



March 2007

## Commentaries 2006

Eleven commentaries from seven different countries on the important events and changes which took place in the field of migration last year.

2006 proved to be a year of interesting developments in the field of migration, both for the region as a whole and also on a country-specific level. The following collection of commentaries from experts, NGO employees and researchers allows, through their differing perspectives on the year passed, a glimpse at some of the most important issues to effect migration relating to Central and Eastern Europe.

### CEE and the UK

*"What do you see as the important events and changes which took place in the field of migration during 2006?"*

"Recent migration in Central and Eastern Europe is characterised by constant transition and transformation. Non-EU countries become EU member states, borders move and change meaning and emigration countries simultaneously witness immigration. Thus, increasing diversity in the movement of people, super-directional migration and as a result super-diverse societies can be observed. Meanwhile, policies - often informed by convenient beliefs and out-dated views - are lagging behind and are even part of the problem rather than addressing the challenges, as the following examples illustrate.

With the recent accession of Romania and Bulgaria the latest version of the European Union is taking shape. Conversely, the EU has got new immediate external neighbours to the East, namely Belarus, Ukraine and Moldova. Unfortunately, the meaning of the borders between what are now EU member states and its non-EU neighbours has changed, as a consequence immigration from these countries is further restricted. For example, the Seasonal Agricultural Workers Scheme (SAWS) from Ukraine to UK will be abolished because Romanian and Bulgarian workers are now privileged over non-EU migrants. Meanwhile, mass emigration even results in a scarcity of workers in some industries in both countries which paradoxically triggers migration from Moldova and Ukraine. Thus, new migration chains are emerging. Simultaneously, all neighbouring non-EU countries face increasing pressure from EU to comply with their standards and Schengen requirements. The consequences are manifold. First, a considerable level of illegal labour migrants has been observed in most new member states. Second, in 2006, a massive increase in returned illegal immigrants across the borders of Poland, Slovakia, Hungary and Romania to Ukraine has been recorded. In the same year, a readmission agreement between the European Union and Ukraine has been signed. But because Ukraine is not yet ready to (a) tackle international migration from non-traditional countries, to (b) meet its international obligations under the UN refugee convention, to (c) admit increasing numbers of returnees from the west or (d) to offer economic opportunities to

its involuntary new immigrants both country and migrants bear the brunt of the European trend to externalise its migration control regime further east. Third, it must be feared that Ukrainian migrants, because they are denied access to legal migration channels to the West are driven ever deeper into irregular migration and underground economic activities. There are indications that Ukrainian and Moldovan migrants replace Polish and Lithuanian migrants in their capacity as irregular workers. But because competition is increasing at the bottom of immigrant labour markets conditions for irregular migrant workers might deteriorate further.

In the same time, because UK has faced an unprecedented level of mass immigration from Poland (and Lithuania) since 2004, the government decided to temporarily suspend freedom of movement of workers from Romanian and Bulgarian and to replace its previously liberal approach by a far more restrictive version. Concerns about an equally high level of mass migration from Romania and Bulgaria to UK seem to lack evidence. In any case, from a British perspective, it would be preferable if all EU countries simultaneously would open up for migration from its new members. Then migrants would have a broad choice and migration would be distributed more equally across the community. In addition, Romanians and Bulgarians, because of language issues and for the reason that there is no tradition of migration to the UK, hence a lack of migration systems and networks, are less likely to migrate to UK than, for instance, Poles. Furthermore, as soon as Polish economy is providing new opportunities which would diminish Polish labour migration this might become a problem too since a lack of labour supply might result from this. Moreover, restrictions on employment for citizens from the two countries are likely to result in even more 'visitors' trapped in irregular employment. Finally, granting citizens of some EU countries migration and employment rights which are denied to citizens of other EU countries is a case of overt discrimination. This has already led to some nasty images contrasting the welcomed influx of Polish plumbers (2004) with waves of undesired Romanian poor (2006).

