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Migration and Asylum in Central Eastern Europe:
The impacts of European Integration

Abstract

The paper looks at harmonization of immigration and asylum policies in the new Central European Member States of the EU with the Schengen *Acquis*, the new legacy of immigration and asylum, and the institutional practice towards new migrants. The author argues that the European integration process has been dominated by the deployment of repressive security measures, while admission policies in the NMS-10 have not been given sufficient legal, institutional and financial support from the EU-15, and have remained underdeveloped. As a result, the NMS-10, where an effective Europeanized system of border controls and surveillance of migrants coincides with poor standards of international protection and the absence of progressive immigration policies, have become neither a 'substantially safe' destination for asylum seekers nor an attractive geo-region for economic migrants.

Introduction

Since 1990s Central Eastern European countries have seen large-scale movements of people, both documented and undocumented, as well as voluntary and involuntary migrants. The pre-accession process, which had a decisive impact on shaping migration and asylum policies in the CEECs, took place at a time when negative consequences of immigration were receiving increasing attention, and Western European policy makers were experiencing a growing political imperative to strengthen control over international migration in the name of both national and personal safety understood in its various cultural, psychical, political, and economic dimensions. Central Eastern European states, which had had little experience with illegal migration and had not paid much attention to controls on Eastern borders under Communism, were regarded by the EU-15 as a major threat to the internal security system of the Union. Hence, the European integration process was highly influenced by a political desire of the EU-15 to strengthen Eastern borders, and externalise, at least partially, costs of immigration control and international refugee protection to the candidate states.

This paper looks at the harmonization of immigration and asylum policies in 10 new Central and Eastern European member states (the NMS-10: i.e. CEEC-8 accession countries, which joined the EU in 2007, together with Romania and Bulgaria, which were admitted in 2007) with European law and institutional practice. The first section points out and interprets Schengen security policies and instruments which were implemented by the NMS-10 as a result of the accession to the EU and the Schengen Area. The second section comments on the extension of asylum regime to Central Eastern Europe and problems with refugee protection in the region. The third section looks at the development of legal and illegal economic migration in the NMS-10, as well as new migration policy developments. In the last section, conclusions are drawn and progressive ways forward for future asylum and immigration policies proposed.

The author argues that the European integration process was dominated by deployment of repressive security measures, while admission policies were greatly overlooked. Whilst most security objectives, particularly those stressed by the EU-15 in the pre-accession process, were reached by the NMS-10 before 2004, the human rights instruments remained underdeveloped. The European system of negative redistribution for the handling of asylum claims, which had been set up to bring relief to particular Western European states, was extended to Central Eastern Europe too rapidly, without proper legal, institutional, and financial assistance. This resulted in weakening of international protection offered to those fleeing from wars and political prosecution. At the same time, the acceptance of the EU limitations on the scope of their own migration policy-making together with internal political and social pressures and the lackof vision made Central Eastern European governments neglect pro-active migration policies that could attract labour force from abroad.

In spite of a great progress in humanitarian protection made throughout last 15 years, and economic prosperity following the EU accession the new Member States are neither 'substantially safe' destination for refugees nor an attractive region for economic migrants. Most of voluntary and involuntary migrants, who increasingly penetrate Central Eastern Europe, remain in irregular status and/or decide to seek refuge and opportunities for better life in Western Europe. First, restrictive regulations, low refugee recognition rates, poor legal and social help provided to asylum seekers, and various cases of human rights violations still being reported in NMS-10, all result in low standards of refugee protection. Second, underdeveloped channels for legal economic migration do not allow Central Eastern European states, which suffer from workforce shortages in construction, manufacturing and other sectors, to successfully recruit workers from abroad and profit from immigration.

1. The Schengen *Acquis* and the new security policies in the NMS-10

Rather than develop new policy instruments to enhance refugee protection and benefit from migration, Central European States tend to reproduce European repressive policies. Not only have the new Member States been implementing the old EU security measures, but along with the EU-15 they have experienced significant processes of change in immigration policies. The traditional repertoire of strategies employed by European countries to tighten the external borders has recently been significantly substituted by the new repertoire of strategies for surveillance of population flows within national territories, and remote policies which extrapolate the power of EU states into other national territories. The EU is also gradually pulling various 'non-policing' public institutions (such as hospitals or jobcentres) and private companies in immigration control. By adopting these relatively new policy developments, which are constantly defining, refining, framing and reframing the processes of inclusion and exclusion of European 'others', NMS-10 are constructing a sometimes more apparent and sometimes more discreet, but always restrictive migration regime (cf. Koslowski, 2004; Lahav, 2004; Léonard, 2003). Four major instruments are now crucial to border and immigration control in Central Europe: 1) controls on external borders, 2) internal controls, 3) Schengen Information System (SIS), and 4) visa regime.

