

THE EU AND ITS IMPACT ON POPULATION MOBILITY AND BORDER CONTROL IN CENTRAL AND EASTERN EUROPE

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Decades of living behind the Iron Curtain limited Poles, Hungarians and Czechoslovakians chances to communicate with foreigners. Trips to Western Europe were restricted, even within the Central and Eastern Europe "friendly" borders the movement of persons was limited. The "Westerners" left the door open for people emigrating from CEE and admitted them as refugees under the asylum procedure. Due to a heavily protected border illegal immigration was very limited. Employment of foreigners was regulated by bilateral agreements for example - Poles worked in Eastern Germany, Vietnamese in Poland and Czechoslovakia but the scale of work exchange was very small.

Times have changed today. Almost immediately after the "Autumn of Nations" in 1989 in the Central and Eastern Europe a "Journey of Nations" has begun. The Czech Republic, Hungary, Poland and Slovakia have become a mid-station or destination for immigrants. Additionally the Western migration policy has changed profoundly. Due to a rising number of asylum seekers and immigrants from all over the world Western Europe has introduced restrictive asylum and immigrations regulations.

The EU afraid of a heavy immigration flow introduced a strict immigration procedure, which CEE countries must comply in order to enter the EU. This procedure has far reaching consequences for the CEE states. The stringent requirements of proofing the borders against illegal immigration, new laws on aliens and asylum and introduction of visas for their neighbors now affects the freedom of the movement in CEE and may create new "walls" in the region.

This article investigates the impact of enlargement on population mobility and borders control on the major (due to size of population and territory) four candidates: the Czech Republic, Hungary, Poland and Slovakia. It presents the EU and Members States migration policy and it explores current migration patterns in the Czech Republic, Hungary, Poland and Slovakia and the effects of alignment with the 24 Chapter of "acquis" in the fields of migration and border control.

I. The EU and Members States immigration policies and regulations

The origins of the current wave of migrant trafficking and people smuggling into Europe, as Prof. M. Okolski from International Organization for Migration suggests¹, are connected with the prosperous post-war European short of labor economy, like Germany², which allowed the inflow of temporary migrant workers. After years of prosperity and a high immigration level through different channels, like family reunions or refugees status, the Western European countries halted the immigration flow. Due to changes in industry structures mass demand for low skill workers is lower. With the establishment of a single market the Member States introduced restrictions that made the EU almost inaccessible to migrants seeking legal entry or asylum. At

¹ M. Okolski, "Migrant Trafficking and Human Smuggling in Poland", in: Migrant Trafficking and Human Smuggling in Europe: a review of the evidence with the case studies from Hungary, Poland and Ukraine, IOM, 2000.

² Constant, Amelie, Mossey, Douglas S., "Return Migration by German Guestworkes. Neoclassical versus New Economic Theories", in: International Migration, vol.40 no 4/2000

the same time the CEE countries opened its borders after years of strict control and limited access.

Today migration, border protection and asylum issues are on the top of the policy agenda in the EU. The Members States are trying to impose rigid common Schengen rules to seal the borders. Although, as M. Anderson and D. Bigo pointed out³: “The EU extended frontiers as a marker of European identity, separating the Europe from the other has two weaknesses: it is neither clear nor sufficiently high as a barrier to the outsiders”

1. Measures toward harmonization of the EU immigration and asylum policies

The EU has not yet harmonized legislation on immigration and asylum procedures. However draft Directive on asylum procedures has been prepared and the first phase of harmonized legislation is to be finalized in 2004.

First the area of immigration policy and asylum was discussed mainly as an inter-governmental matter. Then the EU Member States introduced intergovernmental cooperation and harmonization procedure in asylum claims through Dublin⁴ and Schengen⁵conventions of 1990. The Amsterdam Treaty⁶ which came into force in 1999 transferred competence from the EU's third to its first pillar, although Member States remain responsible for the admission of economic migrants and for developing and implementing integration policy. This treaty provides for the establishment of an "area of freedom, security and justice" and gives the Union institutions new powers to develop legislation on immigration and asylum matters. For the first time it was possible to talk meaningfully of a European Asylum Policy.

- The Tampere summit

The European Council summit in Tampere of October 1999 set the guidelines and objectives for the development common immigration policy as:

- a common European asylum⁷ system based on the full and inclusive application of the Geneva Convention;
- a vigorous integration policy to ensure fair treatment of third country nationals aimed at granting them rights and obligations comparable to those of EU citizen;
- measures to ensure more efficient management of migration flows based on closer co-operation between Member States and with countries of origin and transit⁸.

The Tampere summit indicated the need for a more efficient management of migration flows and for a closer cooperation between Member States. The objectives will be reach by improvements in exchange of information and statistics, the enhancement of the fight against trafficking in humans and the economic exploitation of migrants, cooperation with countries of

³ Anderson, Malcolm, Bigo, Didier, “*What are EU frontiers for and what do they mean*” in: Groenendijk, Kees, Guild, Elspeth, Minderhand, Paul, (eds.) *In search of Europe's Borders*. The Hague: Kluwer, 2003 p. 23.

⁴ It contains provisions, which set up a system of redistribution for handling asylum claims to other countries based on “safe third country” and “safe country of origin” rules. The first rule denies access to determination of status on the ground that, the asylum seeker has already found or could have found protection in another country. The second one states that the Members States retain the right to return asylum seekers to third countries recognized as a safe.

⁵ Schengen Action Plan deals with data protection, visa policy, migration, police co-operation and combating organised crime, the fight against terrorism, the fight against fraud and corruption, the fight against drugs, money laundering, customs cooperation and judicial co-operation in civil and criminal matters and human rights legal instrument

⁶ Title IV on Visas, Asylum and other Policies related to free movement of persons, Articles 62-63.

⁷ 2000, The Charter of Fundamental Rights of the European Union in article 18 states the right of asylum is guaranteed in compliance with Geneva Convention of 1951 and the 1967 Protocol on the status of refugees and in accordance with the treaty establishing the European Community. The article 19 states about protection in the event of removal, expulsion or extradition.

⁸ COM (2002) 387 final., p.5-6

origin and the establishment of a coherent common policy on readmission and return. The Commission highlighted the need for a comprehensive common migration policy, which recognizes economic and demographic needs of the EU. This policy should take into account the need for a consistent control of external borders to stop illegal immigration and to combat those who organise it. That is why it proposed clear procedural framework to manage migratory flows. As a result, the Member States have approved mutual recognition of decisions on the expulsion of an alien, harmonizing financial penalties imposed on carriers transporting into their territory persons without proper documents for admission and strengthening the penalties to prevent the facilitation of illegal entry. For example at the EU level no member state should be considered by would-be criminals as being safer for the conduct of unlawful activity. The Framework decision on combating trafficking in human beings provides a common definition on trafficking and common level of penalties set at the level of not less than eight years imprisonment.

The Council has proposed a multi-annual guidance for the Union accompanied by specific schedule initially in the areas: management of migration flows, admission of economic migrants, partnership with third countries⁹. These six guidelines¹⁰ should be translated into national policy with its national and regional differences and the integration of third country nationals.

It seems that the EU Commission is aware of the multi-dimensional aspects of migratory phenomena and the large number of different actors involved in migration management. In the future the Commission plans to establish an open procedure for co-ordination of policy at Community level¹¹.

At Tampere the EU declared its intention to establish a Common European Asylum System based on the full and inclusive application of the Geneva Convention. In April 2002 the EU agreed to a Directive about minimum standards of reception for asylum seekers across the EU. Under it, the Member States will determine the period of time after an application is made during which an applicant will not have access to the labor market and this must not exceed one year.

- The Seville Summit

The Seville Summit¹² of the European Council on enlargement, immigration and reform in June 2002, decided to accelerate the implementation of all aspects of the Tampere programme for the creation of an area of freedom, security and justice in the European Union. It pointed out the need to develop a European Union common policy on asylum and immigration. The EU and its Member States confirmed that the migration flows should be managed in accordance with the law, in cooperation with the countries of origin and transit of such flows. The Council confirmed that this is not an easy task and action in this area should be based on the following principles:

- immigration must pass through the legal channels provided for it and its level should be reconcilable with the reception capacity of the EU and its Member States;
- legal immigrants should entail both rights and obligations in relation to the fundamental rights recognised within the EU;
- combating racism and xenophobia;
- guaranteeing effective protection to refugees
- preventing abuse of the asylum protection system

⁹ COM (2001)127

¹⁰ These guidelines are: developing a comprehensive and coordinated approach to migration management at national level; Improving information available on legal possibilities for admission to the EU and on the consequences of using illegal channels; Establishing a coherent and transparent policy and procedures for opening to labor market to third country nationals within the framework of the European employment strategy; Integrating migration issue into relations with third countries, and in particular with countries of origin; Reinforcing the fight against illegal immigration, smuggling and trafficking; Ensuring the development of integration policies for third country national residing legally on the territories of the Member States.

¹¹ COM (2002)387 final

¹² Source: Presidency Conclusions Seville European Council 21 and 22 June 2002, www.eu.in

The Council adopted the comprehensive plan to combat illegal immigration. The conclusions list a number of measures to be taken in this field. These tasks include: common visa arrangements; concluding readmission agreements; combating trafficking in human beings; examination of feasibility of establishing a European border police force; joint operation at borders; common core curriculum for border guard training; joint management of migration flows and on compulsory readmission; common standards for asylum procedure.

Following this long-term objective, in the end of 2002 the Commission adopted the Communication on Integrating Migration Issues in the EU's Relations with Third Countries¹³. The Communication aimed at putting the migration issue into a broader context, taking account of the driving forces of international migration, the specific case of people in need of protection and the effects of international migration on developing countries. It also stresses the policy to improve the management of migratory flows, including the curbing of illegal migration.