Thus, simultaneously expanding migration control further east to Ukraine and Moldova, whilst reducing legal migration for non-EU migrants from neighbouring countries in favour of labour migration from within the EU and treating migrating citizens from different EU countries unequally raises concerns over potentially negative consequences for migrants, economy and society alike. Alternatively, freedom of movement within the EU, a joint policy toward migration from new member states and a more liberal approach towards migration from neighbouring regions could be better options to addressing and indeed preventing some of the current problems, dilemmas and paradoxes."

**Franck Duvell**

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**Czech Republic**

*"What do you see as the important events and changes which took place in the field of migration during 2006?"*

"From the global perspective, I see two significant trends in the area of migration during the last year: on the one hand, a dramatic growth in the number of foreigners living in the Czech Republic in comparison with the previous year (an increase of more than 43,000, which is by far the highest in the past few years), on the other hand, a further decrease in the number of refugees (seekers of international protection). The first trend serves as evidence that the Czech

Republic has definitively established itself as a highly attractive immigration destination and that there is a realistic assumption that this trend will continue. What I see as more negative is fact that even in spite of the vigorous activity of the government (above all the Ministry of Labour), it was not possible last year to approve and launch a complex and structured system of pro-integration measures aimed at least at foreigners with permanent residency (in the form of Czech language courses, increases in socio-cultural competence, support for entrance into the labour market, etc.). Given the dramatic growth in the representation of the foreign element in the Czech Republic, the undervaluing of integration mechanisms in the future can lead to serious society-wide problems like those we are witnessing in western European countries. I do not view the reduction in the number of refugees in the Czech Republic as the result of a worldwide increase in the standard of protection of human rights, but rather, as the increased effect of controlling and discouraging mechanisms which literally make it impossible for refugees to get to Europe. Even in spite of the increasing number of people granted asylum in the Czech Republic, this is paradoxically related to the continued relativising of the international-legal obligations of the Czech Republic in the area of the international protection of refugees (the proposed amendment to the asylum act is a reflection of this trend).

From the perspective of the scope of the public rights defender, beginning January 1<sup>st</sup> 2006, with the approval of the Option Protocol of the Agreement against Torture and Other Cruel, Inhuman or Humiliating Treatment and the resulting amendment to the act on the public rights defender (law no. 381/2005 coll.), a creation of a “national preventive mechanism” has taken place. In the framework of this new scope, the defender systematically visits the facilities in which there are people limited in their freedom, which includes “facilities for the detainment of foreigners” (FDF). In the second quarter of the year, the defender visited all four existing FDFs (Poštorná, Frýdek-Místek, Velké Přílepy and Bělá-Jezová), and on the basis of his investigations there, through his recommendations, he could contribute to the increase in the standard of protection of human rights of those in custody. For example, he recommended: the institution of unified practices for teaching the detained foreigner about the rights which relate to his legal status; the securing of all language versions of the internal regulations of the FDF; the upholding of the responsibility to provide information about the detaining of the relative of a foreigner or the organ of the social and legal protection of children; familiarisation with the reasons they have been placed in the strict regime of detainment; the protection of privacy during visits to the detained foreigner; removal of the camera system in the cells, etc.”

**Otakar Motejl.**

*Public rights defender, [www.ochrance.cz](http://www.ochrance.cz).*

*"What do you see as the important events and changes which took place in the field of migration during 2006?"*

“2006 brought positive change in the form of the shortening of the typical time needed for gaining permanent residence from 10 years to 5 years of stay in the country. I see this as one of the few opportunities foreigners have to escape dependence on their “helpers” – middle men, clients, basically everyone for whom the ten-year period was an advantage in their “business”.