1.1. Controls on external borders

The demand that Schengen external borders are secured, which was explicitly defined as a precondition for granting free movement of people in the Schengen Area was fulfilled in several aspects. First, more staff were hired or gradually relocated to the new EU external borders, and this was intertwined with demilitarization of the border force. Second, more watchtowers and border stations were built on the new eastern EU borders. Third, European

funds were used for training staff, dogs, and for purchasing new equipment such as cars, helicopters, patrol boats, electronic detection devices (thermo-visual and night vision equipment, CO2 detectors, etc.), computers and software. Fourth, the European agency for the management of external borders FRONTEX was set up in Warsaw, and is building the transnational European Corps of Border Guards. Fifth, stringent admission policies at border checkpoints were introduced leading to increasing numbers of entry refusals, and intensive surveillance on green borders was launched. Last, border checks were tightened at the major international airports, involving airline personnel in immigration control (Lahav, 2003).

1.2. Internal controls

The implementation of the Schengen security *acquis* in CEECs involved not only the protection of the EU eastern frontier, understood as geographic line constructed of check points, watchtowers, and the spaces of 'green border' between them. After European Border Control Act of 2001 came into force, the Border Guard was transformed into Border Police, their jurisdiction was extended onto the entire national territories, with special mobile corps being set up (Iglicka and Rybicki, 2003). As a result, when travelling through Poland one may face a 'border control' not only at the checkpoint in Terespol, but also on a train from Warsaw to Poznań or at the railway station in Wrocław. IN all of the NMS-10, greater powers and responsibilities for immigration control were also delegated to the police, fiscal police, and labour inspectorates. Generally speaking, due to overlapping responsibilities, border guards have become policemen and the police have become something like border guards.

Moreover, much attention is paid to the development of interstate cooperation between police forces in issues of organized crime and immigration offences of all kinds, as well as to the coordination national police operations in Eastern Europe with Interpol and Europol (Monar, 2000). The 'intra-territorialized' borders are indeed the *alter ego* of free movement of people in the Schengen Area. Whilst the 'real' practiced borders run across territorial divisions, and are manned by various forces, the boundaries between crime and illegal migration become blurred.

1.3. The Schengen Information System and EURODAC

The inter-state cooperation between Schengen states involves extensive data sharing. For this purpose, a gigantic database containing data on illegal migrants, lost and false travel documents, as well as wanted or missing persons, was set up and made operational in all police stations and patrol vehicles. Until 2007, Schengen Information System I (SIS) was in operation in 13 Member States and 2 non-EU Schengen states (Iceland and Norway) and partially operational in the United Kingdom and Ireland, even though these latter had opted out of Schengen membership. Problems with the capacity of SIS I were also announced by the EU-15 as a major reason for postponing the CEEC-8 accession to Schengen area to 2007. Since the deployment of the new European databank (SIS II), that is designed to operate in over 30 countries, is still being postponed and not reachable before the end of 2009, the CEEC-8 were allowed to join the Schengen area using an improved version of the old database SIS I+ (SISone4ALL initiative). In January 2009, SIS I+ was also deployed in Switzerland. The accession of Romania and Bulgaria to the Schengen area is expected to take place in 2011, but the date is not yet confirmed, as the Netherlands paint to the slow progress of these countries in combating organized crime and corruption and continuing delays in the deployment of SIS II have been experienced.

SIS II, which has raised serious privacy concerns and has been already been a target of numerous protests, is going to be even more powerful than its predecessor. It will store and

transmit not only text and figures like SIS I, but also photos, fingerprints, and other biometric data. SISII will also be integrated with EURODAC - the very first European Automated Fingerprint Identification System designed solely to identify asylum seekers. Since 2003 EURODAC has been used to register, store and compare finger prints of each asylum seeker over 14 years old and certain other categories of migrants who arrived in the Schengen area. EURODAC was not only designed to control asylum seekers by "preventing fraudulent applicants from shopping around" (European Commission, 2004, p. 2), but also to monitor operations of the Border Police, in the NMS-10 in particular. The fingerprinting system allows a person's first point of entry to be determined, and thus helps to make that particular state responsible for processing an asylum application, and, possibly for expelling a failed asylum seeker from the EU.