- The Thessaloniki Summit

The 2003 Thessaloniki European Council highlighted the need to find a legal means for third-country nationals to migrate to the EU, taking into account the reception capacity of the Member States, within the framework of an enhanced co-operation with the countries of origin that would prove beneficial for both sides¹⁴. Some of the countries proposed to establish an EU-wide immigration quota. Most EU leaders have rejected proposals, fearing it could lead to the EU assigning annual migration quotas to EU-member states. EU Employment and Social Affairs Ministers in December 2003 announced that they were "willing to study" the possibility of having EU-wide quotas for legal migrants as part of an ongoing EU study of "the relationship between legal and illegal immigration." German interior minister Otto Schilly¹⁵ in October 2003 spoke out against the EU setting migration quotas for member nations, saying: "We Germans have to be able to decide what our absorption capacity is. As provided for by the constitutional draft, the answer to these questions must be given by the individual countries. A system in which the EU Commission decides that one country has to accept a certain amount of immigrants, and another country yet another number, cannot function".

- Developments after Summits

In February 2003 the EU, following the agreements on common asylum procedures introduced the centralized fingerprint database "Eurodac" aimed at preventing abuses of the asylum system. All asylum seekers over the age of 14 are fingerprinted to check that they have not already made an asylum application in another EU country. This system is supposed to put an end to multiple asylum applications, or "asylum-shopping", however it is hard to estimate the extent of this phenomenon. In 2004 the system will be also introduced in 10 future EU Member States. Under the "Dublin" II regulation which also entered into force in 2003 the asylum seekers can be sent back to the first state they entered. However R. Lubbers UN High Commissioner for Refugees pointed out that the forthcoming enlargement may overwhelm asylum system in some new members states due to lack of experience and institutional support. He is afraid that under Dublin II convention asylum seeker can be sent back to them from the inner EU countries and the harmonized procedures may collapse in the new border states, leading to more- instead of less- irregular movement between EU states¹⁶.

¹³ European Commission: integrating migration issues into the EU's external relations, IP/02/1793, Brussels, 3 December 2002

¹⁴ European Commission. 2003. Governance and Development. Communication COM(2003)615.

¹⁵ "German Interior Minister Opposes EU Immigration Quotas," BBC, October 27, 2003.

¹⁶ "Lubbers warns EU of looming asylum problem, proposes remedies", UNHCR New Stories, 22 of January 2004.

In October the EU leaders 2003 agreed to create a Border Management Agency to coordinate the monitoring of land, air and sea borders for migrants, especially in the Mediterranean. What is interesting that they agreed on a directive granting the victims of trafficking short-term residence permit if they speak out against smugglers.

2. Migration Trends in the EU

- Changes in population

Latest forecasts and expert opinions¹⁷ indicate that the net inflow¹⁸ of international migrants to the European Union is expected to show a decrease in 2003 to a level near 983,000 persons in comparison to 1 260 000 persons in 2002. Natural population growth¹⁹ is forecast to decrease from 309 000 in 2002 to 294 000 in 2003. Consequently, total population growth is estimated to reach a level of around 1.3 million (compared to 1.6 million in 2002), bringing the estimated EU population on 1 January 2004 to 380.8 million. The population of the 10 Acceding Countries amounted to 74.1 million people on 1 January 2004 (a decrease of 60 000 compared with 1 January 2003). This decline is mainly due to negative natural growth and negative net migration²⁰. As Eurostat²¹ suggests these first estimates confirm that international migration is still an important component of population change. Population censuses that were held in 2000 and 2001 in most of the EU countries show lower than expected population counts.

However at local level the EU Member States have experienced quite different rates of population growth. The population of Ireland has continued to grow at well over 1.5% per year. Austria, Germany, Greece, Italy, and Sweden have in common a negative rate of natural increase and positive net migration. It was due to the migration balance that their populations increased in 1999. In Belgium, Denmark, Luxembourg, Norway, Portugal, Spain and Switzerland demographic growth was primarily due to immigration, although the natural increase remained positive. In France, the Netherlands and UK natural increase remains the principal component of population growth.²² Although the EU-wide average annual population change rate was positive +0.23% rates varied from -0.77% in German region of Halle to +3.24% in the Flevoland region of Netherlands.

After a period of decline the net inflow of international migrants (immigration minus emigration) to the EU increased from 581,000 in 1998 to 1,260,000 persons in 2002. For example, the net migration to the UK²³ rose from about 50,000 a year in the early 1990s to 172,000 in 2002.

Europe's 21 million foreign residents are about five percent of the population. They are unevenly distributed among European countries. One third of them settled in Germany (9 % of German population), six million live in France (10,6 % of French population), four million in United Kingdom (6,8% of British population). The 2001 census in Greece counted 800,000 foreigners in a total population of 11 million. Italy's legal immigrants make up less than five percent of the total population, far less than in many other EU countries. Some two-thirds of foreigners are European, one-sixth Africans and one-ninth Asians.

- Asylum seekers

¹⁷ Based upon monthly data available at the end of 2003, Eurostat, Statistic in focus, 1/2004

¹⁸ It means immigration minus emigration.

¹⁹ It means live births minus deaths

²⁰ Source: Eurostat, Statistic in focus, 1/2004

²¹ Source: Eurostat: Statistic in focus, 1/2004.

²² Source: OECD Reports "Trends in International Migration 2001"

²³ In 2002 around 479,000 foreign nationals entered the UK for more than a year but only 307,000 left.

In 2002 in the European Union 381,623²⁴ people applied for asylum, of the world's roughly 600,000 asylum applicants, a decrease of 1.7% with comparison of 2001. Between 1998 and 2001 Germany was the most popular state among the asylum seekers, with around 100,000 applicants per year. Currently the most popular asylum seeker country is the United Kingdom where 92,000 in 2001 and 110,000 in 2002 applicants lodged asylum requests. In absolute terms, the UK was the largest asylum-seeker receiving country in the industrialized world in 2002, accounting for 19 per cent of all asylum claims lodged, followed by Germany, France, Austria, Sweden, Belgium and the Netherlands. Most of the asylum seekers were Iraqis (50,058 applications), former Yugoslavians (32,656 applications), Turks (28,455) applications and Afghans (25,470 applications)²⁵.

When the number of asylum applications is compared with the total population of the state in which the applications are made (i.e. applications per 1000 inhabitants), out of the EU Members States, Austria had the highest ratio of applications to population with 4.6 applications per 1000, followed Sweden (3.7), Ireland (3.1) and Liechtenstein (2.8) in 2002.

3. Trends in Members States position on immigration

Each Member State has different approach towards legal and illegal immigration, asylum procedures and different laws on naturalization. Different factors influence their position on migration for example economy, political parties in power, international developments and geopolitics. Foreign nationals are unevenly distributed among European countries. For example when far-right political parties, generally with anti-immigration agendas, gained some support during elections throughout Europe in 2002 and 2003, the governments in many countries changed their position on immigration and asylum. It was especially visible during recent accession negotiations on free flow of labor.

- Free Flow of Labor

The EU is afraid of an immigration flow from not only the third countries but as well from its new members due to economic problems and growing unemployment due to temporary and growing migration of the workforce the Eastern and Western Europe. This issue has been on the top of policy agenda. However the number of nationals from CEE countries residing on the territory of the European Union is relatively low. There are estimations that about 300.000 people work there as full time and seasonal workers. These figures account for 0.3 % of the EU work force.

Since the pre-accession talks German and Austrian negotiators have been demanding a seven-year transition period for newly admitted countries before they are covered with the EU free-flow-of-labor principle. Following anti-immigration resentments Austria²⁶ strongly defended its labor market against inflow of Poles, who as they suggested, might seek employment after accession. Germany strongly demanded a seven-year transition period for newly admitted countries especially for Poland because its direct location and long-term traditions of Poles taking up illegal work in Germany. However because this country experiences shortage of skill and seasonal workers they introduced a “Green Card” to facilitate a recruitment of computer specialists. Germany also signed a bilateral agreement with Poland on seasonal workers. It means that this country needs immigrants but they would like to have as much as possible control over them.

²⁴ Source: Population Data Unit, UNHCR. UNHCR Asylum Applications Lodged in Industrialised Countries: Levels and Trends, 2000-2002

²⁵ Source: Population Data Unit, UNHCR. UNHCR Asylum Applications Lodged in Industrialised Countries: Levels and Trends, 2000-2002

²⁶ Once again right wing political party has become part of the coalition government of Austria.

That is why the EU allows current member states to maintain limitations on free movement of workers for two years, with an option to extend this system for another three years. Each member state can introduce its own conditions, to be specified in their national legislation. If, however, a member state does not signal its intention to extend limitations beyond the initial two years, these will be automatically lifted. After 2009, current member states will be permitted another two-year grace period only if they provide sufficient evidence that people coming to seek work from new member states endanger the stability of their labor markets. Most of the members like Germany and Austria opted for a seven-year delay in full freedom of movement for new EU countries. Only the United Kingdom and Ireland will permit to work on their territories immediately after entry.

As R. Outrata argues the introduction of transitional periods for the free movement of workers is clearly more beneficial for the current EU countries. Withholding potential migrants in CEE countries during the transitional period for the free movement of persons will create pressure to maintain the low level of wages in these countries. An increased need for immigrants from CEE countries will appear more intensively later, after the transitional periods expire, when strong population years start to leave the EU labor market²⁷.

- Stricter rules on immigration

Germany is still a popular destination for migrants, but immigration has become divisive issue. A law designed to tighten up asylum rules and encourage integration was introduced. The law deals with issues like controlled skilled immigration, stricter asylum procedures, and integration of foreigners. It even allows a limited number of skilled non-EU workers into the country, because as the government argues to fill an estimated 1.5 million professional posts, which currently lie empty due to a domestic skills shortage. There are voices that too many foreigners have been admitted as a result of "idealistic thinking" and that Germany neither can cope with the existing immigration, nor expand it.

