document security and the establishment of identity, the protection of personal data, admission and border management, fight against trafficking in human beings and smuggling of migrants in terms of perpetrators' penalisation and victim protection, as well as concerning readmission, voluntary and forced return, and measures aimed at deterring clandestine employment. Dialogue between countries of destination, origin and transit, as well as other trust-based political and developmental cooperation, is vital for an efficient policy against irregular migration.

Measures and cooperation aimed at adopting potential actions for preventing and fighting irregular migration are thus interrelated, but can be divided into external, mainly preventive, measures (such as pre-entry measures, carriers' liability, visa regime, entry refusal, border management), internal, mainly repressive, measures (such as detention, expulsion, sanctions for 'illegal' employment) and regularisations, which have to be complemented by the supportive infrastructure, instruments and operational cooperation for the first two groups of measures. Regardless of the measures that are put into practice, they must be in compliance with international obligations and human rights, as well as with specific needs of victims of trafficking and potentially vulnerable groups, such as minors and women.

In the examined countries, policies aimed at reducing irregular immigration and dealing with irregular migrants are, to a large extent, determined at the EU level. The contributors to this book clearly show that preventing and 'combating' irregular migration became a priority, particularly in the course of accession negotiations before the countries' membership in the EU and the Schengen area. Some Western European countries already voiced their concerns related to threats of irregular migrants transiting these countries in order to reach the EU before the negotiating process. Nevertheless, it was the EU institutions that obliged these states to start intensive activities in this field, which constituted a condition *sine qua non* for the process of accession to the EU to be concluded successfully. Legal gaps started being completed successively, which improved both the legislation and practice concerning border management, visa issuing procedures and internal control activities. Nevertheless, the quiet tolerance towards irregular migrants, mainly in transit, but also those undertaking work in informal economy in some countries, seemed to constitute quite an important

factor hampering the enforcement of existing instruments aimed at dealing with this type of migration. A motivating effect was provided by material and significant financial resources and efforts invested in developing border police mechanisms and highly sophisticated equipment for border monitoring and control. The security shift and investments into the protection of ‘Fortress Europe’, as well as other instruments, such as ever more restrictive legislation, visa policy, readmission agreements concluded with countries that facilitate migration flows instead of focussing on the need to identify reasons – root causes – for mass departures from countries of origin, resulted in a decline of irregular border crossings. In some cases, this was aided by the diversion of irregular migration routes, for example, when Romania and Bulgaria became EU members, or their redirection to maritime EU borders used by people transiting the Mediterranean from the Middle East and African countries.

As shown in the subsequent section on economic migration, security concerns and focus on irregular migration remain one of the main elements of national migration policies of analysed states. It is important to emphasise that irregular migration is primarily viewed as a matter of national security where preference is put on preventive and repressive measures. These states are rather cautious when offering unauthorised immigrants any opportunities for the legalisation of their stay or work. An exception that seems to confirm this attitude can be found in Poland, which had a series of regularisation programmes (2003, 2007 and 2011), widely called ‘abolition’ or ‘amnesty’ for foreigners, which included requirements that the majority of people in who found themselves in an unauthorised situation could not meet. The timing of their implementation just before Poland’s accession to the EU and the Schengen area suggests that one of the main objectives of these policy instruments was to decrease the potential onward migration to other EU states. Tereza Blahoutová highlights the fact that the status and treatment of unauthorised migrants is a ‘non-policy issue’, similarly to the EU policy level. Non-profit organisations are the only stakeholders that are paying long-term attention to this group of migrants. In her country, the Czech Republic, these organisations have been trying to initiate a discussion about the regularisation policy for almost a decade.

