



Background information -
Policy Paper on
Migration & Youth

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I. The Concepts and Context of Migration in Europe

1. Types of Migration and Push/Pull Factors

There is no such thing as a typical 'migrant'. The International Organisation for Migration (IOM) defines migrants as foreign-born people while the EU definition is third country nationals. There are migrants for settlement; and others who see their stay as temporary - to work or study. There is labour migration, family reunification, refugees, asylum seekers, emigration for retirement, most of which are now defined in EU and European countries' legislation. The motivation of each of these subgroups to migrate is different, and the composition of migrants varies between different European countries. Although family reunification as a motivation for migration generally dominates, this is not the case in all European countries¹.

Moreover, migration flows within and from the Central and Eastern European Countries (CEECs) are much more complex than the flow towards the European Union and North America. Since the early 1990s the situation has been changing dramatically. The intensity of population movements increased, especially the intra-regional migration. The region witnessed a huge increase in complexity of migration forms - from labour mobility through transit migration to forced migration of asylum seekers and refugees. There has been a fundamental shift observed from the prevalence of long-term migration to short-term mobility². Last, but not least, the EU enlargement has had significant repercussions on migration within and from CEECs.

Young people move for a variety of reasons. The roots of migration among young people can be analysed in terms of the "push-pull" model.

- Push factors are factors that drive young people to leave home. They are negative aspects of the sending country:
 - *Poverty, unemployment, low wages* - the main reason for youth migration.
 - *Political, Ethnic, Religious and Sexuality-based Persecution.*
 - *War and Conflicts.*
 - *Education.*
 - *Environmental Problems.*
- Pull factors that attract young migrants to a new location. Pull factors are positive aspects of the receiving country:
 - *Higher standards of living/higher wages.*
 - *Labour demand.*
 - *Standards of education.*
 - *Religious and political freedom.*

Moreover, as many as 10 million people have been displaced by war in the Europe and Central Asia region since 1990. Approximately half remain displaced, with no available ways for sustainable integration. Currently, in five countries of the region (Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, and Serbia and Montenegro) displaced persons (DPs) represent more than 5 percent of the total

¹ "Migration and Public perception", Bureau of European Advisers, European Commission, 09 October 2006.

² "International Migration in Central and Eastern Europe - Current and Future Trends", Paweł Kaczmarczyk & Marek Okólski. UN Expert Group Meeting in Migration and Development, July 2005.

population. In Russia, they represent higher proportions of the population in specific regions. The majority of these people have been displaced for a decade or longer³.

In moving, young migrants not only see a lack of benefits at home (push factors) but also a surplus of benefits abroad (pull factors); otherwise the move would not worthwhile.

2. Integration

In basic terms and in the context of migration, it is the process of opening a society, a country or a region to all, regardless of race, ethnicity, religion, gender, or social class. According to the Council of Europe, integration “aims at ensuring social cohesion through accommodation of diversity understood as a two-way process. Immigrants have to accept the laws and basic values of European societies and, on the other hand, host societies have to respect immigrants’ dignity and distinct identity and to take them into account when elaborating domestic policies.”⁴

Other conditions play a significant part and prerequisite for integration, especially for young people and 2nd and 3rd generation migrants: political participation and access to nationality, language, media and the portrayal of migrants, formal education, employment and the treatment of women migrants. These points will be further developed later in the paper and constitute the basis to ensure equal opportunities and therefore integration of migrants.

3. Migration facts

According to the International Office on Migration (IOM), Europe has 64,1 million migrants⁵ living in different countries and migrants make up 8.8 % of the population⁶. However, statistics are not easy to find and data are not always reliable and comparable. This is especially the case when it comes to children and young migrants, practically those who may be in an irregular or undocumented situation rather than asylum seekers.

Current birth rates in Europe are not sufficient to allow for the population to renew itself⁷. The EC Green Paper on Demographic Change “Faced with demographic change, a new solidarity between the generations” published by the Commission in 2005 show that from now until 2030 the EU will lack 20.8 million (6.8 per cent) people of working age. In 2030, Europe will have 18 million children and young people fewer than today and there will roughly be one active person for two inactive ones⁸. Migration can not constitute a long term solution but while

³ *Living in Limbo: Conflict-Induced Displacement in Europe and Central Asia*. Steven B. Holtzman, the World Bank.

⁴ “Migration and integration: a challenge and an opportunity for Europe”, Resolution 1437 (2005), Parliamentary Assembly, The Council of Europe.

⁵ The IOM’s definition is “International migrants in this particular case are persons living in a country other than that in which they were born”.

⁶ <http://www.iom.int/jahia/Jahia/pid/255>

⁷ 1.48 in the EU in 2003, against 2.1 being the recognised necessary rate.

⁸ “Faced with demographic change, a new solidarity between the generations”, Green Paper, EC, 2003. COM (2005) 94.

Europe's population is ageing, the proportion of youth under 15 will grow in the developing countries until 2050⁹.

II. International framework

1. Human Rights, Fundamental Freedoms, Social Rights & Discrimination

All EU Member States have ratified the Charter of Fundamental Rights of the EU (CFREU). Moreover all European States have ratified the 1966 United Nations International Covenant on Civil and Political Rights (ICCPR) and the 1965 United Nations International Convention on the elimination of all forms of racial discrimination (ICERD).