Italy also fears of immigration in Europe, formerly an emigration country today has become country of immigrants²⁸. In August 2002, the Italian government passed legislation to regulate immigration, known as Bossi-Fini Law²⁹. Some of the most important changes include immigrant quotas, mandatory employer-immigrant contracts and stricter illegal immigration deportation practices, giving more powers to the police to deport those who enter Italy illegally, and stipulating longer prison terms for human traffickers and document forgers. Italy urged the EU to follow the Italian practice of offering legal migration slots in exchange for cooperation from emigration countries to reduce illegal migration.

As Paolo Ruspini³⁰ indicates the massive scale of illegal immigration faced by Italy results in part from Italy's very restrictive policy towards legal entry including: strong emphasis on border controls, increasing the number and resources of border police, stipulation of re-entry agreements, creation of compulsory detention centres to aid deportation, compulsory visas, and sanctions on "entrepreneurs" who aid illegal entry³¹. This highly restrictive control over legal entry means that many immigrants to Italy prefer to enter illegally rather than wait for the possibility of entering the country legally.

²⁷ Outrata, Richard, "Economic and Social Contexts of Slovakia's Accession to the EU - benefits and risks". Institute of Slovak and World Economy of the Slovak Academy of Sciences, Bratislava July 2002

²⁸ In 2002 Italy intercepted 23,799 illegal migrants.

²⁹ Law No. 189 (Bossi-Fini Law), amendemnt to the 1998 Immigration Act.

³⁰ Dr Paolo Ruspini is a researcher at Marie Curie Research Fellow Centre for Research in Ethnic Relations University of Warwick.

³¹ Ruspini, Paolo, *Italy's "Nation Wide Emergency" to Cope with Boat Full of Illegal Immigrants Result of its Rigid Immigration Policy* New Research, www.eu.int/rapid, 20/03/02

The Belgian government in November 2003 proposed to make foreign aid conditional on cooperation from migrant-sending countries to reduce illegal migration. Although the Social Law Inspection Service, which inspects 15,000 firms a year, estimates³² " that 40 percent of Belgian firms use illegal labor, including foreigners without work permits and Belgian or foreign workers registered as part-time who actually work full-time. Ultimately illegal foreign workers are vital part of Belgian economy

In 2002 the Danish government restricted immigration and cut aid to refugees. Immigrants will have to wait seven years instead of three before they qualify for full welfare benefits. Refugees would only be granted permanent residence after seven years, instead of the current three and it toughened the criteria for qualifying as an asylum seeker.

In the UK, which faces a huge influx of asylum seekers, the government is under pressure to strengthen the EU's external borders. The British Prime Minister Tony Blair³³ confirmed that there would be no "fortress Europe", but... there has got to be some order and some rules brought into immigration system. He agreed that there is a need to work on what is one of the most pressing issues of our time, which is the issue of immigration and asylum. Home Secretary David Blunkett³⁴ proposed Nationality, Immigration and Asylum Bill which would impose stricter measures against people coming into the country-seeking asylum. Immigrants could be deported even before their appeals over refugee's status are heard. In addition they would be housed in special centres. He also plans to allow easier legal immigration for workers whose skills are needed. So far the death of 19 Chinese workers who drowned while searching for shellfish in very dangerous waters prompted calls for tighter regulations to prevent the exploitation of immigrants.

The Spanish position is similar. The Spanish government puts more pressure on tightening external borders and targeting people-traffickers. The fastest-growing groups of migrants in Spain are from Latin America and Eastern Europe. To regulate this flow Spain signed bilateral agreements with some of the Latin America countries and with Romania and Poland in 2002.

In many parts of France, there is a growing resentment against immigrants, especially those from North and West Africa. They consist of 10 percent of population and are viewed as a threat to the country. This sentiment is quite strong and was confirmed by strong performance of Jean-Marie Le Pen, who captured 18 percent of the vote during the 2002 French presidential election. In November 2003, France revised its asylum system under which the new system, "subsidiary protection" will allow foreigners in need of protection to live in France for a year with a renewable permit. The OFPRA agency will make decisions on applications within two months, down from two years³⁵.

- Liberalised approach towards immigration

Greece used to be one of the transit and emigrant countries but more foreigners are settling there too. The 2001 census counted 800,000 foreigners in a total population of 11 millions. In 1998 Greece liberalized its immigration policy because tight controls and deportation procedures were not effective. New program aimed to tolerate foreign workers and allow them to work. There are arguments³⁶ that this policy, tolerating illegal immigrants has been optional only for the short run and has caused unemployment growth from 7percent to 11percent. On the other hand Greece has negative natural growth and the migration of 30,000 in 2003 kept its population

³² Steinborn, Deborah "Poles' 22-hour commute pays off - illegally - in EU", New York Times, December 12, 2003.

³³ UK EU signals asylum action. BBC- News, Tuesday, 21 May, 2002

³⁴ Alice Thomson, "David Blunkett has been vilified over his asylum plans, yet young refugees are his biggest fans," Daily Telegraph, December 12, 2003.

³⁵ "France toughens asylum law," Agence France Press, November 19, 2003.

³⁶ Liam, Theodore, "Illegal migrants to Greece and their Choice of Destination" in: International Migration, vol. 39(2)/ 2001

from decline. Huge inflows of illegal immigrants came from neighboring countries (Albania, Bulgaria and Romania) and today they might even constitute between 10 percent to twelve 12% of the domestic labor force. To solve some immigrant related problem Greece opened four-year (2003-2006) integration program for foreigners. Financed by the EU program it includes the creation of information centers to fight xenophobia and racism; counseling services for migrants on matters of health, welfare, education and employment; vocational training initiatives for immigrants; and the promotion of intercultural education in public schools. Today the Greek government focuses more on bilateral agreement with Bulgaria and Albania for seasonal workers.

As we see the major priority of the EU migration policy is to control the flow and combat illegal immigration but so far this restrictive policy does not lower the number of unauthorized person crossing the borders³⁷. Apart from statement that “the Commission agrees that fight against illegal immigration has to be conducted sensitively and in a balanced way”³⁸ the actions focus on restrictions. The Member States try to coordinate this policy but they differ in approach toward migration. The EU highlights that an integrated, comprehensive and balanced approach to tackle the root causes of illegal immigration must remain the European Union's constant long-term objective but it does act into this direction.

II. Trends in Migration in the Czech Republic, Hungary, Poland and Slovakia

- Trends in Immigration

Since 1993 these four countries have begun to experience the once exotic worries of well-off Western countries with the arrival of immigrants and cheap labor. Today the Czech Republic, Hungary, Poland and Slovakia have encountered thus totally new phenomenon. Formerly emigration countries have become destination or transit countries for immigrants.

In the Czech Republic 231,000³⁹ of aliens resided legally⁴⁰ (75,000 with permanent residence permit and 156,000 with long-stay visa) in 2002, just over 2 percent of the population. Slovaks (50,000) and Ukrainians (48,000) were by far the largest group⁴¹.

During last five years, as reported by the Ministry of Labor and Social Affairs, the Czech Republic is a destination country for labor and entrepreneurs predominantly from Eastern Europe. Around 40 thousand work permits have been issued per year⁴². The highest number of foreigners working in the Czech Republic originates from Slovakia. Under a 1992 agreement, Slovak workers have special rights in accessing the Czech labor market. The number of Slovaks⁴³ with valid work permits has risen from 23,367 in 1993 to 63,555 in 2001⁴⁴. In 2002 as in previous years the most work permits were issued to the citizens of the Ukraine (20,000), followed by Poles (7,000). In Czech's entrepreneurial activities a growing number of foreigners is observed. The Vietnamese nationals prevailed in 2002. They are followed by Ukrainians. However in 2002 a gradual decrease in the numbers of legally employed foreigners⁴⁵ was noticed, which was

³⁷ IOM in World Migration report estimated that the upper limit of unauthorised migrants in Europe was 3 million in 1998, as compared to less than 2 million in 1991.

³⁸ COM(2001)672 final, p. 8

³⁹ Police estimate that the number may double when illegal immigrants are taken into account.

⁴⁰ Based on residence permit or visa valid over 90 days.

⁴¹ Source: 2002 Status Report on Migration in the Territory of the Czech Republic. Prague: Interior Ministry, 2003.

⁴² For example at 31 December 1999 a total of 40,312 valid work permits for Aliens were issued.

⁴³ High unemployment rate more than 20 percent heighten number of Slovak searching for opportunity in other countries.

⁴⁴ Source: The Czech Statistic Office, 2002

⁴⁵ In 2002 number of Slovak also decreased to 56,000.

caused by slow down in the economy and the growth of unemployment. The situation forced the government to adopt measures aimed at controlling migration and protection of own labor forces. As in the other four countries, thousands of people, from mostly Ukraine's western parts, enter the country illegally looking for a job. The Ministry for Internal Affairs of the Czech Republic points out that dozen of Ukrainian ethnic criminal groups' act in the country.

The Czech Republic officials acknowledge that foreigners will be needed to keep the country population growing. Czech population is likely to remain stable at 10.2 million until 2025 but it is expected to drop below the 10 million figure in 2034, and further decline to 9.5 million in 2050, says the median scenario⁴⁶. These statistics also predict some 25,000 foreigners will add to the Czech population annually. Only in 2002 around 45,000 foreign nationals (30 percent from Slovakia, 24 percent from Ukraine and 13 percent from Vietnam) immigrated to the Czech Republic⁴⁷. The native Czech population could decrease even lower due to one of Europe's lowest birthrates⁴⁸ and aging population. The Czech government also makes an effort to leave the door open to foreigners in 2003. It initiated the pilot project for foreign specialists (physicians, technicians and scientists) from Bulgaria and Kazakhstan.