The six EU Member States described in this book are located at the external, either land or sea, EU borders, while the Czech Republic does not have any external EU borders and is primarily focussing on the Prague airport. Since their accession, the coordination between EU Member States regarding border controls has increased significantly. A

few months after the 2004 EU enlargement, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) was established, while two years later the Schengen Borders Code regulated the movement of persons across borders. In addition to a number of measures aimed at controlling irregular migration, the controversial 'Returns Directive' was adopted in 2008 and governs, *inter alia*, an obligation to return irregular migrants, the grounds and conditions for detention and their treatment during expulsion proceedings. In 2013, the European Border Surveillance System (EUROSUR) was introduced. It aims to improve situational awareness and increase reaction capability at the external EU borders for the purpose of detecting, preventing and combating 'illegal' immigration and cross-border crime, and contribute to ensuring the protection and saving the lives of migrants.

The most worrying trend, which also seeps through individual contributions to this book, is the criminalisation of irregular entry and stay of migrants in the EU. This relates not only to the political and legal terminology applied in this field, but also to the use of criminal sanctions or administrative sanctions which mimic criminal ones, such as detention, in relation to border and immigration control issues. Apart from many academics, NGOs and human rights experts, the Council of Europe Commissioner for Human Rights also expressed his concern that 'such a method of controlling international movement corrodes established international law principles; it also causes many human tragedies without achieving its purpose of genuine control' (United Nations 2012: 9). Recently, particularly in case of Malta's policy of mandatory detention of 'prohibited migrants', measures for tackling irregular migration were the subject of adverse rulings issued by the European Court of Human Rights, which recommend general measures for improving detention conditions and limiting the duration of immigration detention.

In parallel, the use of criminal law sanctions to punish businesses and individuals engaging with persons, whose immigration status is either uncertain or unauthorised, is also causing substantial concern. As pointed out by Krystyna Iglicka, the 2008 European Pact on Immigration and Asylum pushed Poland to uncover irregular employment that resulted in a significant increase in the number of inspections carried out in companies. In some other countries though, the existing rules of labour inspections are not fully implemented, as less resources are spent for this purpose and because of tacit tolerance extended to irregular employment and informal economy in general.



The security shift and the trend towards the criminalisation of irregular migrants are even more important because many irregular migrants are most often intentionally assisted for financial gain (smuggling) and are frequently mixed with asylum seekers, victims of trafficking and other potentially vulnerable groups, such as unaccompanied minors. Central and Eastern European countries happen to be particularly efficient in the extremely competitive market of trafficking in human beings. They are mainly countries of transit, but also of origin and destination of trafficking for sexual and, increasingly, labour exploitation. Tereza Blahoutová draws attention to ‘the tree workers case’ in the Czech Republic, which concerned more than 2,000 workers from Vietnam, Ukraine, Romania, Bulgaria, Hungary and Slovakia. Slovenia has been drafting two-year National Action Plans since 2004 in order to define key counter-trafficking activities, but in spite significant efforts invested into a wide range of such activities, the number of detected crimes of human trafficking remains modest. Moreover, the maltreatment of short-term legally employed construction workers from Bosnia and Herzegovina was recently so grave that the Slovene Ombudsman was prompted to publicly question whether Slovenia is still a welfare state based on the rule of law, since violations of labour and social security legislation were not sufficiently investigated and sanctioned by the competent inspectorate, neither had the police and prosecutors done their job.

Thus, ‘illegal’ migration has many faces. Most importantly, it creates a population outside the law, which has no access to the factors that are critical for their integration into society, and produces an underground economy, where malpractices and exploitation flourish.

It can be concluded that policies towards irregular migration in each of the selected new EU Member States have been strongly influenced by the ‘Europeanisation’. The main focus of the EU has been to counter the entry of irregular migrants through the Eastern and Southern external borders. This has resulted in a primarily security-centred approach of sustained restrictive policies that tend to criminalise this group of migrants. There are no permanent rules within immigration law that would include clear procedures and criteria regarding the paths for the legalisation of irregular migrants.

