DIASPORAS AND POLITICS
Series editor: Endre Sik

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The publication of this book was greatly facilitated by the generous help of the European Cultural Foundation – ECF (Part I), the Central European University – CEU (Part II), the United Nations High Commissioner for Refugees – UNHCR and the Office of Immigration and Nationality of the Ministry of the Interior (Part III)

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English translation by NIVO STUDIO – Office for Translation, Ákos Farkas, Ferenc Zsigó and the authors
Revised by Ákos Farkas

Published by the Centre for Migration and Refugee Studies – Budapest, 2001

ISBN 963 9218 66 9
Címsor a borítóról

Budapest, 2001
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Part I

Diasporas
Rita Csiszár

Between East and West

Reflections on a group of return migrants

My concern in this paper lies with a small group of return migrants who left the country during or shortly after the revolution of 1956 and returned to Hungary around the transformation of 1990. It attempts to investigate what made my interviewees return to their country of origin after having lived abroad for several decades. During the interviews, while asking returnees both about their lives abroad and “back home,” I tried to find out whether there was any relationship between their motives to emigrate and those to return.

Furthermore, I was also interested in the returnees’ perceptions of their “old-new” home country. My hypothesis was that return migrants faced various difficulties when beginning their new lives in Hungary, and that the efforts required of them to re-integrate into the society of their origin were – contrary to their expectations – as demanding as those experienced during their emigration. Consequently, due to the differences in norms and values as well as in standards of living between the sending and the receiving countries, it was expected that return migrants interpret their decisions to return in terms of “failure” or “success”. This interpretation is assumed to have far-reaching consequences for returnees: successful re-integration will be perceived as an individual achievement enabling the dissemination of values acquired in the “other” country, whereas subjective perception of failure is expected to lead to self-segregation or in some cases to an incentive to re-emigration or second time emigration.

The following paper is a modified and abridged version of the author’s MA thesis.

Twenty semi-structured interviews have been conducted on the basis of “snowballing” ranging between two to three hours in length. Interviews have been carried out with 7 women and 13 men (out of which there were 6 married couples) coming from both working class and middle class backgrounds. Initially, twice as many interview partners were contacted. However, half of them did not wish to take part in the research – in spite of the fact that they were promised anonymity – either due to the fear of being “recognised” or because they did not want to “tear open already healed wounds.” Respondents’ age ranges between 63 and 81, the youngest being 19 and the oldest 37 at the time of emigration. The countries of destination included Germany, Switzerland, Belgium, Italy, England, Spain, Canada and the United States. In terms of domicile, all respondents lived in Western Hungary before their departure and settled down in the same region after their return.

In the framework of this paper, the term return migration will be reserved for situations when people, after emigration, return to their country of origin in order to establish themselves permanently. The term re-emigration will be used to denote cases in which migrants emigrate once again to the same destination after having returned for
Finally, in the last part of the paper, I will try to explore the returnees’ understanding of the home-metaphor in their world of movement by examining their relationship to “their two countries.” I assume that return migrants’ lives are shared not only physically but also cognitively between Hungary and their country of emigration. Thus the question arises whether returnees’ understanding of “home” was different in relation to the two countries.

RETURNING HOME? DECISIONS AND CONSEQUENCES

Oral histories suggest that migrants became to a certain extent integrated into the society of the receiving country: they were all granted citizenship, they made enough money to secure a decent life, they acquired property, they made friends and their children became full members of the receiving society. What then, the question arises, made them come back to the country they had left several decades ago?

The incentives to return are generally attributed to the change of the political climate starting in the mid-eighties that lead to the first free and democratic elections in 1990. Hungarians living abroad welcomed the formation of the conservative government and the new legislation that extended amnesty to political émigrés. These changes signalled the advent of a new era for all who left the country “illegally” during socialist times since legal obstacles to return had been removed. While structural changes were mainly responsible for the return of some, they only formed the backdrop against which individual decisions could be justified.

These structural societal changes seem to have undoubtedly determined the life of the political émigré, who viewed their stay abroad only temporary – ironically, they were destined to spend several decades in exile – and took the first opportunity to return. Mr. Piros explains how politics changed his life anew:

In 1989, it seemed that the favourable processes underway in Hungarian politics could not change their directions. That was the time when we decided to come back and submit our papers, although the communist government was still in power. We had lived in England for 33 years under compulsion and not because of pleasure… not because we wanted to make a career there or because we wanted to make a fortune. But out of sheer necessity since we wanted to stay alive even after 1956. Naturally, when changes happened that allowed us the continuation of our lives here under normal circumstances, we took the first plane to come home. Not to travel there and back or to enjoy our summer holidays here each year, like many others do. The reason for which we got there ceased to exist (longer pause). Back to Hungary “to put up our tent.”

Entrepreneurial individuals whose main aim was to detect a niche in Hungary’s nascent market economy made up another group. They wanted to return in order to establish a

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4 None of my interview partners have ever been unemployed, a fact they are very proud of.
business and profit from the economic changes that were underway in a society in transformation. Some had already become successful business people overseas, while others started business activities in Hungary for the first time. Mr. Tóth thus recalls the circumstances that made him return:

Our return was not planned. When we came in 1991, we already had a prosperous business there (in Canada). We thought we would start something here as well not to get bored during the time we were here. Actually, we wanted to do the same business here as there. We didn’t plan to settle down. We planned to spend 3-4 months in Canada, another 3-4 months in Hungary and the remaining part of the year in Taiwan since my wife comes from there. But it turned out differently. Business became unexpectedly successful very quickly and we could not leave it. So we sold our properties there and moved here.

For another group, the opportunity to settle down in Hungary presented itself as a unique chance to complete the migration cycle and to come back where they started. This “return of retirement”\(^5\) represents the final phase in the life cycle of many. Statements such as “I came home to die” or “I was always longing for my home country” as well as “homesickness never wore off” are typical of respondents belonging to this group. This incentive to return was generally tied up with financial considerations since old age pensions have more value in Hungary and thus enable a relatively higher standard of living than they would in the country of emigration. Mr. Kiss is typical of many:

I’ve been thinking of it for a long time as I always felt homesick, especially after my retirement. I had Hungarian blood in my veins. When I retired, I knew the time has come to go back where I came from … back on the same route. By that time, we could settle down freely, having only to wait for the (Hungarian) citizenship and some papers to arrive. Without them, you could not move back. I had been looking for an appropriate house for years before I finally left. I knew I wouldn’t have any problems to live on my pension.

People belonging to the last category found themselves in Hungary almost “accidentally” mainly due to the disintegration of their immediate family after a divorce and the children’s departure from the parental house. Their decisions to return, in most cases, was not so much

\(^5\) The term originates with Ceraze whose earliest categorisation concerning return migrants is probably the most widespread. He classified returning Italians from the United States into four groups based on their degree of success in the adaptation to the receiving society and also on the motives behind their decisions to return. “Returnees of failure” had been unable to adapt to the social and economic structures of their host country and thus, after a relatively short time, they decided to return to their country of origin. Upon return, they reverted to their normal routine and their lives seemed to be “untouched” by the experience of migration. “Returnees of conservatism,” though managed to realise their economic gains, were unable or unwilling to accommodate themselves to the norms of the receiving society. During their immigration they held on to the traditions of their home country. “Returnees of innovation” are, according to Ceraze, the exception rather than the rule. In this case, the emigration proved to be advantageous for both the individual and the country of origin since migrants were considered to have come back to their fatherland highly motivated to effect changes. Finally, immigrants who, after a hard working life, returned to their home base were labelled as “returnees of retirement.”
a decision for but rather against something. The opportunity to return seemed to present itself as a remedy for failures in private life. Mr. Győri feels uncomfortable when answering the question “What made you decide to come back?”:

It’s a difficult question to answer. Actually, nothing drew me here. I was never homesick and I don’t have any relatives here. After I retired, my wife divorced me and my daughter moved to Basel to work. So I thought, I would move to Alsace-Lorraine, where they speak German. Real estate was very cheap there. And the border was only 7 kms from where I lived previously. I got a residence permit exceptionally quickly. But there were street fights between the whites and the Arabs from the colonies. I asked myself: Shall I go from one foreign place to another? Meanwhile, I came back to Hungary for a visit and my brother-in-law was looking for a house to buy for himself. I accompanied him and made the proprietor a tentative offer for the house, just for fun. Later on, when I was already in Switzerland, I got a phone call saying that I could have the house if I wanted to. By the time I’d realised what happened, I sold my property there (in Switzerland) and moved here.