According to the OECD⁴⁹ in 1997 only 14,000 foreign nationals with temporary or permanent permit resided in Hungary, in 2001 their number grew to 144,000. According to the number of labor permits issued, there were 40,908 foreign citizens working in Hungary in 2001.⁵⁰ The EU citizens accounted for 6,8 per cent of the labor permit dependent foreign workforce but that number might be higher because of jobs that do not require the labor permit e.g. entrepreneurs, self-employed, top-managers of foreign-owned companies, key personnel, highly qualified professionals, artists, scientist, etc. The number of foreigners legally working in Hungary was estimated from 90,000 to 95,000 in 2001. These figures represent only 2,5 – 2,6 % of the Hungarian total employment and indicate a very limited effect on the Hungarian labor market. Hungary is also experiencing a demographics problem. It's population decreased from 10.2 million in the 2001 census⁵¹ to 10,142 in 2002 and to 10,115,000 in 2003⁵². This decline, between 2002 and 2003 by 40,000 was due to negative natural growth. From 1990 immigrants have been playing an important role in Hungarian demographics by increasing (by 12,4000 in 2002) positive migration balances.

Today, there are about 100,000 legal immigrants in Poland. Most of them arrive during last 15 years. Except for the period just after World War II when emigration and immigration levels were very high, the immigration flow to Poland was rather low: one to two thousands immigrants per year. Between 1991 - 2001 Poland accepted seven to nine thousand immigrants per year, overall during this period 79,000 foreign nationals settled in Poland. In 2001 6,500 of them received permanent residence permit. Since 1998 years, Poland is a destination country for labor and entrepreneurs predominantly from Eastern Europe like Ukraine and Belarus. Around 20 thousands work permits have been issued per year⁵³. The foreign workers have rights to extend their permits and this number is growing. In 2002 more then 30,000 foreign workers most of them from Ukraine applied for extension⁵⁴. During last five years Poland expelled 45,000 foreigners- most of them Ukrainians, Bulgarians, Russians.

⁴⁶ The Czech Statistical Office, 2004

⁴⁷ Source: The Czech Statistic Office, 2003, www.czso.cz, 15.02.04

⁴⁸ Average 1,17 children per family

⁴⁹ Migration Policies and EU Enlargement- The case of central and Eastern Europe, 2002, s. 43

⁵⁰ Data source: 2001 Regular Report on Hungary's Progress Towards Accession, Brussels, 13.11.2001
SEC (2001) 1748, Chapter: 4.

⁵¹ 2001 The Hungarian Census

⁵² Source: Population and social conditions, Eurostat. "Statistic in focus" 3-1/2004.

⁵³ In 2002 the Polish Government issued 23,000 work permits.

⁵⁴ Henzler, Marek, "Nowy adres: Polska", Polityka 50/2003

As in Hungary the number of legal foreign labor is insignificant. What differs in Poland is the scale of illegal employment. According to estimations made by the Polish Statistic Office, about 200,000 to 500,000 immigrants are illegally employed every year mainly from the former Soviet Union. The market research indicate that the number of illegally employed may reach even a million during summer. However, it is still too early to speak of a serious danger for the local work force. In several Polish cities there are markets where so called "slavery auctions" are organized. Foreigners mostly from former Soviet Union republics wait to be picked up to work in seasonal enterprises like housing, constructions or horticulture. Regardless of high unemployment rate about 18%, many farmers have problems with finding seasonal workers. An owner of the horticulture business in the central Poland openly confesses⁵⁵ that he has to employ foreigners simply because Poles do not want to work in this type of enterprise. According to the Polish Law on Employment foreigners can not work in Poland without proper permits, but this law is widely ignored by not only foreigners but as well by local governments. The work permits application process is complicated, consuming time and money. According to weekly "Wprost"⁵⁶ ten percent of Ukrainians and Bielarussian who crossed the Polish border work illegally in Poland. K. Iglicka⁵⁷ confirmed that this trend has lasted for at least 10 years. A survey conducted in Ukraine and Poland suggests that in 1998 there were 500,000 Ukrainians who worked illegally in Poland. The vast majority of them were petty traders who also undertook very short work contracts.

Apart from the former Soviet Union, the second group of foreign nationals who is largely visible in Poland as in the Czech Republic is Vietnamese. Many of them came to Poland to study during 1970s and 1980s. Most returned to Vietnam and came back to Poland in the beginning of 1990s when Poland liberalized its immigration procedure. It is hard to estimate how many Vietnamese live illegally in Poland⁵⁸. Today the number of foreigners who want to stay in Poland is still growing. There are about 20,000 applications for temporary permit and one to two thousand per year. Most of the applicants are Ukrainians, Vietnamese, Russians, and Armenians, 16,480 of them applied for temporary permit, 1,437 for permanent permit.

Ukrainians, Czech, and Poles are the largest group of foreign nationals with approx. 29,000 residing legally (with temporary or permanent permit) in Slovakia. Slovakia is also one of the main transit countries for migration flows from the south and east to Western Europe and it can be considered as a migration country. The strongest migration pressure comes from Ukraine, Romania, former Yugoslavia, Afghanistan, Iraq, China and India. As in other CEE the emigrants' aim is to reach the developed countries of Western Europe, especially Germany. Many aliens enter the Slovak Republic legally but fail to leave after the expiration of their visas. They wait for opportunities to illegally cross the Austrian or Czech border or try to find illegal employment in Slovakia.

In the year 2001, for the first time in the history of Slovakia, there was a natural decrease of population, when the deceased outnumbered the newly born. The size of population in the SR did not increase in any significant way through foreign migration and in 2003 the population of Slovakia did not also change significantly.

- Trends in Emigration

Czech's migration is not expected to increase significantly by the time of accession and it should not have serious effect on the labor market of the Member States neither in economic nor in social terms. Although since 2001 the tendency to emigrate has been growing. In 2002 around

⁵⁵ Rzeczpospolita, 11.08.00

⁵⁶ Krzyżak, Tomasz, "Wolni niewolnicy", Wprost, 15.02.2004

⁵⁷ Iglicka, Krystyna, "Migration movements from and into Poland". International Migration vol. 39 no 1/2001 p. 13

⁵⁸ Some estimation indicates that around 30,000 Vietnamese stay in Poland illegally and a couple of thousand legally.

32,000 Czechs left the country. Their major is not Western Europe but Slovakia. Overall between 1993 and 2003, from the Czech Republic 89,272 persons emigrated. Due to high level of immigration during this period the Czech Republic experienced positive net migration of 96,776⁵⁹.

The ratio⁶⁰ of Hungarians who would wish to take up temporary employment abroad is as low as 3-4 per cent and it is stagnating, while the ratio of those who would consider permanent emigration – mainly outside of Europe - is 1-2 per cent⁶¹. This type of behavior may be related to Hungarians strong attachment to their country. During accession talks, Hungary stated several times that no mass migration of the local labor force can be expected, because most Hungarians are reluctant to move even from one part of the country to another. Most experts agree⁶² that after accession to the EU the migration of Hungarian workers will be limited and temporary and only in certain sectors and regions. Hungary's accession should not have significant effect on the labor market of the Member States neither in economic nor in social terms.

Currently around 30-35,000 Hungarians are employed in Europe mainly in Austria and Germany. In Austria, Hungarians accounted less than four percent of the total number of foreign employees in 2000⁶³. Together with the estimated 52,000 Hungarians living in Germany, 25,000 living in Austria and 3,000 in France the total number of Hungarians living in the EU is not more than 100,000, less than 0.03% of the EU's total population.

There is a deficiency of official data regarding emigration in Poland. Between 1980-1989, according to official data, 271,000 of Poles emigrated but M. Okólski⁶⁴ estimates that this number was much higher and could reach 1.3 million. As German Statistic indicated 700,000 to 800,000 persons immigrated to Germany alone. Poles still emigrate. During the last 10 years between 20,000 to 30,000 persons a year left Poland. In 2003, negative net migration of 15,300 played a role in the population decline.

The Polish Statistic Office (GUS) estimates more half a million of Poles, look for short-term employment abroad. In 2002 around 700,000⁶⁵ Poles in "productive age" left Poland for longer than two months. These people are considered as short-time labor force abroad. Their main destinations was Germany where 282,830 of Poles legally worked, followed by the US, Italy, the UK and France. They are employed in horticulture (like strawberry or cucumbers picking), constructions and as au pairs. The survey conducted by daily Rzeczpospolita⁶⁶ in January 2004 found out that every 10th survey respondent or member of his family worked abroad.

Under the 1992 agreement, Slovak workers have special rights in accessing the Czech labor market. According to the Czech Statistic Office the number of Slovaks⁶⁷ with valid work permits has risen from 23,367 in 1993 to 63,555 in 2001 and to 56,000 in 2002. Slovaks also seek employment in Austria and Germany. According to the Labor Research Office⁶⁸ six percent of the country's population considers emigration as an option.

⁵⁹ Source: Source: Statistic Report of the Department for Refugees and Integration of Foreigners of the Czech Ministry of the Interior, Prague, 2003.

⁶⁰ According to an international comparative study on migration the Hungarian migration was the lowest among 24 nations examined, both internally and internationally.

⁶¹ Source: Source: Office of Immigration and Nationality of the Ministry of Interior in Hungary, Budapest: 2002.

⁶² 2001 Regular Report on Hungary's Progress... Chapter: 4.

⁶³ Source: Austrian Statistics Office

⁶⁴ Iglicka, Krystyna, "Migration movements from and into Poland, in: International Migration vol. 39 no 1/2001 p. 4

⁶⁵ The 2002 Polish Census.

⁶⁶ Binczak, Halina, "Co dziesiąty pracował na czarno", Rzeczpospolita, 9.02.04

⁶⁷ High unemployment rate more than 20 percent heighten number of Slovak searching for opportunity in other countries.

⁶⁸ News briefs, Slovaks considering emigration, From press reports of TASR and SITA, 5/13/2002.