1.4. Visa regime

Another restrictive measure, probably the most difficult for the NMS-10 to adopt, was the joint Schengen visa list. In March 2001 the CEECs were finally forced to introduce major changes to their visa policies and accept 'non-negotiable' negative visa list consisting of 134 countries. The greatest problem was due to the fact that the list contained most of the post-Communist countries which had for many years been political and economic partners of the new EU Member States. In the first stage, visas were imposed on nationals of several countries from the post-Soviet bloc including, Azerbaijan, Georgia, Tajikistan, Kyrgyzstan, Turkmenistan, Kazakhstan and Moldova. The most difficult decision concerned the application of EU visa policies to neighbouring countries, including Russia, Ukraine, Belarus and the Balkan states.

In Poland the most widely reported consequence of the new visa policies is the disappearance of the cross-border commerce, which had been a very significant source of income for Poles living in the poor eastern part of the country. On the other side of the border, in Ukraine, the Schengen border is seen by Transcarpathians as a little short of an impending disaster. In Hungary and Bulgaria, the EU visa regulations were heavily criticized mostly for their affects on diaspora politics. As a result of an obligation to impose visa on the citizens of Serbia and Ukraine, Hungary – considering itself responsible for ethnic Hungarians who live just outside the EU-27 borders (approximately 300,000 in Serbia and 200,000 in Ukraine) - started issuing certificates of Hungarian origin, the holders of which can enter the homeland without visas and easily obtain work permits. On the top of that, the new visa regime negatively impacted the political relations of the NMS-10 with neighbour states in Eastern Europe, Russia in particular. Last but not least, the new visa regime in CEECs probably most severely affects the lives of migrants, asylum seekers, and war refugees who seek the protection in Western Europe.

2. Asylum in Central Eastern Europe

2.1. Changing European asylum regime

Central Eastern Europe has recently become one of the most heavily penetrated regions by land-travelling refugees. The emergence of the NMS-10 as significant asylum receiving countries resulted not from the individual choices of asylum seekers or substantial improvement of international protection systems in the region, but from external changes in the EU asylum regime in the 1990s. The adoption of so-called 'safe third country' by the EU-15 shifted the responsibility for the examination of an asylum claim to the first 'safe' country to admit an asylum seeker to its territory. Ratification of the 1951 Geneva Convention, which allows EU states to consider a country as 'safe', was made a precondition for the EU membership for the

Central Eastern European candidate countries, and thus all accession states signed the Convention by the end of 1990s (see: Lavanex, 1999). While the 'safe third country' rule determined which country was responsible for an asylum claim, readmission agreements[1] signed between the EU-15 and the NMS-10 provided a legal basis for the assisted return of claimants to the countries where their applications were expected to be lodged. As a result of the adoption of the 'safe third country' rule and the readmission agreements, the asylum regime had been extended to CEECs already in the 1990s. After the accession the determination of which NMS-10 country was responsible for the examination of a particular asylum case was further defined by the Dublin II Regulation, and backed by the EURODAC (see: ECRE, 2008). In practice, as a consequence of political decisions being taken by the EU, Eastern and Southern countries had to take the responsibility for all land-travelling refugees from Africa and Asia.

The abovementioned changes in the European legislation, together with new military and political developments in Chechnya, Iraq, Afghanistan, Iran, Turkey, and the Balkans resulted in rocketing numbers of asylum applications being lodged in Central Eastern Europe. The overall number of asylum applications in the region increased twentyfold from 2,386 in 1994 to 46,799 in 2001[2] (Kraler et al, 2002). The sharpest increase in this period was recorded in Hungary and Slovenia, which received higher numbers of asylum seekers per capita than those recorded in Western Europe. In Slovenia, where only 19 cases were recorded in 1995, 9,244 applications were lodged in 2001. At the same time, the numbers of applications registered in several Western European countries were decreased to reach the lowest level in many years in 2008 (UNHCR, 2009b).