As presented by Jean-Claude Juncker (2014), the EU’s political guidelines require that better management of migration be an explicit priority of the European Commission. The objectives of the ‘New Policy on Migration’ include: better protection of external borders by increasing the budget of Frontex; uniform application of asylum rules in all EU countries and the enforcement of EU law with a view of

penalising human traffickers vigorously; closer cooperation with non-EU countries to smooth the repatriation of irregular migrants; and promoting the legal migration of persons with required skills through a review of the 'Blue Card' legislation.<sup>229</sup>

As it may be possible to predict, the future policy development will rely on the enforcement of the existing EU law. In this context, the question of human rights compliance will remain central to the legitimacy and legality of the existing and forthcoming policy and practices towards irregular migrants.

It is crucial to recognise that programmes for legal immigration are currently underdeveloped. Legal avenues, and perhaps a more horizontal approach to legal migration policy, could be expanded so as to meet skill shortages at both higher and lower segments of the EU labour market.

In spite of a long-awaited engagement of different policy areas, particularly the EU external policy, there is a risk that the emphasis on readmission, return or repatriation of irregular migrants will continue to be perceived not as an attempt to help non-EU countries to find solutions for their problems, but as an act of assisting them to sustain the pressures and manage them within their own borders, thus avoiding the export of these problems to the EU, instead of identifying and trying to resolve the 'root causes' of irregular migration movements, which could be achieved by placing migration high on the agenda of the international community and striving to work towards global solutions to migration issues.

### *Economic Migration*

Economic migration usually refers to international migrants moving mainly for economic reasons or in order to seek material improvements through temporary or lasting work, employment or self-employment – 'migrant workers' – as well as for purposes of research, study or training. The contributors to this book mainly view economic migration and mobility as a positive contribution to economic development and performance of their countries, while several also wonder whether immigration could and should play a role in improving the demographic balance between the young and the old. Individual authors do not offer detailed recommendations concerning economic migration, however, they do provide useful information that can help in advancing the debate.

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<sup>229</sup> European Commission: Commission Priority, A New Policy on Migration, [http://ec.europa.eu/priorities/migration/index\\_en.htm](http://ec.europa.eu/priorities/migration/index_en.htm).

The labour market, often without a well-thought and long-term vision or strategy of economic migration, has always been an important factor behind economic immigration. For example, in my Chapter, I argue that Slovenia has been responding to labour shortages according to current needs of the labour market. In the period of economic growth, this led to an employer-led labour immigration, satisfying labour shortages in the low segment of the labour market by the government-imposed annual work permit quota. In response to the impact of the economic recession, the quota was reduced, except for highly skilled migrants, and instruments for the stringent labour market test were adopted. The Government even introduced some temporary restrictions and prohibitions of employment and work of migrants from non-EU countries on the grounds of public or general economic interest. The Czech Government, faced with a similar situation and reacting to the anxiety expressed by the Czech majority population and stressing the security situation launched a special project of the so-called voluntary returns. At the beginning of 2009, the Ministry of the Interior offered immigrants a financial contribution in the amount of 500 EUR and a flight to their home country. However, most of them did not accept the offer and remained in the country hoping for a swift economic recovery and new working opportunities.

In Slovenia, it was only then that a need for a new policy in this field became justified in order to target the desirable economic immigration better and address a mismatch between the demand for labour and migrant worker profiles. The Strategy for Economic Migration 2010-2020, including its Action Plan, seeks to encourage certain types of economic migration, i.e. highly skilled, skilled and low skilled labour, as well as international students and researchers, which would alleviate the emerging gap between the working population and the needs of the labour market, as well as migration that would increase economic activity and innovation, and contribute to the overall competitiveness of Slovene economy. Slovenia also concluded bilateral agreements with Macedonia and with Bosnia and Herzegovina based on the concepts of seasonal and circular migrations, which provides for more controlled flows of labour migrants from these countries.

Other states analysed in this book have not developed specific documents on economic migration. Rather, this type of migration is dealt with within 'all-embracing' migration policies.

The Czech Government outlined the orientation of its migration policy in six fundamental principles in 2003. One of these principles supports legal migration, particularly the immigration of those who will contribute to the development of the country and society, i.e. highly

skilled migrants from culturally similar countries who are expected to integrate easily. At the beginning of 2009, the Green Card Project was designed, which aims at simplifying the employment conditions of highly qualified immigrants.