When examining the motives to emigrate and those to return no regular patterns of correlation can be found. The only exceptions are respondents who were actively involved in the revolution of 1956 and thus label themselves as political emigrants. In their cases, the lack of alternatives and life threatening conditions forced them to leave their home country. After the change of the system, they felt a moral obligation to return.

Similarly, one encounters substantial difficulty when trying to find out the intended duration of time spent abroad, independently from the motives to leave Hungary. Most of the respondents did not mention whether they wanted to stay away only temporarily or planned to settle down permanently. This was mainly due to the unpredictability of the political situation: as emigrants were politically and socially stigmatised by the system, they did not know what to expect if they returned. Accordingly, most of them did not exclude the possibility of a return some time in their lives but its date was impossible to forecast:

In 1957, I took the following vow: if God keeps me alive until I retire in England, I will come back, I will not die there. (Mr. Gyepes)

One could see that no changes were to be expected in Hungary. So we had to accept the idea that we were going to spend all our lives there. Those who didn’t have

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6 Though motives are varied, it is interesting to note that, in the minds of my respondents, the various reasons for emigration constitute a hierarchical order placed along a “prestige continuum”: at one end with political motives ranking as the most justified ones, at the other with financial considerations being the least acceptable ones. Return migrants, being aware of the possible value attribution of the interviewer, wanted to secure social approval by embedding their financial objectives among some other, more elevated, ones. The majority of those who did not take any political role in the revolution justified their decision to leave by the “general suffocating political climate” and the “lack of future prospects.” The desire for financial improvement of one’s living standards have not been made explicit with the exception of Ms. Ányos, who was unable to support her mother and teenage brother from her wages as a cashier at home and decided to look for a better living abroad.
any problem with politics could come back for a visit after 5 years but we didn’t have the opportunity to do so. Consequently, we thought we would have to live in England until we die. (Mr. Piros)

When asking my female interviewees about their motives to return, they were eager to point out that – with the exception of Ms. Ányos – they did not want to come back to Hungary and they became “tied migrants” “for their husbands’ sake.” To the question of why they hesitated to return, they answered that they felt more attached to family and friends than their husbands did. As they got used to the blessings of the consumer society they were afraid of having to miss them when already in Hungary. The fact that their return migration was primarily for the benefit of the husband surfaces from time to time, especially at times of dissonance between the couple. As Mrs. Gyepes puts it:

I didn’t want to come back at all but he was always homesick, and that’s why we returned. To tell you the truth, I would go back right tomorrow. Whenever he is complaining about something here or when we quarrel, I keep telling him “you see, I told you we shouldn’t come back.”

Some women stayed behind either temporarily – until the husband prepared the necessary living conditions – or permanently and decided not to move back to Hungary. In one case, Mrs. Sopron returned to America after having stayed for five months in Hungary with her husband. Although she was to go for a short visit to see the grandchildren, she failed to return after a year and she is still persuading her husband to change his mind and go back to live in the States. Here is how the husband explains the controversy:

We came back in March 1999. My wife bought a return ticket, I only bought a single one. Then she says “Dad, I want to go back in August not to lose my ticket. But I will be here with you at Christmas.” I was waiting for my wife but she didn’t come. I was alone with my relatives. And she hasn’t come since then. When she has to leave the kids and the grandchildren … she thinks differently. My daughter also keeps telling me “I didn’t have grandparents because I was born in America. Do you, Daddy, want my children not to have them either? Perhaps women are different than we, men, are. She can’t leave the kids. But what my wife doesn’t understand is that … when we both worked we made 80-90 thousand together, when we retired we got 30 thousand. We have to live on that money. And there no one cares about the fact that you became old. You survive the way you can. I’m calculating because I’m money-minded but my wife isn’t. And there is another thing, my parents and grandparents all lived here. We have our graves here and the house in which they lived. This is where I belong to, the place where my roots are… I don’t know what is going to happen. I hope she will come back. But if she doesn’t, I will still have to stay here.

Another example is that of Mr. Ég who, having never been separated from his wife during their fifty years of marriage, now spends most of his time in Hungary while his wife stayed in Germany. This is what he thinks of her reasons:

Though my wife didn’t want to move back to Hungary, she didn’t mind my decision to come. I think she got used to it more during the 40 years. She is much more tied to the flat and the shops than a man. Our daughter also lives there.

ON THE MOVE…

Interviewees have resorted to two distinct types of preparation strategies: their decision was either thoroughly planned taking several years to finalise or it was taken on an ad hoc basis. An extended planning phase is mainly characteristic of people who wanted to spend the rest of their lives in the home country living comfortably on their pension they receive in foreign currency. Most naturally, the planning instinct is also typical of those who perceived their stay abroad as an exile and wanted to return from the first day they emigrated. On the other hand, those who intended to establish an enterprise did not seem to plan ahead for years and neither did people who found themselves in Hungary mainly due to some private problems.

The process of preparation followed more or less the same script for all concerned. From year to year, migrants were more impressed by the changes they had witnessed in Hungary during their holidays extending from two to four weeks. During such visits or immediately upon their return – while memories were still fresh – migrants often reached a final decision and made concrete plans to return home. This included setting a date, buying a house and opening a Hungarian bank account. It was mainly the members of the immediate or extended family who helped them find out relevant regulations and assisted with the purchase of property.

Those who returned under the communist rule, in the late 80s, had various obligations to fulfil. Talking about the requirements set by the government Mr. Piros said:

Moving back home was a disaster. We had to go through again these official things. I got such a pile of papers at the embassy. They all served to deter us from coming back. There were so many restrictions. One had to cut off all the ties. I could not have any financial claims or debt. One had to make a list of all the things one took home from abroad. Everything had to be reported to the National Bank. It was a further requirement to buy a flat or a house in order not to be a burden on the state. The money – 15,000 USD – for this purpose had to be deposited at the National Bank. For months, I could not get my money back (from the bank), I had to write them threatening letters saying that I will take the case to court. They took £600 off my account for letting us in (to the country) … We came early, we ran back as soon as we could. For those who come now it’s very different. That time, the old rules were still in force.
Though others who returned after 1989 were not legally obliged to sell their property abroad, but the majority did so in order to be able to buy a house or a flat in Hungary. Initially, most respondents considered keeping their property in the country from which they came so that they could share the time between the two places to take advantage of both. These plans, however, as the Vásárosi family’s example illustrates the decisions of many, had to be changed due to financial considerations:

We had been planning to buy a house here already five years before our departure. We kept taking money to 6 Nádor Street. We didn’t want to sell the house there either so that we could go back regularly. Actually, we wanted to spend half of the year here and the other half there … the summer here because it’s nice and warm and the winter there (in England) because the climate is much milder there. But we didn’t manage to do that because this house here cost 15 million forints and we had to sell the other one in order to buy this.