2.2. Problems with access to international protection in Central Eastern Europe

This situation is highly problematic as the new Member States had had almost no tradition in refugee protection before 1989, and still suffer from a serious lack of institutional, economic and social basis to support such practice. While the repressive aspects of the EU *acquis* were implemented, the regulations granting basic human standards, and, foremost, the institutional background for respecting these regulations, were often disregarded during and after the European integration. Until the mid-1990s the authorities in several countries did not put the proper legal mechanisms in place to distinguish between asylum seekers and economic migrants (European Parliament, 2002). As a result of focus being put on development of non-admission migration policies and compliance with international and EU legal provisions for migrants and asylum seekers, the human rights instruments in CEECs were incorporated into national systems rapidly but without sufficient translation into "jurisprudence and practice, and the development of right organizations at the same speed" (Toth, 2001, p. 107). When the international migration regime was being extended to the CEECs, human rights were partly regarded by Eastern European governments as external expectations, and restrictive interpretations of the Geneva Convention often shaped national legal systems (UNHCR, 2009a). For instance, Latvia and Hungary first joined the Convention with the so-called

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[1] The first readmission agreement was signed between Poland and Germany in 1993. By signing that agreement Poland undertook to re-admit any person – both Polish nationals and nationals of any other country - who enters Germany via Poland and does not fulfil the conditions of entry or stay in Germany. Later, the Polish–German readmission agreement became a model for similar interstate EU-15 - NMS and NMS – third countries agreements in the region.

[2] The numbers of asylum applications lodged in CEECs in the decade before their accession to the EU in 2004 were as follows: 1994 – 2,386; 1997 - 11,793; 1998 - 20,732; 1999 – 29,044; 2001 - 46,799 (Kraler et al, 2002).

'geographical limitation', giving the right to claim asylum only to European applicants, and only removed this restriction after bargaining with the EU-15.

Moreover, some continuing deficiencies in legal frameworks and institutional practice in the NMS-10 put the assurance of human rights at risk and raised serious doubts on the question of whether Central Eastern Europe was 'safe' in terms of international law. Among other issues, there are concerns whether the Geneva Convention is fully respected in regard to treatment of asylum claimants. Various institutional violations inherited from Communist regimes are still present in the practice of law enforcement officers who often operate in a climate of impunity (UNHCR, 2009a; European Parliament, 2002). Hungary and Bulgaria still authorize security police to deal with asylum claimants at border checkpoints, and in most CEECs detention is used excessively. In Bulgaria, cases of police harassment towards claimants were reported. In Poland, several groups of Chechen asylum seekers were refused entry at the Belarusian border, and in Bulgaria, asylum claimants transferred in accordance with the Dublin system from Western Europe faced deportation, despite UNHCR interventions. International reports also indicate worrying restrictions in asylum procedures occurring in some countries. The Polish Border Guard has been known to deny undocumented migrants access to asylum, unless they arrived directly from the country where they had been prosecuted (European Parliament, 2002). Hungary explicitly promotes asylum seekers with Hungarian origin, and Slovakia privileges 'in situ' applicants who demonstrate the ability to speak Slovak (see more by: ECRE 1998 and 2008; UNHCR, 2009a; European Parliament, 2002; Guiraudon, 2000a and 2000b).

Although CEECs have recently made a significant progress in the development of their asylum systems, and are becoming increasingly safe for asylum seekers, the level of protection offered in the region to those who are fleeing wars and political prosecution remains too limited. Refugee recognition rates averaged from 3% to 10% over last 15 years, and differed from country to country. Whilst in some countries, such as Poland, the Czech Republic or Hungary, increasing numbers of refugees were granted protection, in the Baltic states and Slovenia the number of successful applications remains extremely low and has recently fallen in, e.g. to 1% in Slovenia (UNHCR, 2009a). There are still great disparities in recognition rates between Eastern and Western countries. In 2005, for example, 90% of applications lodged by Chechens in Austria were successful, compared with approximately 0% in Slovakia (ECRE, 2008, p 15). New developments in asylum law are now being introduced in CEECs to provide forms of tolerated stay and supplementary protection to those who are not granted refugee status (e.g. 2008 revised Act on Providing Protection to Foreigners in Poland). On the one hand, these forms of partial protection - which often involve access to labour market and limited financial aid - are offered to higher number of applicants and, as such, are considered a step forward in international humanitarian protection. On the other, they also bring the risk of leaving many vulnerable foreigners on the margins of the receiving society.