All of the four countries have experienced immigration growth both legal and illegal. It is very difficult to evaluate the number and impact of illegal “cheap labor”, but this force is becoming more visible. This data indicates that more Poles and Slovaks will seek jobs in other parts of the EU at an increasing pace and new migrants from the East will be expected to apply for the jobs they have left. Temporary migration of workforce has grown between the Eastern and Western Europe since 1990. Poles have been especially mobile as legal and illegal workers in Germany, Austria and France but also in the Czech Republic mainly on the temporary, seasonal basis. Czechs and Slovaks major destination is Austria. Hungarians are employed in Austria and Germany but recently, due to strong economy and a low unemployment level they prefer to work in the country.

- Asylum requests

Being a future member of the EU, these countries have become the targets for an increased number of refugees and asylum seekers. Therefore the number of refugees is expected to rise before accession.

In the Czech Republic the number of asylum seekers has increased significantly since 1998⁶⁹ when slightly over four thousand aliens applied. In 2000, apart from a temporary protection granted by the Government of Chechen refugees, almost 9,000 aliens requested asylum. In 2001 the figure topped 18,000. The majority of asylum seekers came from Eastern Europe- Ukraine, Moldova and Romania. After introducing new laws on asylum, the number went down by half to 8,481 in 2002. The next year the number has increased once again by over a one third. According to the statistics released by the Interior Ministry 11,396 foreigners applied for asylum in 2003.⁷⁰

Ukrainian citizens are one of the largest groups applying for asylum in the Czech Republic with 4,400 in 2001 and 1,600 in 2002. Most of the claims were not politically based so they could not be recognized however the asylum procedure gave the applicants additional period to stay and work in the country. Slovak citizens are also on the top of the list of asylum seekers. They most often cite economic reasons on their applications. According to the Czech Interior Ministry, 2,585 Slovaks have applied for asylum in the Czech Republic since the two countries split in 1993. According to the CTK news agency⁷¹, none has yet been granted asylum. It estimates there are 20,000 Slovak Roma living illegally in the Czech Republic, most with relatives⁷².

Generally, the probability to receive political asylum is very low. Only around 5 percent of applicants obtain it, though in the beginning of 1990s this percentage was higher due to liberal policy on asylum seekers. In 1991 the Czech Republic was the most generous granting it to 776 persons. In 2002 the asylum was granted 103 applicants. Overall between 1990-2002 the Czech Government⁷³ granted asylum to 2217 foreign nationals from 58 countries. The largest groups were Romanians (477), followed by Afghans (233), Vietnamese (156) and Russians from Chechnia (109). There are about 200 Afghan who have arrived there since 1991. In 2001 only 9

⁶⁹ Source: Population Data Unit, UNHCR

⁷⁰ Based on statement by Interior Minister Miloslav Koudelny in: Dita Asiedu, www.radio.cz. 30.01.2004

⁷¹ CTK news agency, 17.09.2003.

⁷² It is very hard to make any estimation about Roma because they used to freely travel within the former Czechoslovakia. When the country was divided many Roma who usually lived on the Czech side stayed on the Slovak side. Now they would like to go back but they are viewed foreigners.

⁷³ Source: Statistic Report of the Department for Refugees and Integration of Foreigners of the Czech Ministry of the Interior, Prague, 2002.

of 300 Afghan asylum seekers in the Czech Republic were allowed to stay. In last three years only five Ukrainians the largest group applying for asylum, received it.

Hungary continued to be a target country for asylum seekers. In 1999, a total of 11,500 persons applied for asylum. As in previous years, most of them were arriving from the former Yugoslavia. In addition, the number of asylum-seekers from non-European countries also increased. Most of them originated from Afghanistan, Iran and Bangladesh. The number of asylum seekers decreased to 7,800 in 2000 but augmented again to 9,500 a year later. In 2002 it dropped significantly again to 6,400. In 2001 and 2002 the numbers of applicants originating from traditional migrant-producing countries increased sharply.

Asylum-seekers from Afghanistan, Iraq and Bangladesh constituted the most numerous groups. A surprising phenomenon is the rise in the number of Macedonian applicants from their practical non-existence to becoming a major group.⁷⁴ From 2000 to 2001 almost one thousand aliens have been allowed to stay in Hungary based on "Persons Authorised to Stay"⁷⁵. Roughly half of the asylum-seekers disappear during the procedure. The disappearance rate is very high and these cases result in the termination of the procedure without an assessment of any claims⁷⁶. As in other countries the percentage of people granted asylum is low. In 1999 the Office of Refugee and Migration Affairs granted refugee status to 313 aliens and year latter 197 persons.

The asylum seekers also try to find a safe place in Poland but as compared to its neighbors their numbers are quite low. In both 2000 and in 2001 approximately four and half thousand aliens applied for asylum. In 2002, slightly over five thousand aliens looked for it.⁷⁷ A quarter of the applicants held Russian citizenship, coming from Chechnia, followed by Romanians, Armenians, Bulgarians, and Afghans. It is still very difficult now to obtain asylum. In 2002 only every 20th applicant received it.

From 2001 Slovakia has experienced a major growth in application for asylum. According to statistics from the Slovak Migration Office the number of people claiming asylum in Slovakia rose more than 6.5 fold in 2001 compared to the previous year. In 2000 there were 1,556 applications, that figure rose in 2001 to 8,151 and in 2002 to 9,739. In 2003, only 10 of 10,350 asylum seekers in Slovakia received a positive decision on their application. In 1994 Slovakia recognized almost 40 percent of asylum claims, 54 out of 140. In 2001 this tendency has drastically changed. The number of applicants grew significantly as the recognition rate fell significantly. The vast majority of asylum seekers "disappeared", moving westwards or into the market of human trafficking. Afghan nationals were by far the largest group of applicants in 2001. In 2002 more applicants were of Chinese origin, followed by Afghans, Hindus and Iraqis.

The Czech Republic by 53 percent and Hungary by 33 percent experienced decreased asylum applications in 2002 bringing the total number of claims down to the level of 2000. Poland and Slovakia recorded an increase. However the number of asylum seekers in Poland compare with other three countries is still relatively low. Slovakia's level was even higher than in 2001, when more then 8,000 claims were lodged. What is very interesting regarding asylum application in these four countries is that the asylum seeker groups differ in each country. In Hungary, asylum-seekers from Afghanistan, Iraq and Bangladesh constituted the most numerous

⁷⁴ Source: Office of Immigration and Nationality of the Ministry of Interior in Hungary, Budapest: 2002

⁷⁵ "Persons Authorized to Stay" status was subsidiary form of protection. The refugee authority granted it until 31 December 2001 to persons who temporarily could not be sent back to his country because there he would be exposed to capital punishment, torture, and inhuman or degrading treatment.

⁷⁶ Source: Population Data Unit: UNHCR

⁷⁷ Source: Population Data Unit, UNHCR

groups where as in the Czech Republic where most applicants originated from Eastern Europe. Chechens are the main group looking for asylum in Poland.

III. The political and legal consequences of the integration with the EU on the Czech Republic, Hungary, Poland and Slovakia – Justice and Home Affairs

In order to enter the EU candidate countries have to transpose a broad amount of EU legislation, known as the “*acquis communautaire*”, into its own legislation implementing it through administrative and judicial structures. The requirements in the field of migration, asylum, visa, management of the future internal borders, combating organised crime, corruption are set down in the Chapter 24 - Justice and Home Affairs. The most developed part of this chapter is the Schengen *acquis*, which lifts internal borders between member states. However, much of this “*acquis*” will not apply to the acceding countries upon accession, but only after a later separate Council Decision.

To fulfill the requirements of this chapter the candidate countries are suppose to introduce many changes in legislation that are not always in line with their own national interest. V. Guiraudau⁷⁸ points out that the consequences of transplanting the Schengen policy instrument uniformly, regardless of the local situation faced by candidate countries should not be underestimated. In preparation for the accession the Czech Republic, Hungary, Poland and Slovakia implemented many political and legislative changes.

In 2003, comprehensive monitoring reports on Czech Republic, Hungary, Poland and Slovakia’s preparations for EU membership⁷⁹ indicate that adaptation the Schengen provisions is progressing. All of these countries are essentially meeting the commitments and requirements arising from the accession negotiations and they are and expected to be able to implement them by accession. However, the Schengen borders will still be closed and acceding countries may need to wait several years for Council decision to lift the borders. The reports point out delays in completing legal alignment, problems with border control and surveillance and concluding the remaining bilateral co-operation and re-admission agreements influenced their position. The EU is not satisfied with the effectiveness of control of illegal migration and corruption. It also criticizes the efficiency of state border protection, the alignment of the visa policy with that of the EU and staffing and technical equipment of the law enforcement authorities⁸⁰.

Next I would like to focus on the legal and political consequences of alignments of the most controversial issues of this chapter migration and border control.

1. MIGRATION

- Migration Policies

From the very beginning of 1990-ties, with emigration flow the Czech Republic, Hungary, Poland and Slovakia have been shaping the legislative basis, organs, and institutions and their internal provisions to deal with migration. The terms for permitting aliens to enter and reside in these four countries are regulated by new laws. Since 2000 they have introduced many amendments to the laws in order to meet the EU requirements. In each country a special office to deal specifically with migration issues has been established. The Alien Residence Act in the

⁷⁸ Guiraudau, Virginie, “*Before the EU Border*”, in: Groenendijk, op.cit. p.209.

⁷⁹ There are four reports: 2003 Comprehensive monitoring report on the Czech Republic’s preparations for membership, 2003 Comprehensive monitoring report on Hungary’s preparations for membership, 2003 Comprehensive monitoring report on Poland’s preparations for membership, 2003 Comprehensive monitoring reports on Slovakia’s preparations for membership. The reports reflect the situation at the end of September 2003.

⁸⁰ Ibidem.