Similarly to the adventures experienced during their emigration, the circumstances in which the move was organised also became a part of the migration story. Migrants are likely to recall all the difficulties of the move in detail, as did Mrs. Vásárosi who returned with his husband from England:

The moving was quite complicated. We took almost everything with us. We lost at least 5-6 kgs because we broke down with our nerves. We made 74 packages and put them into boxes. I started packing two months before our departure. The lorry came earlier with all the furniture, so there were only a stove, a bed and two chairs left for the last weeks.

**BETWEEN EAST AND WEST: CLASH OF VALUES**

The most striking feature of the returnees’ accounts – when expressing their thoughts on their lives in Hungary – is the constant use of the East/West dichotomy as a binary opposition in which the former stands for the developing and the latter for the developed part of the world. The pictures presented on the two poles describe, on one hand, a rational, modern and industrial society where the most efficient means are used to attain a given goal and, on the other, a society that seems to be chaotic, irrational and ineffective. The emerging image presents two countries – the country of emigration and Hungary – that are at different stages of their development with Hungary being “several decades behind.” Despite its backwardness when compared with the various receiving countries, Hungary has recently achieved substantial financial progress enabling it to belong to the countries of “semi-periphery” in contrast to both the “centre” and the “periphery”, to use Wallerstein’s classification of the world’s regions according to their economic achievement. Hungary’s place along the centre – periphery continuum has thus been metaphorically positioned by one of the return migrants:

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8 The address of the Hungarian National Bank in Budapest.
A friend of mine told us once that Hungary can’t catch up with the West at least for 30 years. Even if it runs at full speed from the other direction. I think, it’s really true. And I would say 30 years are not even enough. But we mustn’t forget that the country’s been making great strides in the economy lately. And we are not doing as bad as the countries on the Balkans or the states of the “Big Brother”9. So there is still some hope.

Problems return migrants encounter in their readjustment are seen to stem mainly from the disparities in the norms and values between the sending and the receiving countries. These differences are, however, presented not as equally possible ways of achieving a given goal but they are placed along the above mentioned “developed” versus “developing” – rather “not-yet developed” – prestige continuum that necessarily implies the superiority of one system over the other. In the eyes of the returnees, the lack of a work ethic and morals is depicted as the most disturbing feature of contemporary social life in Hungary. The most often heard claim is that the change of the political system has not yet spilled over to cause changes in the attitudes of the population at large. “The system has changed but you can’t change the people overnight,” as it has been mentioned by many. Mr. Bognár summarises the complaints of a group of returnees, especially of those who had their own enterprises abroad or came home to establish a business:

People here seem to live in another world. The work ethic has absolutely deteriorated. People don’t like working as much (as they did). Honesty, as it used to be, is non-existent. The previous regime has left its traces on the people. There, I used to be proud of being Hungarian because they could cope with any situation but at home you can’t trust anybody. When I left Hungary, Hungarians were different. I came back in 1991, brought some money and established a business with two Hungarians. In this country, you can’t trust people. If they give you their words, it doesn’t mean anything. If they say they’ll come back at two o’clock, they will only arrive in three days. They are stealing. They will take you in if they can. They’re not punctual and they’re irresponsible. There are some good people in Hungary, we also have a couple of Nobel Prize winners, but average people have very poor morals. This wasn’t like this in 1956. Everybody was lying to everybody 45 years long. Lying is not a sin any more. This county is ruined but not so much in a financial respect but it’s pretty low down in terms of morals.

Unreliability, lack of punctuality, untrustworthiness and laziness are the most frequently mentioned attributes with which unsatisfied return migrants describe Hungarians at large. In most cases, these negative characteristics are attributed to the communist regime that is seen to have changed the attitudes of the population for the worse. Others, however, believe that the lack of a work ethic has not been so much conditioned by the previous system as it is inherent in the Hungarian temperament. While the Swiss are by nature

9 During the socialist regime, the orwellian expression “Big Brother” was used, in a humorous and sarcastic way to denote the Soviet Union. The interviewee here refers to the satellite states of the former Soviet Union.
hard working, Hungarians have always been driven by their instinct preferring “quality of life” to “quantifiable things.”

Another irritation is the slow pace of life and the difficulty of getting things done. Having accustomed to the punctuality of Western European or North American societies, they are often impatient with and frustrated by its absence at home. Migrants have been irritated by the delays in getting service workers to make repairs or by having to wait in queues while office clerks chat in front of the customers:

It would be good to get rid of this disturbingly big bureaucracy. It’s awfully slow. One is sent from one person to the other because they can’t do or don’t want to do their job. When the office opens in the morning, women are still drinking coffee and are chatting with each other. You couldn’t imagine something like this in the West. The country won’t progress like this. Order would be needed.

Finally, another criticism concerns the lack of distinction between the private and the public spheres. Some returnees feel that they are unduly disturbed both by the authorities and by private people in their homes. A retired couple complains that authorities do not respect their private life since gas-metre readers always come at weekends. They would also expect Hungarians to let them know about their arrivals before they make a visit to their home.

Similarly, another couple regrets having moved to a little Transdanubian village because they feel to be constantly watched by curious villagers. As she puts it:

It was a big mistake to move to this place. People are scandalmongers here. I don’t care about what neighbours do. Sometimes I stop to talk to them. But everybody knows everything about everybody else here. If they hear a little thing they will make something big about it. They would like to know how much our pension is but we don’t tell it to anybody. I don’t know at least 90% of the people living in the village. Those who were here before we left are now all dead.

Interestingly, while some returnees are disappointed by the lack of a private sphere, and they also regret that human relationships became “colder” and even once-friendly relatives have become distanced soon after the returnees’ settlement in Hungary. Many think that “people are after their own interests only” and solidarity has – to a large extent – has disappeared from community life. Mr. Pesti, a former political émigré, sets the revolution of 1956 as an example when people of various political backgrounds were united for a common goal:

10 A 70-year-old return migrant who used to work as an entrepreneur in Switzerland has thus expressed this idea: “A Hungarian can’t understand this. They can’t understand how one should live and keep one’s house and surroundings clean. A Hungarian has a different temperament, a different way of life. First comes a good cuisine, a cigarette and a nice glass of wine… and then naturally bed. One needs that as well but how come that one can’t put something else in the first place. To change one’s living standards life is so short. In Switzerland, work comes first and everything is only of secondary importance. Even in one’s youth, one should follow one’s mind and not one’s instinct.”
Something that hurts me very much as a 56er is a certain decay … that everything is falling into pieces. We keep trying hard doing things and, at the end, we explode instead of uniting our efforts. There are common goals for which we should unite our efforts. In the revolution of 1956, people from the most varied backgrounds joined forces. It’s indisputable that there were people from the left and also some from the extreme right but there was a force motivating all of us: that the Soviet forces should leave the country. The search for independence united all kinds of people but now you can’t find a charismatic leader who could manage to do this.

ADAPTATION TO NEW CIRCUMSTANCES

After their return, migrants experienced abrupt changes in their lives overnight: they had to build up a new way of life in a different environment. This “uprooting and replanting” was rendered difficult to a large extent by the fact that returnees were psychologically not prepared for the shift and their idealistic expectations lacked a realistic basis. Many migrants only discovered later, when already settled in Hungary, that the impressions they acquired during the short holiday visits were deceptive. During their visits to Hungary – usually in summer holidays, around Christmas or other family festivities – they normally enjoyed an easygoing pace of life after a laborious year abroad. No wonder that the atmosphere was especially festive with family members and relatives not seen for a long time in a good mood and eager to please the homecomers:

I came home for two weeks each year that I spent in the circle of my relatives. We had great fun and I didn’t care about politics and difficulties at all. Not surprisingly, I didn’t have any experience about what could be waiting for me in when I came home. Everything came to light only when I was already here starting to build the house. To be honest, these days, I often think of an interesting event I didn’t take seriously enough when it happened. I came home during the last years of the Kádár regime to celebrate the 35th anniversary of our secondary school graduation with my ex-classmates. The mentality of the people was so different – I could hardly understand their way of thinking – that I kept wondering where I was. They lived in a totally different world. I think I should have taken it more seriously before I settled down.