2.3. Integration of refugees in the NMS-10

The integration of both recognized refugees and recipients of partial protection in Central Eastern Europe is indeed very difficult. In most countries poor housing and the lack of properly tailored system of local welfare and labour market assistance remain biggest problems. In practice, without proper vocational training and command of local languages it is very difficult for foreigners to find employment, in particular for those who originate from non-Slavic countries. As a result, many recognized refugees and people who were granted tolerated stay status live under the constant threat of impoverishment and end up homeless. Negative public attitudes towards foreigners in Central Eastern Europe also severely affect the everyday life of asylum seekers. Public indifference, lack of solidarity and willingness towards people

who need help, xenophobic initiatives of far-right parties which raise distrust, hatred, and cause local communities to protest against those living in refugee camps (Gazeta Wyborcza, 2010), as well as racist violence committed by 'skin-head type' groups further jeopardize opportunities for social integration (Roig and Huddleston, 2007; Futo, 2008; UNHCR, 2009a).

Moreover, in spite of positive development in recent years, the NGO sector - which plays a key role in the provision of legal assistance and material aid to asylum applicants and recognized refugees in Western Europe - is still underdeveloped, underfunded, understaffed and undertrained in CEECs, and its relations with government authorities remain ill-defined. NGOs in the region still operate under conditions of constant financial insecurity, and thus often compete against each other in substituting for absent state integration policies without any real opportunities for influencing these policies. They also suffer from a lack of communication with other organizations working with refugees, and a lack of reflection on their own practices (Toth, 2001).

Probably not surprisingly, most asylum seekers mean only to transit Central Eastern Europe and seek refuge in Western European countries. The danger of arbitrariness in the assessment of claims in different states, which constitutes the European 'asylum lottery', as well as the poor receiving infrastructure in CEECs, combined with dreams about Western Europe, encourage them rather to turn to smugglers in the hope of avoiding Dublin readmissions than claim asylum in the new Member States. Large numbers of people claim asylum in Eastern Europe only when caught by the police, and still try to make their way to Western Europe, often repeatedly being caught and sent back to the country where their application was first lodged (Divinský, 2008; Iglicka and Gmaj, 2008). One of most dramatic reported attempts to leave Poland for Western Europe took place in December 2009, when over 200 Chechen refugees occupied an international train, trying to Get to Germany, and further to Strasbourg, with the intention of lodging a complaint in the European Court of Human Rights against inhuman treatment and inadequate reception facilities in Poland (Gazeta Wyborcza, 2009). In effect, sometimes the reluctance of asylum seekers to stay in Central Eastern Europe only further discourages public authorities from improving legal and material provisions, as those who they are designed for often do not wish to use them… and the vicious circle continues.

2.4. *Moving asylum regime further east*

While in the new Member States the legal frameworks and institutional provisions for international protection have significantly improved over the last 15 years, the EU's recent attempts to push the responsibility for asylum seekers further east to Russia, Belarus, Ukraine, and beyond seem to be more striking. As of 2008, 21 readmission agreements have been concluded between EU member states and third countries, and further clauses were under negotiation (Divinský, 2008). Their impact was most visible in Slovenia, where after a bilateral readmission agreement had been signed with Croatia, the number of asylum applications plummeted from 9,244 cases in 2000 to 1,500 in 2001 (Kraler, Purim et al, 2002). UNHCR expressed particular concerns after several CEECs concluded readmission agreements with Ukraine, where international protection measures are very limited (UNHCR, 2009c). In recent years the European Commission has also taken the initiative to negotiate new readmission agreements with third countries on behalf of the European Union; amongst others, a long negotiated readmission agreement was signed between Russia and the Commission in 2007 (European Commission, 2007), and further non-committing clauses were concluded with Albania, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Yemen, Laos, Cambodia, Pakistan, Tunisia, Morocco, and Syria (Roig and Huddleston, 2007). Many of the countries which concluded these agreements, and some which have recently been approached by the Commission, are refugee sending countries, and should by no means be regarded as 'safe'. The

European Commission seems to aim at concluding as many agreements as possible at the cost of jeopardizing international humanitarian regime and worsening of diplomatic relations with third countries (such as Turkey) which do not have long-established democratic traditions, material resources, and willingness to readmit asylum seekers expelled from the EU.