Poland's attention to potential immigration from non-EU countries was initiated by the government following its failed 2008 'PLan to Return' campaign aimed at encouraging returns of post-accession Polish migrants. The outflow of Polish workers increased after May 2011, as Germany and Austria opened up their labour markets. This led to labour shortages in some sectors and a three-month seasonal employment in agriculture and construction for skilled and unskilled migrant workers from Ukraine, Belarus and Russia, which was introduced in 2006. Three years later, the Scheme of Employers' Declarations was further simplified and now applies to all economic sectors with the maximum duration of employment set at six months. It is extended to the citizens of Moldova and Georgia. During the first year after the new regulation entered into force, as many as 163,000 'declarations of employment of a foreigner' were recorded by the local labour authorities and 260,000 in 2011. The vast majority of such 'eligibility documents' went to Ukrainians (92 per cent).

At the same time, employment procedures applicable to non-EU citizens were substantially simplified. Five types of work permits depending on the nature and expected duration of employment may be obtained after entering Poland and without prior labour market tests in case of occupations declared to be in deficit. The first more extensive and far-reaching migration policy, adopted in 2012, should serve as a basis for setting specific migration policy targets, drafting specific laws and other regulations, and promoting relevant institutions in the years ahead in various areas of migration policy, such as legal immigration, the prevention of and combating irregular immigration, international protection, integration, citizenship, the return of ethnic Poles from the former USSR, the migration of Poles for work and the Polish citizens' return migration. Iglicka characterises the document as a reflection of the 'Europeanisation' of Poland's policy, as it prioritises immigration policy despite a continuous outflow of Poles, deplored in many public speeches by the highest officials.

A debate on the Bulgarian diaspora, initiated at the top political level, and frustrations in the foreign policy due to the unwillingness of some EU countries to accept Bulgaria into the Schengen area triggered migration discussions in Bulgaria. One after another, strategies for the 2008-2015 and 2011-2020 periods rapidly redefined their priorities. The first policy focussed on attracting the return of new emigrants and

foreign citizens of Bulgarian origin, e.g. from Moldova, but also on foreign investors. The second policy dealt chiefly with security issues and the effective management of economic migration and integration. According to Anna Krasteva, the state regulates the process by promoting business rather than by stimulating guest workers.

Croatia adopted its first migration policy in 2007 on the presumption that there would be an increase in emigration after its EU accession in 2013 and that migration in the Balkan region would remain the same. The policy focussed on irregular and transit migration, and undocumented workers. The second comprehensive policy for 'all migrants' for the 2013-2015 period sets the analysis of conditions in the labour market in order to draw appropriate measures aimed at meeting the needs of labour as one of its priorities. This would then serve as a basis for a future determination of employment quotas. The Chapter on Croatia argues that both policies could only be characterised as *ad hoc* measures reacting to problems and challenges without having clear goals. Migration continues to be considered as a security issue, while other potential effects of migration, such as economic, social or cultural benefits, are neglected.

Hungarian governments have been unable to develop a long-term migration strategy, with the exception of the 2004 parliamentary draft resolution. According to Attila Juhász, migration regulation became fully submitted to the concept of ethnicity-based nation building. He describes a dichotomous nature of this process after the EU accession. On one hand, it was characterised by the mandatory legal harmonisation within the EU, while the subservient position of migration policies to an ethnically based national and naturalisation policies became clear on the other hand. Moreover, since 2010, the right-wing government enjoying a two-thirds majority in the Hungarian parliament has been further tightening immigration regulations and reiterating that the immigration of foreigners is not an option for resolving the problem of population decline. At the same time, the naturalisation of Hungarians living abroad has been eased considerably. In Juhász's view, these measures should not be seen as merely symbolic gestures, but as part of a migration policy concept hoping to remedy demographic problems with the migration of ethnic Hungarians from neighbouring countries, while simultaneously making every effort to stem the influx of non-Hungarian ethnic groups.