The situation, however, has changed in the eyes of the returnees substantially in the course of their everyday life after the move. They had to find their way through the maze alone, learning anew the mechanisms of a society they thought they would know. As one respondent told me, much had to be learnt anew, a lot more than what she expected:

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11 Some feel that relatives who seemed to be especially encouraging prior their move to Hungary became offensively neutral when the novelty of their presence wore off. Mrs. Ányos, a widow lady in her late 60s, who moved to the green belt of Budapest to be close to her cousin’s family told me that she was disappointed by the relatives’ behaviour: “Relatives would like to have money. They would like me to help them. If only things would
When I moved back, I had to get used to everything. OK, I’m Hungarian. But the only thing I had was the language. Everything else had changed while I was gone: habits, shops and so on. You are very ignorant in so many things. By now, I’ve managed to get accustomed to all this, but I had to adapt to it. Yes, I think, I’ve done it already.

Intellectuals tend to rationalise their experience and see their own critical view as a natural consequence of having lived in a country where other rules apply. In the words of one:

It was extremely difficult, especially at the beginning. Life has presented us with a lot of annoyance since we came home. This has only one reason: we spent 33 years of our lives in one of the most developed countries of Europe and whatever we see – this is definitely a human fallibility – we use that country as a yardstick. To a certain extent, this is natural since both individual and communal progress is only possible when one adopts a critical view. Life stops otherwise.

While listening to the woes of the return migrants, one can conclude that difficulties of adjustment experienced by them do not seem to be less serious than the ones encountered at the time of emigration. When confronted with this observation, the question arises: why do so many of the returnees who are familiar with Hungary and who have usually visited the country several times before their actual return home have difficulty in readjusting? The reason, in my opinion, can be explained by various factors. Firstly, their adjustment problems are due to the mismatch between previous expectations and first-hand experience: return migrants did not expect to have any difficulties in Hungary since they were “coming home” to a country they knew well. The loss of one’s dream made the acceptance of any difficulty arising unacceptable. Secondly, many returnees have finished their working career shortly before their return, consequently, their adjustment phase was aggravated by the difficulties they would have experienced anyway due to the change of lifestyles. It is generally accepted that, especially, men find it troublesome to accept their new roles as pensioners. Thirdly, age is also a factor that comes into play; for personality structures are known to be more flexible at an early age than at a later phase of life. Adjustments to hardships encountered at the time of emigration were more readily accepted than those they faced three or four decades later. Finally, the existence of various alternatives necessarily renders any decision-making process more complicated. At the time of emigration, migrants had to accept the difficulties of accommodation as no other alternative presented itself; return was, in the majority of the cases, out of the question. By contrast, return migrants now have the opportunity to weigh the pros and cons of their decisions and may consider leaving the country for a second time. This seems to make the acceptance of adjustment-related difficulties more complicated.
In addition, the answer may, at least partially, lie in the changes that occurred in the migrants themselves during their time abroad. Migrants often do not realise how much their attitudes have been altered by their experiences in the foreign country until they come home. While abroad, they mainly see themselves in opposition to the mainstream society and they tend to think of themselves and other Hungarian migrants as not being different from those in the home country. It is when they return to Hungary and try to establish themselves that they first see the differences. Consequently, it is not solely the changes that took place in the home society during their absence that make accommodation to the new environment difficult but also the changes in the returnees themselves.

Adjustment to the unfamiliar environment is reported to have been the most demanding during the initial phase, especially during the first year, of the returnees’ stay in Hungary. During this time, respondents suffered to a varying degree from symptoms generally considered to be the indicators of “culture shock.” These health problems included psychological as well as psychosomatic ailments, most characteristically depression, loneliness, emotional anxiety – ranging from a vague discomfort to profound disorientation – as well as weight loss and constant head and stomach aches. However, after an initial accommodation phase, people seem to have recovered from these “mysterious illnesses.” Parallel to this, according to reports, the level of satisfaction has considerably risen after the first year.

“RETURN OF FAILURE” OF “RETURN OF SUCCESS”

Oral histories show a picture of returnees who have complaints about Hungary and Hungarians but who have generally – with occasional ups and downs – adjusted to the Hungarian way of life. The majority of the respondents are satisfied12 to be at home. This holds especially true for the “returnees of retirement” who, due to their relatively high pensions, are able to secure the same living standards that they enjoyed abroad. Furthermore, as their main aim was to live the last phase of their life peacefully in their country of origin, they can manage to avoid confrontations that could have been caused by possible cultural differences.13 “Returnees of political ideals,” those who left the country because of their active political involvement in the revolution, also feel at home. As they felt to have

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12 Evaluation – and sometimes also justification – of the “rightness” of the decision to return is a recurrent feature of the immigrants’ accounts, a topic that is constantly negotiated anew in the light of new experiences. As moods, the degree of physical or psychological well-being vary, revisions may occur. New circumstances in which returnees found themselves made the lives of some take an unexpected direction. Mr. Domá, whose life took a surprising turn, gives the following account of the changes. “When I came back at the end of the 80s, I was in a poor condition both physically and spiritually. My wife had left me and my children had grown up and the left our home. I was lonely and so I thought I would come back to die. But I feel up to the mark now, full of energies and I don’t feel I should hurry to die. I got to know a Hungarian woman here whom I married. And I also felt that I had to help Hungary – which is like a sinking ship – somehow, so I entered MIEP (Hungarian Justice and Life Party – a right-wing political party) and started to get involved in politics and run for a parliamentary seat. I wish I’d have started it earlier. There (in Canada) I didn’t even dream of this, I came here to die.”

13 As one returnee expressed his frustration: “You can live fine here as long as you have your own house and spend your life peacefully. You feel fine if you don’t do anything but as soon as you start doing something, if you have plans to fulfil, than you find only obstacles around you and you can’t move.”
lived in an exile, after the political transformation, they have been politically rehabilitated and they are eager to get involved in the political life of a newly forming society. In both cases, the fact that returnees were preparing – even if only in their minds – their homecoming in advance makes them especially determined to stay despite certain difficulties.

I’ve found myself as a person. My adjustment was relatively easy because I was a journalist and everybody knew me before we left. So I continued from where I stepped out in 56. This is the biggest pro of coming home. If we had stayed in England I’d have continued my dull everyday life. Since I’m at home, I have already published a new book of poems.

On the other hand, those who did not plan their return in advance and “happened to find themselves in Hungary,” to use the words of one interviewee belonging to this group, because of some personal problems, are more likely to evaluate their decision as a failure. Mr. Gyôri, who cannot find any reason to justify his homecoming, comments:

I don’t think it was a good idea to move back. In fact, I really regret my decision. Now I know I shouldn’t have done it. But it’s too late, in any case, to do something about it.