2.5. *Restrictive asylum policies and the increase in human trafficking*

ECRE argues that sight has been lost of the need for international protection in the Dublin system and the abovementioned tools which limit the access to asylum in the EU to shift responsibilities to the NMS-10 and further east without, offering proper assistance and funds to mitigate the burden (ECRE, 2008). Not only are the EU policies tailored to offer merely minimum standards of protection, but they are also based on an inadequate and tokenistic assumption that if a state is a signatory of the Geneva Convention then it automatically becomes safe. Furthermore, increasing gaps between UNHCR and EU standards, as well as conflicts between the EU and UNHCR experts in regard to protection against *refoulement* (Klauw, 2003) unveil increasing contradictions between international and EU law, as well as between the European law and European humanitarian practice. On the one hand, the European Commission claims that "no one may be removed, expelled or extradited to a state where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment" (European Commission, 2005, p. 2). On the other, the EU member states, with support from the Commission, have put into motion and continue to strengthen a chain deportation machine, which "produces 'orbit' situations where asylum seekers are sent from state to state trying to find one that is willing to examine their asylum claims" (Lavanex, 1998, p. 142), and are often transferred to and through places which are not 'substantially safe'.

Nowadays, as a result of changing migration and asylum policies in Europe, the NMS-10 are ironically more under threat from human smuggling and trafficking in human beings than they were formerly. According to research conducted by ECRE, the tightening of the eastern borders at the end of 1990s caused an increase, not a reduction, in the number of illegal entries and in recourse to traffickers in the region (European Parliament, 1999). Finally, the fortified eastern border of the EU impacted on the changing routes of undocumented migration, which have recently challenged the maritime borders of the Mediterranean countries - Greece, Italy, and Malta in particular. (Divinský, 2008).

As increasingly restrictive policies develop into new obstacles, asylum seekers and undocumented migrants turn to smugglers rather than abandon their hopes of getting into Europe. The greater sophistication of border control causes only further sophistication in the smuggling business. Smugglers also have cars, night vision equipment, international network of personnel, etc. For the undocumented migrants, only the prices and the risk increase, while the market for smuggling expands, granting the higher profits on each illegal entrant. The tougher border controls in NMS-10 may decrease smuggling "only if they increase smugglers' fees beyond that which their customers are willing to pay" (Koslowski, 2001, p. 20), but this is not likely to happen soon. The disappearance of legitimate safe channels of refugee protection is increasingly turning asylum seekers into illegal entrants. The over-restrictive European asylum measures are *de facto* catalysers in the process of making of illegal migrants out of people who are fleeing wars and prosecution, and, as such, contribute to blurring the boundaries between asylum and illegal migration.

3. Economic migration in the new Member States

3.1. Attempts to reconcile the Schengen Acquis with demand for foreign labour in the NMS-10

The Central Eastern European anti-migration policies, which to a large extent follow common EU practice, have played an important role in shaping not only the relationship between asylum and illegal migration, but also between regular and irregular economic migration. At the time when the new Schengen security measures were imposed on the NMS-10, all the economies in the region were booming and demanded cheap labour from abroad. The most urgent need for foreign labour was seen in Poland - due to the post-accession outflow of approximately 1.5 to 2.5 million people to the EU-15 - and in the Czech Republic and Slovakia, where most new jobs in manufacturing emerged. Whilst Poland, Slovakia, Lithuania, and Latvia lost a significant share of their young population as a result of emigration, the Czech Republic, Hungary, and Estonia suffer from severe natural population decrease. (Horáková, 2000 and 2009; Iglicka and Gmaj, 2008; Sik, 2005)

Athough most new Member States have been struggling to reconcile the Schengen *Acquis* with the need for foreign labour ever since their EU accession in 2004, they have failed to do so successfully. The rapidly adopted European anti-immigration law and border regime have not been supplemented with explicit, comprehensive, and pro-active immigration policies. Only the Czech Republic - where labour migration policies are most developed - recorded a significant level of legal foreign labour force (300,000), which partially balanced the population decrease resulting from natural decline and emigration. In Hungary, around 130,000 foreign nationals hold residence permits and approximately 60,000 work permits are issued per year[3], while in Poland less than 50,000 foreigners work legally, and in other countries of the region numbers are also very low (Acs and Petrovics, 2008; Futo, 2008; Horáková, 2009; Iglicka and Gmaj, 2008).