All Council of Europe Member States have ratified the 1950 the European Convention for the Protection of Human Rights and Fundamental Freedoms (also known as the European Convention on Human Rights, ECHR) which, on top of protecting Human Rights and Fundamental Freedoms, prohibits discrimination (Article 14). However, a number of Member States have not signed or ratified all the Protocols which add new rights to the Convention. Protocol 12 particularly applies to migrants and deals with discrimination. It entered into force in April 2005 but has not been signed by a few MS¹⁰.

Moreover all European States have ratified the 1961 European Social Charter which binds them to accept at least five of the seven core Articles of the Charter: the rights to work, organise, bargain collectively, social security, social and medical assistance, rights of the family to social, legal and medical protection and the protection of migrant workers). The Charter was revised in 1996 and entered into force in 1999. "The rights guaranteed by the Charter concern all individuals in their daily lives"¹¹.

All European Countries, except for Andorra, are State parties to the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR)¹². Article 2 also ensures non discriminatory regulations. Among the social rights recognized by ICESCR in Part II are the right to decent work (article 6 and 7), the rights to get organised in unions (article 8), the right to welfare, social security, and social insurance (article 9 & 10), the Right to food, housing, clothing, and "the continuous improvement of living conditions" (article 11) and the Right to Health (article 12).

2. Refugees

The 1951 United Nations Convention relating to the Status of Refugees (The "Geneva Convention) is the key legal document in defining who is a refugee, their rights and the legal obligations of states¹³. It was completed by the 1967 Protocol and has 144 state parties. Article 1 of the Convention as amended by the 1967

⁹ « World Population Prospects : The 2006 Revision », United Nations, March 2007.

¹⁰ Andorra, Bulgaria, Denmark, France; Lithuania, Malta, Poland; Sweden, Switzerland and the UK.

¹¹

http://www.coe.int/t/e/human_rights/esc/1_general_presentation/CharterGlance_en.asp#TopOfPage

¹² http://www.unhchr.ch/html/menu3/b/a_ceschr.htm

¹³

<http://www.unhcr.org/cgi-bin/texis/vtx/protect/opendoc.pdf?tbl=PROTECTION&id=3b66c2aa10>

Protocol provides the following definition of a refugee: "A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

Another UN document protecting refugees is the resolution of the "Right to seek and enjoy asylum"¹⁴ and which was adopted in July 2003 to complement the Convention. Such a right is also in Article 14 of the 1949 Universal Declaration on Human Rights.

3. The Specific Rights of Children

Children and Youth are protected by any of the above mentioned Conventions and Treaties, but minors also benefit from specific rights. They are among the most vulnerable populations, especially when separated from their parents or caregivers.

The Convention on the Rights of the Child which entered into force in 1990. Children should be protected against discrimination and this is clearly outlined in Article 2. The other articles which apply to migrant children are dealing with family reunification, children victims of violence, maltreatment or exploitation, the rights for every child to health, social security and primary education (articles 9,10, 19, 20, 24, 26, 28). Article 22 specifically states the rights to asylum for minors.

The UN High Commissioner for Refugees published in February 2007 "Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum".

4. Migrant Workers

Eleven countries are contracting parties to the European Convention on the Legal Status of Migrants Workers¹⁵ and four have signed but not yet ratified it¹⁶. This Convention, which entered into force on 01 May 1983, aims to guarantee that migrant workers from a contracting country and members of their families are treated no less favourably than the nationals of the receiving State¹⁷.

The International Labour Organisation (ILO) adopted in 1975 a Convention concerning "Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers" which was ratified by less than a third of European countries¹⁸.

Even fewer countries ratified the "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families" and no EU

¹⁴ Sub-Commission on Human Rights resolution 2000/20

¹⁵ Albania, France, Italy, Moldova, The Netherlands, Norway, Portugal, Spain, Sweden, Turkey, Ukraine.

¹⁶ Belgium, Germany, Greece, Luxembourg.

¹⁷ "European Convention on the Legal Status of Migrants Workers", *European Treaty Series - No. 93*

¹⁸ Albania, Armenia, Bosnia Herzegovina, Cyprus, Italy, Macedonia, Montenegro, Norway, Portugal, San Marino, Serbia, Slovenia and Sweden.

Member States have signed it. In Europe, only Azerbaijan and Bosnia Herzegovina ratified it. It has entered into force in July 2003. It defines “migrant workers”, as well as the variation of the term and states the different rights they should benefit from (non discrimination and human rights) regardless of their immigration status, as well as the rights of legally residing and employed migrant workers.

5. Human Trafficking

The latest Council of Europe Convention to enter into force (on 01 February 2008) is the Convention on Action against Trafficking in Human Beings¹⁹. It was ratified by 16 Council of Europe member states²⁰ and entered into force in 10 Member States²¹. In the remaining ratifying countries, it will enter into force between May and July 2008. The Convention has also been signed, but not yet ratified by 23 other Council of Europe member states. The Convention is a comprehensive treaty mainly focused on the protection of victims of trafficking and the safeguard of their rights. The other goals are the prevention of trafficking and the prosecution of traffickers. It applies to all forms of trafficking, to all types of victims and forms of exploitation.

Article 35 of the Convention on the Rights of the Child also protects children from trafficking.

¹⁹ “Council of Europe Convention on Action against Trafficking in Human Beings and its Explanatory Report”, *European Treaty Series - No. 197*.

²⁰ Albania, Austria, Bosnia and Herzegovna, Bulgaria, Croatia, Cyprus, Denmark, France, Georgia, Latvia, Malta, Moldova, Norway, Portugal, Romania, Slovakia.

²¹ Albania, Austria, Bulgaria, Croatia, Cyprus, Denmark, Georgia, Moldova, Romania and Slovakia.