I evaluate the terminological chaos which has come about in conjunction with the ratified amendment of the asylum act as the complete opposite of this. These terms were often not

even understood by the people they were used to describe (applicants for asylum, asylum-seekers, and earlier, refugees) and the current change has made the terminological chaos even more acute. The amendment of the asylum act brought new responsibilities to the asylum-seekers – they must report all changes (address, marital status, listing a child in one's passport) in two places: at the foreigners police and at a branch of the Department of Asylum and Migration Policy, which is the only place that can record information in the asylum speaker's identification card. Considering the fact that the branches of the Department of Asylum and Migration Policy are in Prague and in some rather remote areas, this change will certainly contribute to the asylum-seekers' better familiarity with the beautiful parts of the Czech Republic and the regularities and prices of public transportation. These practical experiences are thus an appropriate complement to the Handbook for Foreigners prepared by the Ministry of Labour. The Ministry of the Interior and the Ministry of Labour are finally working together!"

**Lucie Ditrychová**

*Head social worker at the Centre for the Integration of Foreigners, [www.cicpraha.org](http://www.cicpraha.org).*

***"What do you see as the important events and changes which took place in the field of migration during 2006?"***

"The year 2006 saw a significant shift in the cause concerning the exploitation of North Korean seamstresses working in several Czech factories. The Czech Republic has been criticised by several governmental and non-governmental agencies (e.g. the *Trafficking in Persons Report 2006*) because of the well-grounded suspicion that the seamstresses were giving up a part of their pay for the benefit of the North Korean regime. In the summer of 2006 the Czech Ministry of the Interior decided to examine the entire cause in detail and issued a temporary embargo on the issuing of visas for North Koreans coming to the Czech Republic to work. During the autumn this changed into a permanent embargo. However, it was not possible to prove that any crime had been committed. Nevertheless, due to UN sanctions against North Korea the work permits of these seamstresses will not be extended during 2007, because it was also not possible to disprove that these seamstresses were supporting the North Korean regime with their earnings. What remains startling is that even though the well-grounded suspicion that these workers have been exploited, and at the same time have been supporting the regime of the DPRK, has been present since the beginning of the seamstresses' stay in 1998, it took nine long years for their work to be banned and restrained. This practice illustrates that in the Czech Republic there is still insufficient attention being devoted to the exploitation of workers, human trafficking and poor working conditions. However, it appears that the Ministry of the Interior, the Ministry of Labour and other institutions have been trying in recent times to play a more active role in the issue of the working and living conditions of labour migrants. Above all, they have been concentrating on the manner of organisation and arranging of work from Ukraine to Czech Republic. In this way, and with the cooperation of non-government organisations, they will support the creation of an alternative to the 'client system'."

**Marie Jelínková**

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## **Poland**

*"What do you see as the important events and changes which took place in the field of migration during 2006?"*

“Significant emigration from Poland continues with the Poles emerging as major ‘new entrants’ in a number of West European countries. The opening of several labour markets in the EU states has altered the main routes of Polish labour migration. While until 2004, Poles used to migrate mainly to Germany, since accession the Polish migrants have targeted the United Kingdom, Ireland, Iceland and Benelux countries.

It is hard to estimate the scale of this wave of emigration. Most analysts agree that the stock of emigrants stands at around eight hundred thousand. Emigration has resulted in labor shortages that appeared especially in the fields of agriculture and construction. Government proposals to open these sectors for foreign workers aim at attracting seasonal workers from Ukraine, the country of origin of the largest number of immigrants in Poland (i.e. New regulations allow Ukrainians to work up to three months in the agricultural sector; it is expected that similar regulations will be introduced in the construction sector). Easier access to legal work can be also an incentive for the Ukrainian workers that are already in Poland to emerge out of the shadow economy.

Another issue is the growing number of refugees in Poland, which is expected to rise further after Poland’s entry into the Schengen area. The Polish Office for Repatriates and Refugees processes around seven to eight thousand asylum applications from this country every year. This situation points to a need for comprehensive integration programs.

Overall, Poland has not yet become a target country for any major group of immigrants. This may change with Poland’s entry into Schengen, although a sudden rise in the number of immigrants is not expected. On the other hand, Poland will certainly experience a continuing process of emigration to the West (i.e. after lifting the restrictions limiting Poles’ access to the German labour market). Another emerging trend will be a rise in labour migration among the new member states, especially in the border regions: Poles working in Lithuania, Czechs in Poland, Poles in Slovakia, and so forth.”