3.2. Illegal Employment in Central Eastern Europe

Despite very good economic performance and low unemployment rates in recent years, salaries in CEECs remain at low levels, which is probably the most important reason why new Member States are not considered attractive destinations by workers from abroad. Furthermore, the lack of pro-active migration policy discourages migrants from seeking opportunities for legal employment. Rather than for low interest of migrants in Central Eastern Europe, failed policy is to be blamed for channelling the existing migration towards irregular forms of employment. Taking into account relatively low salaries in CEECs, expensive and time-consuming procedures of obtaining a work permit make the legal employment of foreigners economically unjustifiable both for employers and the prospective employees. Moreover, tough work permit issuance procedures, combined with quite liberal tourist visa policies for nationals of post-Soviet republics (e.g. 1.2 million Polish visas are issued to Ukrainian nationals per year), encourage short-term, circular illegal employment of Ukrainians and Belarusians who legally enter and leave the NMS-10. Significant numbers of illegal workers are also recruited from among asylum seekers and undocumented migrants, who stop for a while in CEECs, intending to proceed to Western Europe.

Furthermore, for at least a few reasons, attempts to combat illegal employment in Central Eastern Europe prove to be very ineffective. First, the NMS-10 have not had a tradition of counteracting illegal employment. Second, there are many micro-enterprises which operate in a grey zone and illegally employ both nationals and non-nationals, which still is socially

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[3] It is worth noting that the majority of foreigners working legally in the Czech Republic after the EU accession are Slovakian nationals (Drbohlav and Medová, 2008), and 50,000 out of 60,000 foreigners who held work permits in Hungary are Slovakian and Romanian passport holders of Hungarian origin (Futo, 2008).

accepted practice in tune with the common mentality of 'beating the system/bending the law' (Léonard, 2003). Third, illegal labour force seems very suitable for seasonal jobs offered at farms, as well as part-time housekeeping and child care jobs. Fourth, in most countries, although new labour inspectorates have been set up to introduce compliance with EU regulations, the authorities are not really keen on developing stringent workplace inspections or introducing harsh employer sanctions.

It must be said that both legal and illegal employment of foreign nationals in the NMS-10 are at low levels in comparison to Western Europe. However, the informal sector has been growing and national statistics show that it has become a much common form of employment than the regular sector for foreign nationals. Although the estimates of illegal employment are difficult to verify, the highest disparity between the regular and irregular employment of foreign nationals occurs in Poland, where less than 50,000 foreign nationals hold legal jobs, while 450,000 work illegally (Iglicka and Gmaj, 2008). Approximately 160,000 foreigners were employed illegally in the Czech Republic (Drbohlav and Medová, 2008), estimates fluctuate between 50,000 and 200,000 for Hungary (Futo, 2008), and less than 50,000 in Slovakia (Divinský, 2008). Most illegal workers in CEECs are Ukrainian, Belarusian or Russian citizens employed in construction and housekeeping. Notable numbers of Vietnamese and Chinese (in the case of Hungary) illegal workers were estimated to work in retail trade and restaurants. Low but considerable numbers of illegal workers recruited also from among Chechen, Iraqi, and Afghan asylum seekers, as well as from undocumented migrants from several East Asian countries, and from former African and Asian students of Central Eastern European universities who became vulnerable as a result of changing political and economic conditions in their countries.

3.3.   Policy responses

Both illegal and legal migration has not raised public concern in the NMS-10, and there is almost no public debate on these issues. Political parties failed to address the problem of pro-active migration strategies, and few policy measures have been taken. The most developed migration policies were introduced in the Czech Republic, where the progressive Green Card Programme was launched in 2009 (see: Horáková, 2009). It is however worrying and against the interest of national economies in CEECs that they adopt a 'dualistic migration policy' model focusing on open policies for high-skilled migrants and closing doors for the low-skilled, which has been very common in Western Europe. At the same time, attempts to regularize illegal unskilled migrants - who are often already established and wish to stay in CEECs - are very limited. Regularization programmes in Poland (2003 and 2007) and Hungary (2004) included such strict requirements that very few foreigners were able to comply and become legalized, while in the Czech Republic and Slovakia the possibility of regularization is strongly opposed by right-wing political parties. In the Baltic States and Slovenia - where the problems of post-Soviet and post-Yugoslavian statelessness have not been solved yet - is not even discussed. Moreover, discriminatory policies against migrants from different cultural (as well as religious and racial) backgrounds have recently been put in place in the NMS-10. Both in Hungary and in Poland, projects to attract migrants from East and South Asia have failed – in Hungary as a result of minority politics (Futo, 2008), and in Poland as a result of the *explicit* strategy of the Polish government to attract Slavs whilst discouraging immigration from countries with 'distant cultural backgrounds' (Iglicka and Gmaj, 2008). Last but not least, the current economic crisis has resulted in many new pro-active migration policy developments in CEECs being frozen. At a time when jobs are being lost in manufacturing and staff hours reduced, governments work rather towards short term solutions (i.e. voluntary and assisted return programmes in the Czech Republic), than on shaping a long term migration policy.