In Malta, the discourse of its vulnerability and inability to manage irregular migratory flows was reflected in the 2005 policy document entitled *Irregular Immigrants, Refugees and Integration*. Malta's approach to labour immigration is generally rigid and protectionist,

aimed at safeguarding the national labour force from external competition. The Work Permit Scheme allows the employment of foreigners following an application by the employer for a specific purpose and for a definite period of time, usually for one year.

Overall, the work permit system, along with the accelerated transposition of mandatory migration legislation, remains the main management tool for economic migration in the countries under discussion. This system is primarily understood in the context of temporary migration, and in case of some countries, such as Croatia and, until recently, Slovenia, limited by a yearly quota.

Only a few states developed specific programmes for economic migration. The Czech Republic introduced the Green Card Project for highly qualified immigrants, independently from the EU migration policy and its Blue Card Directive. New System of Economic Migration will be based on permanent migration of selected highly skilled workers and on temporary or circular migration of low skilled foreign workers.

Poland developed the Scheme of Employers' Declarations, a short-term or seasonally limited sectoral scheme, which was extended to all sectors. It applies to migrants from specific countries, i.e. Ukraine, Belarus, Russia, Moldova and Georgia. Slovenia concluded a bilateral agreement with Bosnia and Herzegovina following the reference framework of EU policies on a comprehensive migration policy, with emphasis placed on the partnership dialogue with third countries and the beneficial effects of circular temporary migration. It provides for organised recruitment of workers by state agencies rather than employers. A work permit for a period of three years enables back-and-forth movements between the countries. The previously concluded agreement with Macedonia relates to seasonal workers.

Both forms are seen as tools to improve migration management, i.e. to reduce irregular migration and illicit recruitment of migrant workers, and control admission into the labour market and the social welfare system. Furthermore, both concepts are increasingly perceived as promoting migration to 'work for development' and the so-called 'triple win' situation, which is beneficial for countries of origin and destination, as well as for migrants themselves. In this context, the policy governing admission to the labour market places special emphasis on the seasonal or temporary employment of migrant workers, since the ruling legislation is regarded as ineffective and unable to catch up with the demand, specifically in certain sectors. By tackling irregular migration, these measures offer legal channels for

migration of selected groups of workers and are aimed at supporting the source countries in their efforts to reduce the push factors for emigration. The schemes of seasonal employment have not always been successful. As long as short-term employment on an informal basis constitutes a benefit for both employers and migrant workers, given the fact that it allows both to avoid paying taxes and social contributions, even the most liberal regulations for seasonal migrant workers will continue to be insufficient. In addition, recent bilateral agreements entitled 'Small Trans-border Movements of People' have extended opportunities for irregular economic activity as they cover approximately 840,000 Ukrainians, 955,000 Russians and (potentially) over one million Belarusians, provided that the Belarusian regime is to implement the agreement with Poland.

On the other hand, the schemes of circular migration may have serious negative consequences on the labour market and the integration of the circular migrants. There is also an increased risk of worker's dependency and exploitation by the employer. These schemes are reminiscent of the well-known pre-1974 'guest worker policies' in some western European countries and have, similarly to the meaning of an old proverb cited by Krystyna Iglicka stating that '*there is nothing more permanent than a temporary migrant*', led to permanent immigration, which is reinforced by secondary immigration.

### *Integration*

The issue of integration, similarly to that of immigration, has many facets. 'Successful integration requires not only measures to facilitate the access of migrants to key areas of society, but also measures aimed at preparing the society to cope with increasing diversity and new cultural identities, to open up its institutions, involve migrants and grant them equal opportunities' (European Commission 2011: 2). Indexes measuring the success of integration policies can help compare the performance of individual countries. The well-known Migrant Integration Index (MIPEX) uses 148 indicators for assessing a government's commitment to integration measures in EU Member States and other countries in the following seven policy areas: education, anti-discrimination, political participation, access to nationality, long term residence, family reunion, and labour market mobility (MIPEX III 2011). Table 4 shows the values of the aforementioned index for the examined countries, with 100 being the maximum score a country can receive for having integration-friendly policies and 0 being the lowest possible score.