The level of satisfaction seems to depend partly on the reasons to return. Furthermore, the motivational force that comes from the decision itself considerably influences the consequences: the stronger and the more thought over the decision was, the likelier it is that it cannot be easily frustrated. This fact can be explained by dissonance theory, which states that individuals experience cognitive dissonance whenever they have two psychologically incongruous thoughts, attitudes or opinions. As it lies in the interest of every individual to minimise this state of stress, he or she attempts to eradicate – or at least minimise – the eventual mismatch between the decision and the consequent behaviour it is followed by. In this context, when migrants feel that they have themselves taken the decisions, they do everything to prove that it was right in order to avoid the inner dissonance of making an illogical or wrong decision. This is why political émigrés and returnees of retirement, people who have been planning their return for a long time, are more likely to be satisfied with their decisions, whereas those who came without a definite reason or whose return was not thoroughly prepared beforehand are less likely to view their permanent settlement in the home country as a success.

The question arising here is what returnees who are dissatisfied with their previous decision are planning to do. My interviewees have formulated two different responses. In the eyes of some, no alternative option presents itself for those who feel “forced to stay.” Having sold their property abroad, cut off most of their contacts and survived the “torture of the move,” they view their stay in Hungary as permanent – despite their discontent – mainly due to their advanced age.

A 60-year-old engineer whose business went bankrupt, nevertheless, is seriously considering second time emigration. However, instead of going back to Switzerland, he prefers to start a new life in Australia where his daughter lives with her family:
I keep thinking about what to do next. I can’t take roots here. I’ve liquidated my company. I’m going to have a look at Australia, to see what it is like. I wonder whether I could live there. My daughter has been living there for some years and my son is also planning to emigrate. If I can get used to the place, I’d go. But my real dream would be South Africa.

“RETURN OF INNOVATION”?  

Although all interviewees were aware of having acquired attitudes and norms that set them apart from Hungarian mainstream society, it would be difficult to point to quantifiable examples of attempts to introduce those here. Due to the fact that return migrants of this sample are all pensioners necessarily implies that their ideas can be channelled into the society only to a much less visible extent than suggestions made by those who being employed, have the authority and the freedom to put into practice the ideas and techniques they have learnt abroad. Opportunities of migrants to apply their foreign experience offer themselves either in the private sector to be exploited by migrants as entrepreneurs, or in the non-profit area where these people can grab them as members of various organisations and parties.

From the viewpoint of the innovative capacity and the ability of its introduction, returnees in this survey can be grouped into three distinct categories. The first group is comprised of the actual “returnees of innovation,” in the sense in which Ceraze used the term, return migrants who have had exerted some developmental impact on the community in which they live. Mr. Tóth, for example, a successful businessman, is proud of being among the first to have introduced multi-level marketing in Hungary and producing environmentally friendly products based on a philosophy he has oriented himself towards for the last 30 years. Mr. Piros, a well-established journalist and writer, takes active part in the establishment of non-governmental organisations, whereas Mr. Kovács, despite his advanced age, is energetically engaged in teaching activities at universities and delivers presentations on political and societal issues in various academic circles. Mr. Ég, a teacher and acrobat by profession, has been granted an award by the municipality for his outstanding engagement during the years of transformation. He is also a regular correspondent to the local newspaper, reporting on different issues that need improvement.

I would suggest calling the members of the second group who, despite their efforts, were less effective in the implementation of their plans, as “returnees of failed mission.” An illustrative example of this category is Mr. Szigeti, who has joined a right-wing party shortly after his arrival from Canada and has run for a parliamentary seat at the elections. However, after having failed, he retreated from political life in disappointment. Mr. Gyepes also got involved in the community life of the small village where he settled down with his wife. He and his wife decided to help the small Protestant community to build a new house of worship. Though their donation was welcome, the construction of the church stopped before the building was finished due to alleged corruption. As donors, they were not allowed to sit on the committee responsible for financial transactions, even though
the couple took an active part in the construction. Consequently, they were very disappointed that they were neither able to achieve their goal nor to get their money back. The last example is of Mr. Bognár’s, whose transport company that was established in 1991 went bankrupt, in the respondent’s view, due to the workers’ poor work ethic.

Finally, respondents belonging to the third category, for several reasons, did not have the ambition to act as agents of change. “Returnees of no ambition,” even if they might possess the potentials to function as innovators, prefer to live the calm and comfortable life of retired return migrants.

Independently of their success of their suggestions, returnees report on the general resistance to foreign ideas. In the words of Mr. Ég, “I don’t think that my engagement is welcomed by everybody. Well, I think I’m definitely a thorn in the side of some. I’ve already received anonymous threatening letters. Though, I know that one swallow doesn’t make a summer, I do what I can.” In Mr. Kovács’s view, one can only have a positive influence on people’s way of thinking “if one is sincere and behaves in a natural way. Open criticism doesn’t help. It also means that I have to be patient, open and more persistent than others are. One doesn’t criticise and doesn’t make remarks. If I make a negative remark, I haven’t achieved anything.”

IMAGES OF HOME: HOME AS THE PHYSICAL REALITY OF THE HOUSE

The analysis of the interview extracts revealed that the image of the home is a recurrent topic of conversation. Accounts are first and foremost about the ever-present and universal need for a sense of belonging, a kind of personal attachment to a particular place, people and objects: it is about “home” in a “world of movement.”

The appropriate arrangement of the physical surroundings of the home is one of the most widely used – and most easily feasible – techniques aiming to ensure the continuity of the individual’s identity. Homemaking, especially in the context of migration, necessarily implies the establishment of a “mysterious atmosphere of a personal kind” and the creation of a symbolic universe originating from the migrant’s past.

Objects carried from the country of origin – though few in number and poor in appearance – substantially contributed not so much to the furnishing of the physical space as to the slow and laborious process of homemaking. All the respondents carried with themselves in their suitcases some cherished family photographs, some ethnic objects or other manifestations of family heritage. These objects that increased in range and number with time, partly due to family correspondence and partly to visits to Hungary, were exhibited on the walls or in another central place of one’s home and provided an important symbolic support to the individual’s self. By trying to arrange their immediate

15 Ibid. p. 10.
16 In most cases, especially at the beginning, these homes were no more than a single room or a small rented flat shared with other country people.
surroundings in the way similar to that in the home country, migrants achieve a feeling of security in an otherwise strange and alien new place.  

Interestingly, this strategy was equally applied after the return, however with a substantially different meaning. Although many returnees transported various items of their households to Hungary, mainly furniture, labour saving devices and, in some cases, cars, their motives this time were to a lesser extent the taming of the unfamiliar physical environment and the assuring of emotional support through the familiar furnishing. Considerations that surfaced decisions on “what to take” were made were partly governed by financial considerations as well as by the desire to enjoy the same standard of living to which emigrants were accustomed to abroad. Additionally, the furnishing of the home with Western style objects carries associations, especially for the working class, of wealth and social status.

DIVIDED LOYALTIES?

The accounts given by return migrants of the motives of emigration run counter to the traditional conceptualisation of the home as “the stable physical centre of one’s universe, a safe and still place to leave and return to.” The home may, as it did in the respondents’ cases, place limitations upon one’s freedom as well as pressures to conform to several social obligations. In fact, the homes left behind at the time of emigration were unanimously felt to have been the negation of the concept itself. Nevertheless, the majority of the respondents report about “homesickness” while abroad, which was especially strong during the initial phase of accommodation.

This paradox can be best understood in the light of Hobsbawm’s understanding of the concept, which argues that “it is perhaps by way of transience and displacement that one achieves an ultimate sense of belonging” and that “home moves us most powerfully as absence or negation.”

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17 The controlling of the space in this way was especially characteristic of housewives who tried to arrange, for example, kitchen equipment in the same way as they had done in the home country. The same is true, though at a later stage, for the laying out of gardens in which flowers and vegetable seeds were transported from “home”.