Czech Republic, the Hungarian Law on Entry and Stay of Foreigners, the Polish Alien Law, the Act on the Stay of Aliens in the Territory of the Slovak Republic provide for a wide harmonization in this area by regulating the admission and the residence permit system. The rules are now similar to those in the EU Member States. The process of naturalization of aliens is always long and complicated. Almost everywhere the naturalization process takes between 10 to even 13 years (Hungary). Although despite the procedure the Head of State⁸¹ can fast track to citizenship in special circumstances.

During the period of 1990 – 1997 the Czech Government took on a liberal open migration policy. Since 1998, there has been some restriction of the work permits and since 2000 stricter resident control, new visa-regime and implementation of combating illegal migration. Today the management of external borders is the main goal.

As Judit Tóth⁸² indicates Hungary has rapidly imported the exclusionary techniques from the EU aimed at reducing the number of asylum-seekers and unwanted immigrants. The Hungarian government simplified asylum procedure in cases of manifestly unfounded requests, introduced visa restrictions and stringent rules on residence. So far these rules have not help to halt inflow of illegal or temporary immigrants.

Polish administrative structures are in place it but is very difficult to verify data and find out how many foreigners are in Poland now. One of the reasons is the lack of synchronous registration system of foreigners. The Office for Repatriation and Aliens, the Border Guard and Regional Offices overlap competencies and procedures. Although, the law specify conditions when a foreigner can apply for a different type of residence permit the decisions lies in regional offices. There are many examples of rigid a bureaucracy practice that treats many cases as fraudulent. Irena Rzeplinska from Helsinki Human Rights Found noticed the regional administration in Poland lacked good will while dealing with foreigners.

Finally, Slovakia has been developing more efficient control mechanism in the framework of the activity of the Foreigners' Police. It is aimed to disclose the illegal residence of foreigners or their illegal business as well as employment.

- New Visa Regulations

One of the EU requirements on migration was the introduction of a new visa regime according to the Council of Europe Regulations. They list third countries (about 100) whose nationals must be in possession of visas when crossing the external borders of the EU. With many of these 100 countries the Czech Republic, Hungary, Poland and Slovakia have signed the visa-free agreement. The process of implementing the new visa regime was especially difficult for Poland, which wanted to keep good relations with eastern neighbors and Hungary because of high number of Hungarian nationals living outside the EU border. The Polish government postponed the decision until the last possible moment but on 1st of October 2003 the new visa-regime requirement for Belarusian, Russian, and Ukrainian nationals entered into force. As for now it is hard to evaluate the impact of this decision. For many Poles, Ukrainians, Belarusians and Russians the pre-border economic activity was their largest source of income. Ukrainians fear that new barriers of an administrative nature might be built after accession. There is a fear that restrictions in border crossing might limit economic cooperation not only by peddlers but also private entrepreneurs. For many Poles, living near the eastern border where unemployment is very high, business with its eastern neighbors is very profitable. This mass trade, not revealed in any official statistics, prevails along the length of Poland's eastern border. Many Poles were

⁸¹ For example the Polish President used this power on many occasion, especially when Polish team needed an athlete who did not hold the Polish citizenship.

⁸² Tóth Judit, *"The Consequences of Accepting EU Identity"*, in: Groenendijk, K. op.cit.p. 259.

buying inexpensive mainly household articles from peddlers at the markets. The Polish farmers were selling their produce to the eastern neighbors. The inflow of Ukrainians, Russian and Belarussian had a positive impact on the Polish economy especially in pre-border region. There was a high demand for Polish product like textile and leather. The Eastern part of Poland still depends upon trade with Ukraine, Belarus and Russia. The Head of the Eastern Region⁸³ (Lubelskie) indicated that about 30 to 40 percent of small and medium enterprises depended on trade with Ukraine. He was also concerned that visa regulation may hinder the activity of democratic opposition in this country. The demand for visas is tremendous and huge crowds outside the Polish consulates in Ukraine and Belarus, which issuing 500 visas daily, gather every day. To what extent the introduction of visas is going to reduce trade with bordering countries remains uncertain. This requires more research.

There are estimates that the Polish Consulates have to issue at least 3 million visas a year in order to meet the demand. So far all Polish Consulates have issued about 185,000 yearly. There are only 10 consulates in the East, four in Russia three in Belarus and six in Ukraine all challenged by administrative capacity and the lack of sufficient information technology. The new visa regime caused the reciprocal action of Russia and Belarus. Poles and Belarussian have to pay 10 euros for single-entry visas or 50 euros for multiple-entry visas, which is extremely expensive for the Belarussians. The Russian visas are a little bit more expensive Thanks to negotiations Czech, Hungarian, Polish and Slovak's visas are free of charge for Ukrainians and Ukraine did not impose visa requirements for citizens of these countries.

The new visa regime also canceled the agreements on simplified border-crossing procedures for nationals with permanent residence in municipalities in the border areas. The tourist or service visas are no longer been granted at the border crossings. It means that cooperation between neighboring cities might be terminated since the inhabitants at the border regions have to travel hundreds of kilometers to the closest consulates to get a visa.

The new laws have also implications on the 2,5 millions Hungarian and 1,5 millions of Polish minorities who will be soon living outside the EU borders and when contacts with them will be more complicated and difficult. The Hungarian and the Polish Government have prepared specific measures to support its ethnic minorities and set up conditions to allow them to return to country of origin. By introducing the law the Law on Hungarians living in Neighboring Countries⁸⁴ the Hungarian government granted them certain rights. Poles introduced expatriate visa, which enabled Poles to return to their homeland who due to deportation or other persecution, or on such grounds as national origin, and political opinion had not been able to settle in Poland. The act gives rights to acquire Polish citizenship to aliens of Polish origin who had previously resided in the Asian part of the former USSR like Kazahstan⁸⁵.

The Czech Republic does not have such a large diaspora, but it approved a program of assisting compatriots in their return to the Czech Republic. Under it compatriots' application for permanent residence permits were issued. The project also covered the stay of their family members of foreign ethnic origin by granting them permanent residence permits for the purpose of family reunification.

Regardless, the high unemployment level even in Poland and Slovakia "cheap labor" is widely in use. Dusan Drbohlav, professor of social geography at Charles University indicated that: "I would say we are still living with the myth: The Ukrainian worker takes Czech jobs. Of course, the reality is the Ukrainian workers are mostly taking jobs that Czechs don't want because the pay is too low."⁸⁶ Today the Czech Government prepares for a major influx of immigrants,

⁸³ Guiraudau, Virginie, "Before the EU Border", in: Groenendijk, K. op.cit. p.211.

⁸⁴ The law, amended in 2003 granted ethnic Hungarians in neighboring states the right to health, transport and education benefits in Hungary and temporary jobs (up to 3 months) without a work permit.

⁸⁵ The Polish community in Kazakhstan numbers between 60,000 and 100,000.

⁸⁶ Dinah A. Spritzer, "Foreigners face uphill battle". The Prague Post. December 23, 2003

mostly from the former East and Far East, when the Czech Republic joins the EU. "That wave may be the only thing that keeps the country's population - and, thus, its work force and economy - from a precipitous decline"⁸⁷.

K. Iglicka⁸⁸ argues that there are more positive than negative aspects relating to the influx from the East. Foreigners who apply for permanent residence permit are usually highly educated. Their young age, education and trade qualification means that they have great potential.

2. ASYLUM Procedure

The Czech Republic, Hungary, Poland and Slovakia asylum legislation is largely in line with the "acquis". In the Czech Republic, to halt abuse by foreigners without legitimate claims to persecution, as Ministry of Interior claimed⁸⁹, the new asylum law was introduced. The Czech officials pointed out that the number of applicants quadrupled in 2001 because most of them weren't even looking for asylum. Instead, they were using the system to circumvent the foreigners' law. Under the old asylum law, claimants were permitted to work while their application was being studied, a process that could take more than a year. Foreigners who might otherwise have been denied work permits often claimed refugee status in order to find employment. The changes, which took effect Feb. 1, 2002 streamline the application process and forbid those claiming asylum status from working during their first year in the Czech Republic. After which, they can apply for a work permit. The amendment limits state financial aid to applicants to three months. The applicants whose, asylum bid takes more than 180 days, must move to refugee camps. Now, the Interior Ministry will process asylum claims only once. The amendment will give claimants the right to appeal ministry decisions in the courts. The government argued that the changes were needed to deal with thousands of Eastern European migrants (most of them Ukrainians) who used the existing law to allow them to work while waiting for asylum application to be proceed. Those who work with asylum claimants argued that new regulations would hurt legitimate refugees. "The new law is completely wrong; it's much worse than it was before," argued Bela Hejna, a lawyer with the Czech Helsinki Committee-Counseling Center for Refugees. Critics say the changes will force more asylum seekers to live in refugee camps, increase government costs and put too much power in the hands of state bureaucrats⁹⁰.

In Hungary a revised Law on Asylum was adopted. The law created the legal background for the application of the Dublin Convention. It further reduced the duration of the asylum procedure by entitling the asylum authority to decide on the expulsion of asylum applicants, whose applications had been rejected. Appeals can be lodged at the authority within 15 days of the decision. The overall living conditions in the reception facilities for asylum seekers have been up-graded. The Act on Aliens contains important provisions to protect the rights of the asylum applicants. According to them, illegal migrants accommodated in community shelters may receive a special document authorising them to stay and obtain a work permit. The Directorate of Refugee Affairs (DRA) deals with the recognition of refugees, runs the reception and temporary accommodation centres. It also provides board and lodging for the applicants, refugees, asylum seekers, and persons authorised to stay and to helping with their social integration.

In Poland the Alien Law regulates asylum procedure. The law provides the first ever regulation of asylum applications. Following Western models, applications by people from "safe countries"⁹¹ will be rejected. New, strict application deadlines have been set. Applications for

⁸⁷ ibidem.