**Table 4** *Migrant Integration Policy Index for countries analysed in this book*

Slovenia	The Czech Republic	Hungary	Poland	Croatia	Bulgaria	Malta
49	46	45	42	42	41	37

Source: MIPEX, <http://www.mipex.eu/countries>, (consulted on 29 November 2014)

The evidence provided by the contributors to this book confirms the above scores insofar as they show that regulations concerning immigrant integration in the countries concerned have been considerably influenced by the EU law, particularly in areas covered by the EU law. Slovenia, which started with immigration policy design early in the pre-accession process, ranks fifteenth among the EU Member States, followed by the Czech Republic, while in the case of Malta it may even be stated that integration policy is almost non-existent, particularly when understood as a long-term, comprehensive and coherent strategy. To some extent, this is also true for other countries analysed in this book. Relatively speaking, integration policy is most advanced in the Czech Republic, at least conceptually.

National concepts of integration policies towards newcomers, and also towards long-term residents from non-EU countries in the case of the Czech Republic, were mainly developed after the countries' accession to the EU. Although EU Member States are primarily responsible for the development and implementation of integration policies, the examined countries observed that this development was triggered by the so-called soft EU policy, especially by the 'Common Basic Principles for Immigrant Integration Policy in the European Union', adopted in 2004, and the 'Common Agenda on Integration', which was adopted in 2005 and completed by 2010. Most importantly, financial programmes of the European Commission, such as the European Refugee Fund and the European Fund for the Integration of Third-Country Nationals, contributed to a recent boom in the amount of new programmes and potential integration measures.

However, the approach was selective, since integration measures address specific, small immigrant groups or refer to limited aspects of integration. By looking at the development of these measures in the analysed countries, it can be observed that they were first focussed on refugees from former Yugoslavia (Poland, Hungary, Slovenia, Croatia) and, only after some lessons had been learned, on specific groups, such as persons with refugee status and other forms of international protection, and returning migrants, known as repatriates. Some countries offer integration support to co-ethnics holding foreign



citizenship, others take the integration of these migrants 'as natural'. Bulgaria is one such example when considering immigrants from Moldova.

According to Attila Juhász, the absence of a planned integration strategy, which would equip refugees with skills and competences required for their integration is the toughest problem for refugees in Hungary. Integration is thus taken up by under-funded project-based NGOs.

In Poland, policymakers have recently become slightly more interested in integrating other groups apart from refugees, but have not yet defined the contents of integration in any legal document. The most extensive debate so far was held with respect to the aforementioned Poland's far-reaching migration-oriented strategy adopted in July 2012. Another issue, pointed out in the Chapter on Poland, lies in the fact that the access to education for immigrant children independent of their residential status has been legitimised since 2010. Special assistance is envisaged to those children who are not proficient in the Polish language.

Juliya Kranjec and Drago Župarić-Iljić argue that the Croatian integration system, which was established in 2013, proves that the country is unprepared for the potential growth of the number of various types and categories of migrants. Migration policy priorities for 2013-2015 recognise integration as one of the major problems of the migration system, but merely a few measures address this issue. The Action Plan on the Removal of Obstacles to the Exercise of Particular Rights in the Area of the Integration of Foreigners 2013-2015 has been drawn, but most measures target refugees, subsidiary protection beneficiaries and, to some extent, asylum seekers. The authors of the Chapter on Croatia point out that a comprehensive analysis of integration policy implementation is lacking and that no special budget is reserved for developing and sustaining integration measures. The most prominent example is the lack of the systematic implementation of Croatian language courses, which have been guaranteed by law since 2011.