Conclusions and ways forward

The European integration process in regard to migration and asylum was pretty much determined by the protectionist spirit of the EU-15 which resulted in the emergence of various instruments restricting the access of migrants and asylum seekers to Western Europe. On the one hand, the new anti-immigration toolbox extrapolated the EU migration control onto distant territories. On the other, the Dublin system, in seek to bringing relief to Western European states, regionalized international responsibility for human rights, producing a European chain deportation machine. Regrettably, both the international protection of refugees, and migration interests of the NMS-10 were overlooked in these processes. New border and immigration control strategies have blurred the boundaries between interior and exterior, public and private, refugee and illegal migrant, police force and public service, and continue to produce categories of unwanted aliens, thereby losing sight of those in need of protection, help and opportunity for a better life.

Rather than developing a new humanitarian culture and working towards social, cultural, and economic integration of asylum seekers and migrants, the CEECs have focused on fortifying the eastern border, deploying intra-territorial policing systems, and developing non admission-policies. Having had no previous experience with immigration and refugee protection, the NMS-10 were too rapidly made responsible for processing high numbers of asylum applications without sufficient guidance, and without material and institutional help from the EU-15, which results in continuing deficiencies in legal frameworks and institutional humanitarian practices, as well as limited opportunities for integration of refugees and migrants with the host societies. Moreover, the acceptance of EU limitations on the scope of migration policy-making, internal labour market characteristics, political and cultural constraints, and the lack of roadmap for immigration have caused the NMS-10 to fail to attract economic migrants. This, in the long run, may put Central Eastern Europe – already struggling with demographic decline and large emigration flows following the EU accession – at risk of long-term economic slowdown, and of pension and social security systems disaster. Even more worrying - both from the perspective of potential immigrants and Central Eastern Economies - is the fact at the same time immigration policies in EU-15 are being changed in the assumption that the need for low-skilled labour would be fully matched by the new Central Eastern EU nationals. Immigration schemes for low-skilled workers, which were used for channelling the most vulnerable migrants and those of undefined category (e.g. climate refugees) into Western Europe, have recently been closed. As a result, the international human rights regime has been weekend, European solidarity has been put into question, the culture of hospitality has been undermined in the NMS-10, and Central Eastern European economies have been put at risk of a labour force crisis.

Both the EU-15 and the NMS-10 should re-evaluate their humanitarian traditions in order to facilitate fair migration and asylum system, and build inclusive multicultural societies. The changes proposed by ECRE (2008) provide several ways forward for this purpose, including replacement of the Dublin system with allocation of the responsibility for asylum seekers in accordance with connectivity criteria and choices of individuals involved, close European cooperation on handling of asylum cases, a joint EU asylum refugee fund with capacity for substantial cost sharing, enhanced integration of refugees into receiving societies, and free movement of recognized refugees. The new rules on asylum policy set out by the European Parliament (2009) on the 7th of May 2009, which are being currently negotiated with the Council (whilst mentioning i.e. the creation of the European Asylum Office, burden-sharing between EU states, better reception conditions and access to work for asylum seekers, further restrictions on the use of detention, and changes to the Dublin II regulation) are an important but only partial step in this direction. As for the economic migration in CEECs, there is a need for a simplified procedure of issuing work permits, more liberal regularization programs,

vocational training and language courses for migrants, reunification of families, as well as for cost assessment and pro-active migration policy for short- and mid-term migration of those who might choose to proceed to Western Europe at the later stage. Last but not least, asylum and migration systems, as well strategies for integration of foreigners in CEECs, need to be discussed in an open debate with the wider society facilitated by independent NGOs, and followed by public information campaigns and local community projects aimed not only at the integration of immigrants and refugees into the host societies, but also at building the willingness and capacity of Central European societies to welcome and integrate with the newcomers.

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