⁸⁸ Iglicka, Krystyna, op.cit. p. 13

⁸⁹ According to the Ministry of Interior of the Czech Republic, Information on the Migration in the Territory of the Czech Republic in 2001.

⁹⁰ Michael Mainville, "New political asylum law aims to stem abuse", The Prague Post, 26.03.2002

⁹¹ Persons who are not subject to persecution for reasons of race, religion, nationality and political views.

political asylum must be filed when crossing the border or no later than 14 days from the date of crossing. There will be also a register of foreign nationals, and of people who have been refused entry in the country in the first place. The Report on Poland⁹² highlights that by the time of accession Poland should have a fair, effective and efficient set of procedures relating to the treatment of asylum applications.

In Slovakia, the Refugee Act⁹³, which came into effect on 1 January 1996, regulates national legislation relating to refugees and asylum. In the integration centre in Zvolen, recognized refugees are provided with assistance in job seeking, renting an apartment or obtaining other social services. Refugees may spend a maximum of six months in this centre. Recognized refugees are automatically given a residence permit of indeterminate term. The changes introduced in 2000 include the unlimited access of aliens to asylum procedure (abolition of the 24-hour time limit), the right to family reunification, and the obligation to inform the applicants on the decisions made in asylum proceedings in the language of their choice. It extends the possibility to proceed accelerated procedure in the cases when an alien comes from a safe third country or from safe country of origin.

A displaced person, or repatriate, is another term connected with the problem of the adoption of foreigners. In Slovakia this term is applied to person who suffered during accident in Chernobyl. The Slovak Republic offered humanitarian assistance to Ukraine. The government agreed with the displacement of Ukrainian citizens of the Slovak origin and their family members from affected regions into the Slovak Republic.

c. **BORDER CONTROL**

- Trends in Border Crossing

Around 250 million people cross the Czech Republic national borders with the Federal Republic of Germany, Austria, Poland and Slovakia each year. In 2002 about 100 million foreigners⁹⁴ entered Czech's territory, 85,000 of them were refused entry upon arrival at the border. Around 30,000 people are detained each year while attempting to cross the Czech Republic borders illegally. Most frequently, these persons originate from Afghanistan, India, China, Russia (Chechens), Moldavia, Vietnam and Romania. In 2002 inflow of illegal immigrants⁹⁵ mainly from Asia (Iraq, Afghanistan, India...) continued but this process showed an annual decrease of 40 % from 23,843 in 2001 to 14,741 which at the same time more immigrants violated of residence rule. This process may prove that Czech Republic protects its borders more carefully and fewer migrants try to cross them illegally. In 1998 the government registered 44,000 illegal immigrants but that increase was directly connected with the war in Yugoslavia⁹⁶.

The prevailing point of entry is the Czech-Slovak border. The migrants that reach Western countries are often readmitted to the Czech Republic. For example in 2000, the 11,792 persons were readmitted from Germany and Austria. Only 2,531 of them were expelled from the Czech Republic and the remaining 9,000 persons stayed there or attempted to enter the EU again.

In 2000, 34 millions foreigners entered Hungary legally and the Border Guards detected 16,500 illegal border crossing, 600 traffickers 2,900 instances of official document forgery,

⁹² The 2003 Comprehensive monitoring report on Poland's preparations for membership.

⁹³ Act n E 283/1995 is in line with the provisions of the Geneva Convention, with the General Declaration on Human Rights, the European Convention for the Protection of Fundamental Freedoms and Human Rights, as well as further bilateral and multilateral agreements and treaties between the Slovak Republic and neighbouring countries.

⁹⁴ Source: Ministry of Interior in the Czech Republic.

⁹⁵ Illegal immigrants refer to the cases of people penetrating the territory of a country across its borders illegally, and to the people of illegal residence.

⁹⁶ Source: 2002 Status Report on Migration in the Territory of the Czech Republic. Prague: Interior Ministry, 2003.

representing an increase of 6 percent against 1999.⁹⁷ The past years, due to stricter policy more clandestine, many traffickers' immigrants were detected. In 1999 almost twenty thousand were deported. There is still a considerable problem of illegal cross-border traffic at the border with Ukraine, Serbia and Croatia. Overall, illegal migration has risen.⁹⁸ As a result of introducing stricter border control and policy against foreign traffickers simultaneously there was a significant increase in the numbers and of illegal migrants and vehicles detected and total number of asylum-seekers started to decrease.⁹⁹

In Poland considerable border traffic flow increases occurred in 2000 (250 million persons crossed the Polish border) but in 2001 it decreased by 50 million¹⁰⁰ and it continues on this level. In 2002 around 50 million foreigners crossed the Polish borders. Among them around six million Ukrainians and Belarusian and three million of Russians crossed the Polish border. Russian nationals were the largest group among of 51,000 aliens refused entry to Poland¹⁰¹. In more than 70% of the entry refusals, it was not based on false or invalid documents, but on the basis of false declarations on the purpose of the journey, lack of confirmation of reservation of accommodation in Poland, or of sufficient means of subsistence. The Polish Border Guard authorities apprehended 3,086 foreign nationals (decreased by 13 percent to 2001) after attempts to cross the border illegally, mostly Ukrainians, Czech, Afghans, Russian. It does not mean that there were less cases of successful illegal border crossing. The Guards stopped 233 (in 2001 they stopped 149) organized groups of illegal immigrants and detained 2100 aliens (in 2001 they detained 1779) mostly on the border with Germany¹⁰².

As early as 1992, the Border Guards recorded cases of light planes or helicopters carrying groups of people that were illegally crossing the Polish border and landing near awaiting buses. In 2003¹⁰³ there was a considerable growth 23% of aliens mainly from Ukraine, Vietnam, India and China apprehended by the Polish border guards. More foreigners were caught after legally entering Poland but trying to cross German border. Due to introducing new visa regime, from 1 of October 2003, there was a noticeable decrease by 80-90 percent of border crossings on the Polish Easter border.

In 2002 some 87 million legal border crossings were registered, 37 million by foreign national and border guard turned back 47,000 people for non-compliance with proper entry and travel residence conditions mostly from Ukraine, Romania and Poland¹⁰⁴. In 2001, Slovak police caught 4,098 illegal migrants trying to cross the Czechoslovak border on their own, 86 per cent of the total 4,775 migrants who were caught trying to leave Slovakia illegally that year. In 2001 a total of 10,773 migrants were detected illegally entering Slovak territory. Another 183 illegal migrants who were guided by people smugglers across the Czechoslovak border were arrested in 2001. That year police arrested 242 illegal migrant smugglers.

- Border Management

As regards the management of the future external borders, the Czech Republic, Hungary, Slovakia and Poland have in general aligned its legislation on border control and border

⁹⁷ Source: 2001 Regular Report on Hungary's Progress Towards Accession, Brussels, 13.11.2001, SEC (2001) 1748, chapter 4 and 24.

⁹⁸ 2001 Regular Report on Hungary's, op. cit. p. 82

⁹⁹ Source: Population Data Unit, UNHCR

¹⁰⁰ by 17.6 %

¹⁰¹ According to data from Polish Border Guard- "Podsumowanie działalności straży granicznej w 2002" in 2002 51,000 foreign nationals were refused to enter Poland. The largest group were Russians (8,103) followed by Belarusian.

¹⁰² Source: "Podsumowanie działalności polskiej straży granicznej w 2002"- www.sg.gov.pl/informacje

¹⁰³ Source: "Statystyka Straży Granicznej i ruch graniczny w 2003"- www.sg.gov.pl/informacje

¹⁰⁴ Source: the Slovak Interior Ministry, www.minv.sk/nhcg, 22.0204

surveillance. So far these countries have introduced many technological innovations in the new system of information and communication modernized the crossing border points, set up the new equipment, and enhanced security training with police and border guards. However, as the 2003 Monitoring Reports indicate that the borders are not sealed enough to combat illegal immigration and the prevention of the trafficking of humans. They still need upgrading equipment for border surveillance.

During the last couple of years controls at most crossing points in the Czech Republic have been improved due to new equipment and trained staff. Although, there are still large flows of illegal immigrants through the territory and there are difficulties in intercepting them. According to the EU directive the Czech Republic should pay more attention to the control of the green border with Slovakia. The 265-kilometre border is considered a major exit route for illegal migrants heading to the West after entering Slovakia from Ukraine. Barriers preventing migrants from crossing the border easily will be placed on field and forest paths.

The Czech police also coordinate its effort to fight illegal border crossing. One result in April 2002 the Czech Police arrested 25 members of a gang from the former Soviet Union, Yugoslavia and the Czech Republic in connection with smuggling Asian refugees into Western Europe. Gang members are accused of smuggling more than 28,000 refugees. The police received also greater power to fight illegal migration on main route for east-west people traffic.

The Hungary's most important border crossing points are now properly equipped and they meet Schengen standard. Hungary continues to implement the border management infrastructure relating to equipment and staff. Three border crossing points (Záhony, Tompa and Gyula) along the future external borders of Hungary have started to operate according to Schengen/EU requirements as a pilot project. Further contact points at Hungary's land borders, with Austria, Slovakia and Slovenia are being established in order to facilitate border traffic and migration control. The Border Guard needed to facilitate the exchange of information, as currently border crossing points are not directly linked with national headquarters¹⁰⁵.

In Poland so far the co-operation between the border guards, the police, and the customs and with its eastern neighbors is weak. The main challenge¹⁰⁶ remains the lack of staff in the border guards, which is committed to becoming a fully professional service by 2006 (through recruitment of 5300 new staff and the phasing out of conscripts). Recruitment has started to accelerate with the addition of 1325 new staff in 2003, 80 percent of which are to serve at the future external borders. The infrastructure at all international eastern border crossing points has been upgraded but Poland needs to develop an automatic radio location and monitoring system for Poland's maritime areas and to construct a stationary and mobile surveillance system.