Slovene immigration policy placed special emphasis on integration, underpinned by the principles of equality, liberty and mutual cooperation, already in 1999. A specific policy paper on integration, however, has not been developed. In terms of legislation, assistance in the integration process is the subject of aliens and asylum acts and by-laws. The scope of assistance, such as the Slovene language learning courses, programmes for becoming acquainted with Slovene

history, culture and constitutional system, as well as the first free-of-charge basic level Slovene language exam, depends on the type of residence permit obtained by non-EU citizens. State educational programmes, which were well conceived in theory, turned out to be less useful in practice. In 2013, only three per cent of eligible immigrants participated in integration programmes. Moreover, protection of rights, security of status and maltreatment of migrant workers by employers are issues requiring an adequate response.

Integration policy in the Czech Republic was updated in 2011 and again in 2013. Tereza Blahoutová refers to four key areas, i.e. the Czech language proficiency, economic and social autonomy of migrants, orientation in the society and mutual relationships between migrants and the majority population. A new measure is directed towards achieving a balanced media portrayal of foreigners living in the Czech Republic, particularly by the public service broadcaster. She also highlights that the policy does not touch on the long neglected issues, such as migrants' inclusion into the public health insurance system, the recognition of their qualifications and their political participation.

The increasing importance of language proficiency is becoming one of the main characteristics of the aforementioned integration policies. In the Czech Republic, for example, language proficiency is a requirement for obtaining long-term and permanent residence permit and naturalisation. The new Polish Aliens Act, which foresees integration measures, links the settlement of migrants to the basic knowledge of the Polish language. However, such an obligation may be perceived as an instrument of selection rather than integration; it is treated as an instrument of contemporary integration policies, which aim not only at the inclusion of immigrants, but sometimes – recently ever more often – at the exclusion of 'unwanted' immigrants.

The fact that naturalisation is regarded as the crowning of the integration process rather than a means of integration is another characteristic of integration policies. This is also a policy area in which the EU has not played a significant role mainly because it is still an exclusive, sovereign competence of its Member States. While the path to citizenship is long and discouraging for immigrants in all examined countries, preferential access, similar to that in other EU states, is awarded to certain groups of immigrants, such as citizens' spouses of a given country or the so-called second generation immigrants, refugees or stateless persons. While dual nationality and *jus soli* are becoming the norms for countries of immigration in a liberal effort to decouple ethnicity from citizenship, (dual) citizenship policy serves the purpose of nation-building ambitions to re-link citizenship to ethnicity in the

majority of examined countries. Special preferences are given to former citizens and their descendants residing, or not, within the borders of the state and to kin-minorities. For illustration, Hungary introduced a simplified procedure of naturalisation – or in the Fidesz government's terms, the 're-naturalisation' of people of Hungarian descent in neighbouring countries – in 2010. The extension of 'trans-border dual citizenship' to kin-minorities, as Attila Juhász prefers to call it, and the granting of external voting rights extends the electorate beyond the borders of the Hungarian state. By January 2013, 320,000 people have already taken their oath of allegiance to Hungary. Implicitly, it pertains to demographic policy's long-term interest, as it facilitates immigration of co-ethnics, particularly from Serbia and Ukraine, but also from Romania, with minimal integration efforts required from the state. Such practices are also observed in Croatia, where before 2006 up to 800,000 out of 1.15 million people naturalised by such a preference were from Bosnia and Herzegovina. Furthermore, the 2011 Act on Relations of the Republic of Croatia with Croats Abroad guarantees protective measures for Croats living abroad to be granted Croatian citizenship. Slovenia adopted a similar act pertaining to Slovenes abroad, which, *inter alia*, provides for repatriation (Medved 2013). Some other countries, notably Poland, grant special rights to repatriates, i.e. the people of Polish origin, who are granted a repatriation visa and acquire Polish citizenship by virtue of law as of the day of crossing the Polish border, while the Polish Chart, which entered into force in 2008, enables people of Polish descent residing in former Soviet countries to settle in Poland and eventually become Polish citizens. Iglicka also assesses the Act on Polish Citizenship, which was adopted after a two decades-long debate and has been enforced since 2012, as quite liberal since it gives the governors of sixteen Polish regions a discretionary power of granting Polish citizenship to immigrants in an almost automatic way in line with a few precise requirements.