### **Justyna Frelak**

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### **Piotr Kaźmierkiewicz**

*Expert and researcher at the Institute of Public Affairs.*

### **Mirosław Bieniecki**

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***"What do you see as the important events and changes which took place in the field of migration during 2006?"***

“The most important issue for a Polish non-governmental organisation dealing with recognized refugees and asylum seekers is their integration into Polish society. In 2006, within the framework of our NGO’s projects, a lot of action was taken in this area, mainly actions concerning the employment activity – of foreigners. It is important to mention that positive changes have not occurred so far in the field of legal regulations, which are needed to allow NGO’s activities to be more effective, and that is why integration is still key issue. People granted refugee status have the right to participate in a one-year integration program, however this programme consists only of language classes and a monetary subsidy. Foreigners who gained subsidiary protection (tolerated stay) are not entitled to participate in this programme. This category represents a majority of foreigners seeking protection in Poland. As a result of very hard social conditions-- lack of integration programmes, difficulties in the labour market, problems with accommodation and difficulties with access to medical care-- foreigners very often decide to cross the Polish western border illegally. For the reasons mentioned above, the accession of Poland into the Schengen zone was probably one of the most anticipated events for foreigners. Though Dublin II has had a great impact since 2004 things will change once Poland enters the Schengen zone as potential asylum seekers will not apply for asylum but rather stay and work, even illegally, in Western Europe; when a person doesn’t apply for asylum in another European country there is no legal possibility (if there is no readmission agreement between countries) to deport them according Dublin II.

Another important problem with practical consequences seems to be the stricter interpretation of the “humanitarian clause” in the field of reunification of families (Council Regulation (EC) No 343/2003). In 2006, these regulations were too strictly obeyed by Western European countries, and therefore the number of negative decisions (refusal of reunification even of very close family members such as siblings or parents and adult children) has increased. The consequence of such policy is that a very high number of foreigners’ undertake illegal border crossings and illegal residence in Western Europe. This also means that often they do not want to integrate because they don’t want to stay in Poland. This is, and will be in the future, a very important problem for EU, because in result of this policy we will have a very large group of foreigners who aren’t integrated anywhere, who can’t speak any European language, with children who can’t graduate any school in any country. For Poland this problem is especially important because of the fact that Poland is the first safe country for Chechens – according to Dublin II nearly everybody could be sent back to Poland, which means there will always be huge group of foreigners just waiting in the territory for next opportunity to cross the border and join their family in the west. In such situations, the real integration of foreigners in these Western European countries and even more so in Poland is still just fiction.”

**Agnieszka Jasiakiewicz**

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## Slovakia

*"What do you see as the important events and changes which took place in the field of migration during 2006?"*

"I understand the term "migration" in the context of asylum-seekers and illegal migrants, which is why my observations concentrate on the events in this area. In 2006 I was unpleasantly surprised by seeing the lowest number of people for a long time being granted asylum status in the Slovak Republic (concretely, eight people were granted asylum) and the Migration Bureau's continuing refusal to acknowledge the applicants from Chechnya as people in need of international protection. In comparison with the previous year, the number of recorded asylum-seekers also dropped, which is clearly the result of the persistent image of Slovakia as a transit country on the way to the EU and above all as a country in which it is impossible to gain asylum. The target countries for migrants remain Austria, Germany, and Great Britain.

From the legislative perspective, the Slovak Republic did not manage to fulfill the condition of the transposition of the qualification guidelines by the set deadline (10.10.2006), and therefore did not manage to establish a new form of potential protection for asylum seekers – supplementary protection. The guidelines introduced were not transposed until the end of December, taking effect on 1.1.2007, yet because of an error by the lawmakers they lack any sort of temporary or final provisions concerning the scope of the law. Currently it is not possible to say what rights stem from the amended version of the act on asylum for applicants whose pursuance of asylum has not been legally closed or was closed because the applicants were banned, deported to their country of origin, or not granted asylum. It will be completely in the decisive jurisdiction of the Migration Bureau and the courts whether they enable the application for supplementary protection and thus also for re-evaluation of the original decision for the persons listed, or whether this pursuance will be suspended due to the reason of obstruction of the *res iudicata*.