18 One respondent informed me that having been accustomed to his right-wheel car, he can not get used to the “Hungarian type” of cars, thus, as long as he can, he will stick to the driving of his English model.

19 The influence of foreign architecture can also be traced in the homes of the returnees since houses were built and flats have been converted according to foreign standards.

20 Mrs. and Mr. Simon laid out a beautiful garden around their newly built house in a small village in western Hungary. Flower seeds have also been transported from England to add to the beauty of the garden; however, it is actually “the traditional English lawn” the couple is especially proud of.


22 The main reason for this negative feeling was the lack of distinction between the public and the private spheres as this interview extract aptly illustrates: “How could one feel at home if one’s safety is always in danger. If one’s progress is blocked and if the authorities closely follow one’s footsteps, even in one’s own house.”

23 Mr. Andrássy on homesickness: “We were not allowed to come home for 10 years. I think this 10-year period was the time when I missed Hungary most. Everybody is homesick. One is alone. No family, friends were at home. That’s why I kept in touch with those few who were there. When I got married and children were born, it became easier. Then at once you have a family and problems with which you have to deal.”

A closer look at the image returnees present of their country of origin after having settled down in Hungary reveals two contrasting perceptions. On the one hand, their criticism of the country’s current political and financial situation sounds to be formulated by outsiders, by people who “don’t know the rules of the game” and thus perceive the mechanisms governing the society as “jungle-like”25 and chaotic.

In addition to this constant comparison between Hungarian and Western standards in which the Hungarian ones tend to be “the constant losers,” there is another, though far less articulated, perception of the Hungarian identity. This emphasises the Weberian “objective features” of the community, such as common descent, race, language, religion, traditions, history and experience. By alluding to the characteristics that bind all Hungarians together, return migrants show a definite emotional attachment to their country of origin.

Mr. Kovács, a political émigré, metaphorically expresses the relationship between the dual ties like this: “I resided there but in my heart I lived at home.” This “partial” self-identification with Hungary and its people renders the returnees insiders of the community to which they returned:

We are still Hungarian. I was born here, I went to school here, I took my final exam here. My parents are from this country, my mother tongue is Hungarian, even though I speak German equally well. In fact, my children don’t speak any Hungarian. No matter where I go, I still remain Hungarian. I owe something to this country.

The acquisition of citizenship reveals a lot about the respondents’ relationship with their respective countries of immigration. Though reflections vary, some general patterns can be outlined. One group of returnees places special emphasis on the expression of gratitude26 they feel towards the receiving country for being accepted and chosen among many when in need. “We are very grateful to the English because they accepted us and protected us against the communist government. They gave us shelter for 40 years,” said Mrs. Bakonyi. Others, though, regard their relationship to the community as a contract signed by both parties in the act of granting the citizenship. They tend to emphasise the bilateral nature of the agreement: in response to the country’s acceptance, they acted as obedient and effective citizens. They argue that they paid taxes honestly, did not break the rules prescribed by the state and passed the qualifying examinations for citizenship. They repeatedly point out that their acceptance was well deserved due to the fulfilment of the above criteria. Returnees from Switzerland are eager to stress the fact that they paid a given sum of money to become accepted members of the community:

I knew it beforehand that it was very difficult to get Swiss citizenship. And if you were fined for more than 100 Franc, it was impossible to get it. There you had to buy

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25 The expression has been borrowed from Mr. Bognár who, while expressing his discontent with the “Hungarian mentality at large,” describes the country in a very emotional way as a jungle. In his words: “It’s unbelievable what’s going on in this country. Those who live here probably cannot even see it. […] And we came here, back to this jungle, to this impenetrable jungle trying to do something.”

26 Gratitude and anger are expressed in Mr. Rácz’s words: “I didn’t miss anything from Hungary. My heart doesn’t long for a country, which made me flee. I wasn’t homesick. Switzerland gave me so many things. It was a real chosen home, even if not a home country. A true second home. My heart hurts a bit because of my return.”
the citizenship. First, you have to pass an exam in history, geography and politics and then you buy it. So I paid and that was it. During my twenty years there, I never broke the law, and always paid my taxes on due time. Not like people here. This would be unimaginable there. Yes, people are cold and they don’t really make friends easily. But I’m still happy that I lived there because that’s the place where I became somebody.

By contrast, Mr. Piros went as far as to refuse community membership. Ironically enough, due to administrative requirements, he was obliged to take up British citizenship when he decided to return to Hungary. Despite having lived in England for more than three decades, he was still a Convention Refugee. Lacking valid citizenship, however, he would not have been able to settle down in Hungary. Consequently, he asked for the British citizenship to renounce it. When the English clerk at the Home Office asked him why he had not taken it earlier, he answered curtly: “If you were to stay in Hungary for a long time, would you necessarily go to pick up Hungarian citizenship?” Having received a negative answer, he went to the Hungarian Embassy in London to submit his documents.

Though rational considerations prevail when talking about the receiving countries, positive emotional attachment is also possible to detect. Mr. Egei, a true cosmopolitan, who has spent most of his life in different countries as an artist says: “I always felt to have two home countries: Hungary and the whole world.” Mr. Doma when talking about the two countries between which he shared his life he also addresses the difficulties inherent in the situation:

Two opposing feelings are colliding in me. My home country is Hungary. I feel that I can help it when I’m involved in politics…. My wife is here whom I married here. And we have a house here. But I have children there and I like Canada too. There are no fences there, it makes you feel so free. My heart pulls me there and also back. This dual attachment is a very difficult thing and it costs a lot.

When relating to either country, it is this duality of identity, the simultaneous belonging to here and there that is necessarily present in the return migrants’ accounts. The question about return migrants’ loyalties can be best answered with Bammers’ words: “‘Home’ is neither here not there […] rather, itself a hybrid, it is both here and there – an amalgam, a pastiche, a performance.”27 Being both an insider and an outsider at the same time in both societies can lead, in certain situations, to identity conflicts. Nevertheless, the broadening of one’s horizon, the ability to adopt various vantage points, though sometimes painful, is a definite enrichment of one’s personality. The following summary of Mrs Balatoni on her life both as a migrant and a return migrant reveals that migration can be understood as a process of continuous adult socialisation:

We left this country, we left Hungary … [longer pause]. Yet I see this story – what I’ve been through – in a positive light. I learnt a lot and in fact I still keep learning.

My horizon has broadened immensely. I can speak and write in various foreign languages. But what is more, my way of thinking is very different from those who’ve lived all their lives here. I definitely could not have achieved this if I had stayed here. Otherwise it wouldn’t have been possible. Learning is tough sometimes, especially if you are not a child any more. Through leaving Hungary, my life was always and is still spanned between here and there. Sometimes I keep wondering where I’m at home. I can’t really figure it out.

REFERENCES


In what ways are the Afghans different?

From the perspective of Afghan teenagers and adults living in Hungary

My essay is about the community of Afghan refugees. These families have moved out of the admission centres and refugee camps, and have already acquired residential permits due to their refugee status. One special characteristic of this community is, in contrast with the African asylum seekers who usually arrive to Hungary alone, that the majority come with their families or very close relatives.

The interviewees of my research have started assimilating themselves, that is they attend the free Hungarian language classes founded by the Hungarian government, their children go to primary or secondary schools, and the men have found some jobs, usually with the help of their relatives or friends in the community.

The families interviewed during the research for this essay have been in Hungary for 2 to 6 years. This short period has also proved to be enough to bring a “cultural difference” within the various generations to the fore: while the teenagers and children go to Hungarian schools, have Hungarian friends and follow current European fashions in music and dance styles, their parents try to cling to their Afghan customs.