This overview confirms the aforementioned observation, namely that the policies of examined countries, which best promote integration can be found in the areas of EU law. The issue observed across these states lies in the fact that these legal conditions can be undermined by authorities' rather discretionary procedures. Accordingly, by increasing their efforts to develop and implement integration policies at the national, regional and local levels, new Member States should enforce the implementation of legislation, particularly on non-discrimination and the provision of equal access to services.

Although integration is widely considered as 'a dynamic, two-way process of mutual accommodation by all migrants and residents', which

‘requires efforts from both migrants and receiving societies and is critical for tapping into the potential of migration and for enhancing social cohesion’ (Council of the European Union 2014: 4), views on the goal of integration and appropriate strategies to achieve it differ across Europe. The EU’s legislative competence to harmonise national juridical systems in this field was clarified by the Lisbon Treaty (Article 79.4 TFEU), but only allows for the possibility to formalise the so-called EU Framework on Integration. The new EU Member States should take a more active role in discussing integration issues with and within the EU institutions with the aim of reaching an agreement, or at least a common understanding, on an EU-wide integration policy.

Political guidelines for the new European Commission entitled ‘New Start for Europe’ (Juncker 2014) and ‘New Policy on Migration’ do not mention integration. Nevertheless, in my view, an open discussion should be continued, as effective integration is essential for the success of any migration policy. The processes of defining and implementing integration policy, just as those of migration, need to be addressed in a more cross-cutting fashion, involving multiple actors in the spheres of government, private sector and civil society, including associations and stakeholders from migrant communities.

## **Conclusion**

The findings of this book present that the proliferation of migration transition in the selected new EU Member States has hardly begun. The Czech Republic, as claimed by Tereza Blahoutová, transformed from a transit country into a destination country. Other countries examined are undergoing transition from countries of emigration into transit and emigration-immigration countries. Emigration prevails in Croatia and Bulgaria. In Hungary, the proliferation of migration transition may also soon become reversed: a short interlude when the country acted as a net receiver is likely to turn into a sending country again.

It is sometimes argued that in the countries examined the topic of immigration is not perceived as an important issue due to the relative novelty of immigration phenomenon and related to this a slight percentage of immigrants in total populations. Nevertheless, Attila Juhász points out: ‘Even though the percentage of foreign-born residents is but a fraction of foreign-born resident rates in Western Europe, anti-immigrant prejudice and welfare chauvinism is high in Central and Eastern Europe’. Further on, he examines, that almost a third of people, except in Poland and Slovenia, oppose immigration. The drift to the right in Hungarian party politics observed in the past few years has been followed by a value shift to the right as well. While

Hungary might be the most hostile towards ethnically dissimilar immigrants, the term ‘migration’ in Central and Eastern Europe is often associated with a sense of threat, loss, failure and enemy images that generate a negative perception of the entire phenomenon. In Mediterranean, Malta has perceived migration as a pronounced strain on the islands’ resources.

In such national contexts, the minimum EU standards have been transposed in asylum and migration legislation in order to fulfil obligations deriving from EU membership and not to harm the interests of any stakeholders at the national level. Contributions to this book reveal the reactive nature of immigration policies which seem to be lacking resilience and capacity needed to deal with different types of immigration. Although a more active approach to immigration has been emerging in most of the countries examined, it seems that they not always seem to know whether they want immigrants and which immigrants they want. In countries characterised by the lack of experience with democratic governance and the absence of a serious political and public debate with migration remaining marginalised by political parties’ agenda, creating vigorous and resilient immigration and integration policies remains a challenge.

It may be possible to predict that, in view of ‘New Policy on Migration’, the future policy development in the EU will mainly rely on the enforcement of the existing EU law. In this context, the question of human rights compliance will remain central to the legitimacy of the existing and forthcoming policy and practices in the field. Liberals in the countries examined and the EU alike should take strong leadership in sustaining an open debate on migration and integration with the aim to prevent the emergence of any policy, society or community that defy individual liberty.

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