A positive occurrence in the second half of 2006 was the successful realisation of the project monitoring the Ukrainian border and the international airport in Bratislava in cooperation with the Bureau of Alien and Border Police, which created an opportunity for non-government agencies to directly participate in the activities of the ÚPZ in relation to migrants in two strategically significant places and thus monitor the upholding of legal practices in these locations."

**Mgr. Zuzana Števílová**

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## Moldova

*"What do you see as the important events and changes which took place in the field of migration during 2006?"*

"The year of 2006 did not bring too many positive changes for Moldovans, especially for those working abroad. It is still the case that 40% of households depend on remittances (it accounts for 1/3 of the GDP). 35,000 children have at least one parent abroad. The number of candidates to migrate is high, and the opportunities are few. This leads to high costs (4000 Euros) and irregular migration. In order to solve all these problems, Moldova needs safe

labour migration policies (those we oriented toward the protection, benefit and safety of migrants and the elimination of irregular migration). Only in this way can they benefit from the positive aspects of migration.

The biggest changes and challenges in the migration field were determined by the accession of Romania to the EU. In October, 2006, Moldova and Romania signed an Agreement on the new travel regime, establishing a visa regime for the citizens of Moldova. The advantages of Romanian membership in the EU have been translated into the desire of Moldovans to 'regain' Romanian citizenship. In 2006, Romanian authorities registered 530.000 requests of this kind; the number is expected to raise to 1.5 million.

Though the Neighbourhood Policy with the EU is seen by the majority of the Moldovan population in terms of isolation (mainly because of the visa regime), benefits are expected to come. Romania intends to raise its assistance for development to 10 million Euros. Moldova will also benefit from EU assistance programmes. A Joint Centre for issuing EU visas will be opened in Chisinau, as currently only two embassies (German and French) have been issuing Schengen visas. Negotiations between Moldova and the EU have started, regarding facilitating the visa regime and the signing of readmission agreements. Thus, the EU Neighbourhood policy seems to be a great opportunity to strengthen cooperation in the migration field and find common solutions in this area, however, it needs openness and engagement from both Moldova and the EU."

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**Ukraine**

*"What do you see as the important events and changes which took place in the field of migration during 2006?"*

"In 2006 the migration situation in Ukraine was characterised by big political disputes and institutional changes. Debates have been going on concerning the establishment of a single migration agency, which would solely be responsible for all aspects of migration in Ukraine instead of, at least, five Governmental agencies, which are in charge of different spheres of migration. No agreement on that point was reached. However, there were major shifts of power in migration management among the existing agencies. Thus, all the competence over irregular migration is now shared between State Border Guards Service and Ministry of Interior with the State Committee on Nationalities and Migration being excluded from the sphere. The two sites allocated for the reconstruction for Migrants Detention Centres were transferred from the SCNM to the Ministry of Interior. With the help of international organisations (EU, IOM) the design activities at one of the sights have started. For the moment the only temporary holding facility for irregular migrants in village Pavshyno, Transcarpathian region, which functions under the authority of State Border Guards Service, is constantly overcrowded with people who tried to cross the border illegally, were apprehended and are waiting to be identified. Ukraine remains the main transit route for migrants from mainly India, Pakistan, China, Sri-Lanka, Bangladesh and CIS countries. The cooperation on Ukrainian-Moldovan border was highlighted, resulting in the signing of the protocol on simplification of border-crossing procedures for residents of bordering regions of the two countries.



In 2006 a decision on joint controls at Ukrainian-Polish border check-points was taken but failed to be implemented. The implementation is due in 2007.

As most of the irregular migrants come to Ukraine through Russia, one of the most important developments in the migration sphere was the signing, in December 2006, of the readmission agreement between Ukraine and Russia. It now has to be ratified by the parties. The negotiations are still under way between Ukraine and the European Union on visa facilitation and readmission agreements. According to the information from Ministry of Justice they may be signed in June 2007.”