In order to gain an adequate picture of their self identity it is very important to examine the socialisation process of the children: how do the norms and rules learned at home and the ones seen among their peers at school mix and gain importance over each other? Do the children have a “double self-image”? If so, are they conscious of it? These children and teenagers will have a decisive role in the future: what will they pass on to the future generations and what will their children know and think about Afghanistan? What will it mean to be Afghan if the future generations might not even have a chance to travel there?

THE INTERVIEW

I conducted interviews with youngsters between the ages of 12 and 15 (about 15 individuals) and their parents (10-12 individuals). It was a mixed group of families who have been here for a longer period and of those who have arrived recently. I would like to emphasise again that my research did not intend to cover families living in the admission centres or refugee camps.
My assumption was that the most important part of the “Afghan migrant self-identity” is keeping their Afghan culture and customs. The aim of the interviews was to determine in what ways the Afghans see themselves different from the Hungarians and what the Afghan culture means for the teenagers and for the adults respectively. I paid special attention to their religion: how do they practice it, what do they celebrate, and do they borrow some elements from Hungarian customs?

During my discussions with the parents I also searched for an answer for the following question: how do they feel about the alien norms at the Hungarian schools and in the families of their peers (that are very different from their own norms in Afghanistan) their children are exposed to? Which practices do they find to pose the greatest threat to Afghan customs?

While examining the self-identity of the Afghan teenagers, I encountered several problems, since just like that of other teenagers, their self-image is still not fully shaped and is very unstable. However, there is one more thing they are faced with: they have to find self-assurance and self-esteem in a new environment very different from what they were used to before.

Since the Afghan community among whom I carried out my research is very small I have to make sure that their identities remain undisclosed, so I will refer to them as “a woman (or mother),” “a man (or father)” or “a teenager.”

WHAT THEY FOUND AND STILL FIND STRANGE AND UNUSUAL

How did they picture Hungary in their mind before coming here? Most of them admitted that although they had not known too much about the country (for many families Hungary was not the target country but then due to various circumstances they stayed here), they had learnt about it at school and they had known the name of the capital as well. Those originally heading for Budapest they had the image of a peaceful country where they would be able to live quietly.

Two teenage boys suggested that they had been very surprised when they had arrived and looked around. One of them thought that Hungary would be much more developed and that there would be skyscrapers just like in the films he had seen at home. He thought Europe looked just like the USA, and that all the streets would be clean. They were surprised to see large numbers of beggars and the many homeless in the streets of Budapest. The other boy agreed with this and added that he found Budapest very quiet (his family came via Russia when fleeing from Afghanistan).

For the adults the language was a real shock, and many of them admitted that they still found it difficult to get used to it. The first thing they noticed was that people were very “free” in this country with couples walking hand in hand, some even kissing in public. “Since then,” suggested one of the women, “we also hold each-other’s hands with my husband in the street … I mean sometimes…” Helena Wulff carried out a research among Jamaican immigrants living in England. They had the same opinion when they were asked about the first thing they had noticed in their new country. They also suggested that what had shocked them first was that men and women were kissing in public places as
However, almost all of my interviewees concluded that, all in all, they more or less already felt at home.

The older members of the community like Budapest because there is peace here and they do not have to fear the bombs and losing any more members of their families. However, many families still remember those peaceful days in Afghanistan when they possessed much more than now. They lost almost everything there and they are not sure if they will ever see their house or neighbours again. Three girls between 20 and 25 stated that they found it very impolite that the Hungarians blow their noses in front of others. “It would be considered very rude at home, especially during meals.” In Afghanistan one would simply stand up and leave the group. Furthermore, one also violates the customs if one starts eating in the street. “But here we also eat sometimes in the street, you know, due to lack of time, and since all the others do so as well,” they admitted.

The above mentioned girls also stated that they did not consider Hungarians very hospitable. In Afghanistan they always have to pay more attention to the person who is new in the company or who does not know too many people among the other guests or the hosts. “You cannot let him or her feel alone or uncomfortable. If you fail to do so they will think that the host is self conceited and is wholly obsessed with himself. And this would be a big shame.” They concluded that in Hungary they had already felt very uncomfortable in certain companies and had had bad experiences when they had been invited to Hungarian houses.

The biggest surprise was that, as they put it, here “the woman wears the trousers.” One of the mothers suggested that if in Afghanistan any of the men were seen doing any housework everybody would call him womanish!!! “What are you doing? You are not a woman!! This is what your wife is for!!” Here they find that in addition to this, women work vary hard, sometimes in high, prestigious positions, and in certain families they are the only provider. Two women considered these facts the main reasons for the unsuccessful marriages between an Afghan man and a Hungarian woman. One of them added that an Afghan woman was “for serving her man,” but in Hungary “you cannot tell a Hungarian woman, for example, to clean the bathroom, because it would already be a well-founded reason for a divorce.”

Most of the Afghan families find it strange in our way of life that while during our childhood our parents provide for us we do not return this work and kindness when we grow up and start working. “Hungarians, when they grow up, only take care of themselves, and forget about their parents. How can you do that?” asked many of the parents but most of the teenagers too were shocked about this. In Afghanistan it is the boys’ duty to take care of their elderly parents. A boy of 10 already emphasises that he wants to find a job soon so that he can buy things for his mother and so that she will not have to work any more.

It is also their duty to stay with their parents. One of the teenage boys explained to me that this was exactly the reason why they felt more strongly linked to their families than the girls since the latter ones can leave the parental house. Actually they have to leave their families when they get married since from the moment of their marriage they belong to the husband’s family.

Teenage boys have to start thinking about their future at an early age: how will they provide all the necessities not just only for their wives and children but also their parents and their still unmarried sisters? According to Afghan rules the “mothers do not feel very comfortable with their daughters after their getting married.” One of the girls explained that “the mother would feel embarrassed if her son-in-law had to give her financial assistance.” This is why she would always rely on her sons. If a man gets married he cannot move to a separate house with his wife until there are unmarried girls in the family. An Afghan girl cannot live alone. Everybody during the interviews expressed great surprise about Hungarian girls living on their own. “How can they live like this, I mean without a husband and their families who can support and comfort them?” wondered some of the girls. The brothers often fulfil the roles of the fathers. They would decide whom the girls marry after the death of the fathers. (I have to mention here that in some families the husbands and fathers died in the war in Afghanistan so the mothers came alone with their children. In these cases either the brother of the dead husband or the eldest boy assumes responsibility over the family. In many parts of Afghanistan the custom called levirate is practised whereby the deceased husband’s brother marries his widowed sister-in-law.

DIFFERENT CUSTOMS AND TRADITIONS

What is the greatest difference between the Afghans and the Hungarians? Almost all of the interviewees immediately replied to this question in the same way: “We differ in our customs and way of thinking.” One of the women added that the colour of one’s hair or eyes did not matter; it was culture that made all the difference. “Religion is a decisive phenomenon in determining one’s culture.”

According to the Afghans Hungarian children and teenagers are “very free.” “Society and their parents allow them too much freedom,” they concluded. Hungarian teenagers, especially according to Afghan parents, use very dirty words they learn from television, their peers and parents. Afghan parents are sure that they dedicate more time to teaching their children how to behave well and speak to others with respect. In addition to all this, Hungarian children leave their parents and move away as soon as they can. “They abandon their parents!” cried a few interviewees. One of the mothers declared that Hungarian children were spoilt as well: “If they meet the smallest obstacle they immediately give up. An Afghan never gives up.” Another mother, who admits not knowing too much about religions other than her own, identifies Christianity with freedom, in the sense that it means too much freedom and disobedience.