Slovakia continues to upgrade its equipment for border control and border surveillance especially at Slovakia's most problematic border is the one with Ukraine, the main entry route for illegal immigrant. Some smuggling groups are highly organised, and like gangs involved in other types of crime, have divided Slovak territory between them, mainly around the Czech, Hungarian and Ukrainian borders.

Under Slovak legislation, some offenders face penalties ranging from a fine up to three years in jail, while smugglers convicted of organised criminal activity face up to five years incarceration. The Slovak Republic gives great importance to an effective protection of the state borders and special emphasis on the protection of its state border with Ukraine, i.e. the future external border of the European Union. Other possibilities have been opened in this area with the implementation of bilateral agreements on border co-operation. The Slovak Republic has signed such agreements with all its neighboring countries except for Ukraine, as regards to the latter, a process has started of revising the existing treaty base in the light of the new geopolitical

¹⁰⁵ 2003 Comprehensive monitoring report on Hungary's preparations for membership.

¹⁰⁶ According to 2003 Comprehensive monitoring reports on Poland preparations for membership, p. 54

situation. Slovakia has come under increasing pressure recently to improve security on its borders as the country joins the European Union. However, Slovakia puts more efforts to border stricter protection to stop illegal crossing of so called green boundaries.

The EU view Slovakia as a problem state for the traffic in women and a hub of major trafficking routes from the east through Europe. International organisations have identified that one of the trade routes for organised crime gangs transporting women into western Europe run across the former eastern bloc from Russia and the Balkan states up to Slovakia. The Slovak Government also approved "The National Programme of the Fight against Corruption" which introduces a comprehensive strategy for combating corruption but so far has failed to introduce an administrative measure in this field.

Regardless of the major improvements in border controls as well as in combating illegal immigration, there is a fear of immigration flows once these countries join the EU. Since CEE states have become important transit countries for asylum seeker and voluntary migrants, the EU Members State allocated additional funds to enhance border protection and establish infrastructure for asylum seekers and refugees. All bilateral and multilateral cooperation between the EU Members States and CEE countries mainly focuses on the fight against illegal entry and smuggling of voluntary or forced migrants. The major political consequence of those policies is sealing the Eastern and Southern borders in the region. This is done through technological innovations, the training of the police and border guards, the introduction of information and communication systems. This new stricter policy will not necessarily eliminate illegal crossing. The inhabitants of this region have a lot of experience in how to avoid strict border rules learnt during Communism times. The corruption level is still very high in this region.

CONCLUSIONS

The procedure to combat illegal immigration and to reduce the number of asylum seekers are part of European Union polices today. So far the EU has not developed a common migration policy but the EU Commission has recently accelerated actions towards common asylum and immigration policies. The first phase of harmonized EU legislation on asylum procedures is going to be implemented in 2004. All the Member States have introduced requirements aimed at reducing the number of asylum-seeker and unwanted migrants. New stricter regulations on visa issuance border control, illegal entry and stay, on smuggling, trafficking, illegal employment and carrier liability have been implemented. What is surprising that the new immigration regime has not halt the immigration trends, which the Members States has been promoting for years. As B. Nagy pointed out "these efforts make all migrants considers as suspicious enemies or potential criminals and limits the efforts for family unification and integration of recognised refugees, protected persons and settled migrants."¹⁰⁷

International migration is still an important component of population growth. Demographics indicate that more immigration is essential if population levels are to remain stable. Migration has become the decisive factor in this still positive but slow population increase in the EU. In general fertility levels are low. Without migration Germany and Sweden that encounter negative natural population growth, would have experienced a population loss and population of Austria and Italy would also barely grow.¹⁰⁸

It is very difficult to find a coherent approach to immigration among the Members States. Europe's aging populations will sooner or later have to confront their need for immigrants to ease

¹⁰⁷ Nagy, Boldizar, "Turn Back to Look Ahead? Central European Observations on the Future of Regimes Affecting Refugees," "Human Rights and Forced Displacement", Conference paper (7-9 May 1998) by Centre for Refugee Studies, Open Society Institute and UNHCR.

¹⁰⁸ Source: Eurostat: Statistic in focus, 19/2001

the dependency ratio. Nigel Harris¹⁰⁹ insists that the most obvious remedy to the problem of migration system and shortage of workers is free migration and open borders. It seems that the EU understands that it needs a better management of migratory flows and common policy on asylum and migration. Straightening the borders and fighting illegal immigration do not solve the problem but so far most of the effort focuses on curbing of illegal migration like “Eurodac” or Border Management Agency.

Afraid of increased immigration flows the EU Member States closed markets to workers from acceding countries, although as history reveal, the initial inflows of workers are only a transitory phenomenon. A principal fear is that enlargement will bring "cheap labor" flooding in from the new members who will take "our" jobs. This “cheap labor” is used on the daily bases in many enterprises. Every summer Britain, Germany, France and Spain employ large numbers of seasonal workers from CEE countries who gain temporary permits to work mainly on farms. Currently, in the case of Spain, its relatively high unemployment rate does not represent any major immigration threat for other EU-countries. As Stefan Wagstyl¹¹⁰ indicates: "The problems lie not in the economics of migration, but in the political sensitivities. Few economists dispute that in the long-term, migration usually brings a better deployment of human resources which eventually raises overall income."

There is an evolution of migratory flows, both legal and illegal from third countries toward CEE states and toward the EU Member States. Negative net migration played a role in the population decline of some countries. During the last decade the level of emigration from the Czech Republic, Hungary has been low but Poland still experiences higher emigration tendencies.

The Czech Republic, Hungary, Poland and Slovakia are the transit countries for illegal migrants on their way to the Western Europe but more and more of them stay longer also due unsuccessful attempts to cross the Western border. Legal employment of foreigners is not significant in the Hungarian's and Polish labor markets. In the Czech Republic it is higher due to free-labor agreement with Slovakia. The scale of illegal employment is larger but it is more difficult to quantify. Poland and Slovakia still experiences high emigration tendencies, which is connected with high level of unemployment. The estimated figures of Hungarians and Czechs employment in the Western Europe show that they unlikely will be looking for work there.

During the last few years the Czech Republic, Hungary, Poland and Slovakia introduced many political and legislative changes to ensure full adoption and practical implementation of the 24 Chapter of "acquis". Their migration, asylum and border control legislation is largely in line with the "acquis" but there are some problems with implementation. However when these countries enter the EU in May 2004 the border control between the old and the new members will not be removed. We can expect an introductory periods at least for couple of years. The applicant's countries were supposed to introduce tough procedures to cut illegal immigration in expense of friendly relation with it neighbors.

So far the entry rules to these four countries were quite liberal and allowed for substantial border movements of peddlers, workers and others. New order at the border strongly affects relations with Ukraine who was a major provider of migrant workers. Everyone is afraid that it will limit economic cooperation not only by peddlers but private entrepreneurs. With the elimination of simplified border-crossing procedures for people living in the frontier areas the friendly cooperation between neighboring cities might be effected. For Hungary and Poland with large Diaspora living outside the EU frontiers it will be more difficult to maintain good relations.

The Czech Republic, Hungary, Poland and Slovakia asylum legislation is largely in line with the "acquis". However there is a danger that the new harmonized legislation on asylum procedure may overwhelm asylum system in some new members especially with external

¹⁰⁹ Harris, Nigel, "Unlocking the Fortress: Managing Economic Migration in Europe", 17.09.2003, www.theepc.net/en

¹¹⁰ Stefan Wagstyl, "Moving targets", in: The Financial Times, 16 June, 2000

borders. As R. Lubbers warns that it may even lead to the collapse of the asylum system in the new border states.

The legislation on external borders is also convergent with the “*acquis*”. As the EU reports indicate borders are not sealed enough to combat illegal immigration and prevention the trafficking of humans but so candidate countries put a lot of effort to seal them through technological innovations, the training of the police and border guards, the introduction of information and communication systems. The border guards report indicates that more illegal immigrants and smugglers are apprehended. The situation at the borders is more complicated due to corruption at the borders that has been present for the last sixty years. It undermines the proper control of borders crossing, custom duties and organized crime.

Sandra Lavenex¹¹¹ indicated that in the political context of a future enlargement of the Union, the restrictionist paradigm tends to take precedence over the liberal one. She identified three dynamics as being particularly relevant in these processes:

- the interest of Western European states in sealing the eastern borders promoted in various bilateral and multilateral processes
- the CEE concern with their transformation into a “buffer zone” warding off unwanted aliens on their way to Western Europe
- the dynamics of EU enlargement, which have made the CEE adaptation to restrictive “*acquis*” in the fields of asylum and immigration

Overall, immigration needs a coherent approach that takes into account all the political, social and human dimensions fully into account. The high level of stowaway asylum applicants and accidents like 58 illegal Chinese immigrants locked in an air-tight container lorry found dead by customs officials on arrival in Dover should be a warning signs. It is very hard to estimate how many containers full of emigrants arrived in the UK or in other country in Europe. Another issue is the exploitation of immigrants who will work regardless the circumstances. They accept every risky job, like 19 Chinese workers who drowned while working in a dangerous bay. There are also cases of Ukrainians, Belarusians and Russians being exploited in Poland and in other countries. That is why we should look into why migrants choose to risk their life and freedom to get to Western Europe and some Eastern European countries. It seems that one of the causes is lack of any other available route into "Western World". As long as there is a need for the “cheap labor” in Western Europe illegal immigrants will be coming in. So far politicians are convinced that by imposing strict measure against illegal migration they solve the problem. They should arrange realistic immigration policies and since expansion leads to diversity, they should allow the new members to bring in their own experience. Opening or re-opening legal channels for migration might help to fight illegal immigration through migration quota or bilateral agreement.

¹¹¹ Lavenex, Sandra, S., Safe Third Countries, CEUPRESS, 1999, p.75-76