**Nataliya Oliynyk**

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**Hungary**

*"What do you see as the important events and changes which took place in the field of migration during 2006?"*

Due to some changes in the structure of the Hungarian public administration, a specific department, namely the Migration Department, was set up in the Ministry of Justice and Law Enforcement. Since the 1<sup>st</sup> of August 2006 this department has dealt with all migration issues that were earlier handled by the Ministry of Interior, sometimes also in cooperation with the former Ministry of Justice.

A significant development was achieved in the legislative field as well. The current act in force governing the entry and residence of foreigners is applicable both to third-country nationals and to the citizens of the European Economic Area, although specific provisions apply to the latter. The situation of having only one legislative instrument for these two distinct groups of persons was considered to be quite problematic, therefore a decision was made to elaborate two different acts.

As a result of the department's comprehensive work, the Hungarian Parliament adopted the two acts on its session of 18<sup>th</sup> of December 2006. One of the acts (Act I of 2007) regulates the rules regarding the entry and residence of persons who are entitled to move and reside freely within the Community and the entry and residence of their family members. The rules are also applicable to the citizens of Iceland, Liechtenstein, Norway and Switzerland and to their family members. The another act concerns the entry and residence of third-country nationals (Act II if 2007). Both acts will come into force on the 1<sup>st</sup> of July 2007 and with these measures Hungary will comply with its Community obligations and will transpose the relevant directives into its national law.

**Mr. Zoltán Lékó**

*Head of the Department of Migration, <http://irm.gov.hu>.*

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\* All the opinions in this report are those of an author and do not necessarily reflect the position of IOM

***"What do you see as the important events and changes which took place in the field of migration during 2006?"***

“The general and local elections in 2006, together with internal political conflicts and harsh demonstrations in September-October, strongly reduced the attention of legislative and executive powers to international migration. Major facts, results and shortages in migration management are inserted into the following summary.

Facts (see tables in the annex):

- (1) The number of asylum seekers is now stable, although the trend has been a decrease since 2002. While the number of unlawfully entered persons is growing, the number of non-European applicants is limited.
- (2) Parallel to the decrease in asylum applicants, newly recognised refugees have almost vanished.
- (3) The number of applicants for Hungarian nationality is growing due to a certain simplification of the Act on Hungarian Nationality (1993) recently. Otherwise, attractive power of Hungarian nationality has been stable for neighbouring countries while the rate of applicants from more distant and non-European regions has slightly increased.

The State President is entitled to issue decisions on nationality cases. The new president was elected in June 2005. Differing from his predecessors, he declared (all) submitted applications would be assessed. Perhaps this “hyperactivity” and changing position of the President explains the drop in decisions.

Assessment:

- (1) A new central organ, the Ministry of Justice and Law Enforcement, inherited all tasks of preparatory of legislation, legal harmonisation, control of penal institutions, legal aid and notary and certain competences from the Ministry of the Interior. The regulation and management of international migration, Police, Border Guard, security measures and international co-operation in criminal matters belong to this new entity. The new “hybrid” Ministry is responsible for the Immigration and Nationality Office, implementation of naturalisation process, and co-operation with national and European agencies/institutions. This mushrooming competence is too much for a staff facing budget cutting in a time of state reform. The coinciding administrative reform and financial crisis could explain the solid development and more shortages. For instance, nobody evaluated the reason for the severe drop in asylum applicants since 2002 or how the absence of integration services would contribute to further migration of recognised refugees, settled migrants.
- (2) Modifications of rules relating to migrants were adopted indirectly to a great extent. For instance, victims of a crime qualify for financial compensation, which refugees also can obtain.<sup>1</sup> Political emancipation occurred when recognised refugees’ names were put on the list of voters at local elections<sup>2</sup> although they were not necessarily aware. Student’s credit for EEA nationals was made available in 2006, together with refugees and settled migrants<sup>3</sup>. Job as leading engineer for settled

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<sup>1</sup> Ministerial Decree No. 1 of 2006, 6 January on implementation rules on assistance and compensation provided for victims of crimes – in accordance with the Act CXXXV of 2005

<sup>2</sup> Ministerial Decree 29 of 2006, 30 May on implementation rules of Act C of 1997 on local elections and election of mayors

<sup>3</sup> Government Decree 86 of 2006, 12 April on students’ credit and Centre of Student Credit

migrant<sup>4</sup> beyond the EEA national was also opened last year. These may represent an appearance of emancipation of certain group of migrants.

(3) In general, the existing rights and benefits of refugees were preserved in 2006. For instance, they, along with EEA nationals, can enjoy lower fare in public transport.<sup>5</sup> We have to add that many of these benefits are not practiced due to irrelevance. For instance, an asylum applicant was originally entitled to travel (from the border) to the refugee centre free of charge in public transport with the possession of a simple certificate issued by the border guard. This opportunity was modified years ago, introducing a 90 percent reduction of fare in harmony with a subsidized tariff system, however a poor applicant entering Hungary has no financial cover on 10 percent of the fare. For this reason, applicants are rather carried by vans to the refugee centres by the border guard or refugee centres, instead of public vehicles.

(4) Hungary is or has remained the champion of :

a. How to conclude for decades a new bilateral agreement on social security of migrants when the agreement will be valid for a half year. It entered into force in July 2006 with Romania<sup>6</sup>, which acceded into the EU on 1<sup>st</sup> January 2007. Naturally, the other party was the winner of one-sided migratory movements: Hungary has had to pay all social transfer for settled migrants coming from Romania, including the total amount of pensions. The new agreement provides equal treatment for lawful migrant workers, EU nationals, refugees and stateless persons, together with their family members. The executive rules have not been adopted yet.

b. The official absence of settled migrants' children in the registry of population.

c. Not transposing the directives on migrations and EU nationals' free movement. Although subjects of these directives were not aware of this absence, the European Commission submitted a violation process against Hungary at the European Court of Justice (31 January 2007) only for missing the transpose of the Directive on long term resident migrants' status. The Act, including partial implementation, was adopted in last December. However, executive rules are only in preparation, so proceedings are going on at ECJ.

d. A restrictive approach in migration management, in harmony with European legal security culture (see in the Hague Programme), has been continuous in Hungary, too. For instance, the readmission agreement with Bosnia –Herzegovina<sup>7</sup> was concluded and published, as well as with France. Are those as equally respecting for human rights of nationals and third-country citizens as the introductory sentenced promised? Furthermore, the UN convention on combating international organised crime<sup>8</sup> was also promulgated, but at the most its infrastructure for implementation has been partly provided. A changing or more sophisticated attitude towards the victims of smugglers in social services or training material has never become visible. What can the authorities do with the citation of the Supplementing Protocol (Art.5):

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<sup>4</sup> Government Decree 244 of 2006, 5 December on implementation rules of requirements and competences of engineering in building and industry

<sup>5</sup> Governmental Decree 139 of 2006, 29 June on subsidized fare on public transport and vehicles

<sup>6</sup> Act II of 2006 publishing the Social Security Agreement concluded between Hungary and Romania in Bucharest, 20 October 2005

<sup>7</sup> Act XVIII of 2006 on publishing the intergovernmental agreement concluded between Hungary and Bosnia-Herzegovina on readmission of persons concluded in Budapest, 21 April 1996

<sup>8</sup> Act CII and CIII of 2006 on publishing the UN Conventions against Trans-national Organised Crime and its Supplementing Protocol against the smuggling of migrants by land, sea and air

“Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the objects of smuggling conduct (Article 6 of this Protocol)”?

e. Migrant workers have also been considered as a marginal group, although their presence in the labour market and the migration potential of Romanian labourers has deeply influenced the shadow economy, reciprocity rules and discourses. In 2006, the lawfully employed EEA nationals and third country workers were over 70,000 – the irregular labourers perhaps its double (3-5% of the employed population). The maintenance of reciprocity rules<sup>9</sup> towards A8 and work permit requirements, with exception of 250 never-applicable occupations, towards Romanian and Bulgarian labourers may express this controversial policy in eastward enlargement.

In summary, the transitional rules in the labour market, an expired deadline for the transposition of migration directives, labour shortages, the 5<sup>th</sup> wave of enlargement, and the brain waste of immigrants who must spend a depressing period here were not enough impetus for Hungarian migration managers and administrators to start a reform in this domain. Perhaps in coming years...”

**Judit Tóth**

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**Annex to the commentary by Judit Tóth**

**Table 1 How asylum applicants entered Hungary**

Year	Arrival	
	Lawfully	Unlawfully
2002	684	5 728
2003	558	1 843
2004	454	1 146
2005	569	1 040
1st part of 2005	315	450
1st part of 2006	277	722

**Table 2 Rate of asylum applicants**

Year	All applicants	European		Non-European	
		persons	%	Persons	%
2002	6 412	441	6,88	5971	93,12
2003	2 401	659	27,45	1742	75,55
2004	1 600	503	31,44	1097	68,56

<sup>9</sup> Governmental Decree 93 of 2004, 27 May on labour reciprocity and safeguard clause applicable after the EU Accession -- it was modified recently in 2006 due to liberalisation of labour market in certain EU15 countries

<b>2005</b>	1 609	548	36,29	1 025	63,71
<b>1st part of 2005</b>	765	226	29,55	539	70,45
<b>1st part of 2006</b>	999	363	36,33	636	63,66

**Table 3 Recognised refugees by nationality of origin**

<b>From which country</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>1st part of 2005</b>	<b>1st part of 2006</b>
Iraq	46	33	13	5	4	0
Afghanistan	10	28	19	7	3	2
Serbia-Montenegro	9	19	18	7	7	0
Palestine	5	2	12	1	1	0
Iran	3	9	20	10	3	4
Other	31	87	67	67	38	21
<b>Total</b>	<b>104</b>	<b>178</b>	<b>149</b>	<b>97</b>	<b>56</b>	<b>27</b>

**Table 4 Composition of applications for nationality**

<b>Nationality cases</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>1st part of 2005</b>	<b>1st part of 2006</b>
Applications for re/naturalisation	4 453	4 916	5 761	3 898	1 993	5 148
Citizenship declaration	212	151	144	136	58	63
Renouncement of Hungarian nationality	609	463	236	135	63	82
Application for verification of Hungarian nationality	4 401	4 803	5 984	5 482	2 948	2 315
Restitution of Hungarian nationality	1	1	1	0	0	0
Other applications	335	337	393	287	159	205
<b>Total</b>	<b>10 011</b>	<b>10 671</b>	<b>12 519</b>	<b>9 938</b>	<b>5 221</b>	<b>7 813</b>

**Table 5 Composition of naturalized person by nationality in origin**

<b>Original nationality of naturalised migrants</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>1st part of 2005</b>	<b>1st part of 2006</b>
Romanian	61.0%	60.30%	63.62%	67.80%	68.06%	66.30%
Serbian	16.0%	15.10%	12.68%	11.00%	11.45%	9.70%
Ukraine	10.0%	14.40%	14.28%	12.30%	12.06%	12.20%
Other European	5.60%	3.90%	4.96%	4.30%	4.13%	6.00%
Non-European	4.80%	5.30%	3.44%	3.90%	3.60%	5.00%

Stateless	1.10%	1.00%	1.02%	0.70%	0.70%	0.80%
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**Table 6 Issued nationality decisions of the State President**

<b>Decisions of the State president on nationality application</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>1st part of 2005</b>	<b>1st part of 2006</b>
Re/naturalized persons	3 890	5 579	5 667	9 981	5 936	3 201
Rejected applicants	468	502	502	482	267	250
<b>Total</b>	<b>4 358</b>	<b>6 081</b>	<b>6 169</b>	<b>10 463</b>	<b>6 203</b>	<b>3 451</b>