All the families expressed their astonishment about the high rate of divorce among Hungarian couples. One of the mothers asked me how it could be that parents generally loved their children but then all of a sudden they got a divorce not taking the life and feelings of the children into consideration. In contrast with this, all the families reinforced that they did not know anybody in Afghanistan who had got a divorce. But they are all sure about the “fate of mixed marriages between an Afghan man and a Hungarian woman.”

Afghan youngsters differ in their “way of thinking” from their Hungarian peers. They have to start thinking about their responsibilities for their parents and their sisters already
at an earlier age when “Hungarian boys are still playing and studying without any restraints.” According to most of the teenagers, what matters in the eyes of Hungarians is money and money only. They emphasised several times that this was not true for them.

The boys agreed with their parents in saying that Hungarian teenagers did not have any respect either towards their parents or towards their teachers. One of the boys stated that he was the only one the teachers loved in his school because he was the only one ready to show any respect. In Afghanistan, as many of them suggested, teachers had the right to use corporal punishment to discipline disobedient children.

All the parents and most of the teenagers find it appalling that Hungarians start smoking very young. In Afghanistan one is considered mature and respectable to dare to smoke in public only at the age of about 40. If one of the parents should get to know that their child smoked he would be “beaten to death.” (I would like to mention in parenthesis that I know that some of the boys do smoke in secret.) What astonishes them even more is that girls are also smoking in Europe. “If a girl smokes in Afghanistan it means that she is a prostitute,” explained the boys to me.

According to Islamic rules one has to abstain from alcohol and smoking. Several women suggested that in Afghanistan when their husbands had already been respectable enough to smoke they still had felt ashamed of this in front of their parents. One of them told the story of how her husband’s parents had arrived home unexpected: “My husband was smoking but as soon as he heard them coming he hid the cigarette into his palm so that they would not see him smoking. It would have been so dreadful. He burnt his whole hand but it was still better like this.” In Hungary, however, many of the fathers smoke. They even light cigarettes in the company of women and children, which is considered much worse by traditional Afghan customs. However, everybody emphasised that none of the Afghan women would dare to smoke or drink even outside Afghanistan.

I would like to make a small detour here. In the beginning, I was not sure how to behave in front of the Afghans since I am also a smoker. They helped me solve my worries very soon. The fathers who lit a cigarette in my company immediately offered me one and enjoyed smoking together with me. It had two meanings and messages for me: I am not judged by the same standards as other women. On the other hand, I am also considered one of those Europeans who are free to do whatever they want, a Christian with too much freedom.

Enya P. Flores-Meiser, who conducted her research in a Muslim community on one of the islands of the Philippines, also reports that the community never thought that their rules also applied to her, a Christian woman. She was often offered cigarettes and was allowed to sit among the men as the only woman, so she was also judged by her own norms and rules.

According to the older girls “it is more difficult to achieve one’s dreams at home than here.” In Europe everything can be accomplished: one has access to a wide range of opportunities. Afghan men, and nowadays boys at earlier ages as well, have to go to war and

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the future looks very unstable. “But in Hungary everybody is free, people have a lot of fun, they go to parties and they do not have to worry about anything,” they added.

And Hungarian houses?! How strange they are! In Afghanistan there are always at least three or four rooms in houses since there are several children and they live with their grandparents or other relatives as well. They find it strange that one should live on one’s own. Men cannot leave their sisters; they have to take care of them in their own household until the sisters get married.

Both the parents and the teenagers stated that the Afghan children in West Europe, that is mostly in Germany and the Netherlands, were already too free and have changed a lot. Even girls are allowed to go to discos or parties. And some of them are even dating (and marrying!) non-Muslim men!! They all agree that the children’s behaviour mostly depends on the education of the parents, so it is decisive how religious the parents are. “If the parents are very religious then the children will know how to behave,” suggested one of the fathers. Most of them concluded that West Europe “was destroying the Afghan families.” One of the fathers added: “The children become too free over there, and they do not always greet their parents in the proper way … and they dress just like their European peers. What a shame. But in Hungary the situation is not so bad. At least not yet.”

They have all noticed that Hungarian couples only raise one or two children. In Afghanistan some families have even more than ten children. In the cities and especially in the capital, as they suggested, there are fewer children in Afghanistan as well, but not less than three or four. In families living in Hungary there are also three or four children. And how many offspring will the children have in the future? They are not sure yet, but most of them are happy that they live in large families. However, one of the girls shared a secret with me: “You know, sometimes, it can be so embarrassing. In my class when the teachers asked us on the first day how many sisters and brothers we had they could not stop laughing at one of the gypsy boys who had four brothers… So what could I say? I could not tell them that I had nine sisters and brothers … so I told them some lie.” Her sisters added that they had done the same at university.” I think you are the only Hungarian who knows the truth about this … we do not even remember how many brothers we lied about to each person.”

When I asked the parents and the teenagers what they found “good or pleasant” in Hungary all of them had the same answer: Christmas. The older ones immediately added that of course it was only for the smaller children. “They would not understand why they cannot have any presents and the Christmas tree when the other children can have them. These presents can make these poor children happy.” In most families Christmas lasts only one day. They give the presents to the children and then the next day they throw the tree away. One of the mothers responded smilingly: “Once we sent a picture of our family standing in front of the tree to one of our relatives in Pakistan. They were laughing at us and they wrote us a letter: What is this? We have nothing to do with this!” However, there are families who do not celebrate Christmas at all, not even for the sake of the children. It is a fascinating question for future research to see if these children will still celebrate Christmas when they grow up or it will be considered, as it is now, as a one-day feast only for the children. Or will Christmas mean something for the parents as well?
IMPORTANT EVENTS

For the parents, only their Afghan holidays are important and worth remembering. The community celebrates together all the traditional events; they rent a restaurant or the hall of a school, and everybody is invited. Although the children are also present, they all acknowledged that they would forget about these dates if their parents did not remind them. Some of the teenagers admitted that they sometimes were not even sure what they were celebrating and only accompanied their parents to the party to meet the other boys and girls. The teenagers follow the European calendar and they only mark its important events. All the parents, on the other hand, still use the Afghan calendar as well. “However, we also have to know the Hungarian events since our children go to school here so we have to know when they have breaks…,” responded one of the mothers. Some of the older teenagers, however, stated proudly that they followed both calendars.

When I asked the parents how they had celebrated the beginning of the new century, and New Year’s Eve of course, they all responded that it did not mean very much to them. Some of them only went to the streets to see the crowd to please the children. They always wait for their own New Year’s Eve that is on 21st March. One of the teenage boys explained to me: “Afghanistan is so far from 2000, so why should we celebrate with Europe?” (According to the Afghan calendar it is 1379.)

They called Ramadan their most important event. In theory children from 12 or 14 should start following the rules of fasting but here several of them fail to do so. “It depends on the family, on the strictness of their religious beliefs.” One of the teenage girls responded proudly that she had been doing it for a few years, and that she never asked for admission to skip any of the gym classes. “I think all the other girls should do the same. They won’t die of it!” (Her family is very religious.) Another girl suggested something completely different: “Maybe I will try it next time during the winter holidays of the school; I should loose some weight.”

On the other hand, almost all the adults fast during Ramadan, or, at least, they would never admit to the others that they break this rule. However, just a few of them observe the rule of praying five times a day. Their explanation for this is that they have too much work and they do not have time for this. In Afghanistan, as I was informed by many of them, everybody organises his day in a way that during the time for pray he does not have anything else to do but go and pray. In Hungary mainly the older ones and the women who stay at home follow the rules properly. As one of the teenage boys explained to me: “The very old ones and the rich ‘leaders’ of our community have to set a good example since this is exactly why they are respected.”

AFGHAN DIETARY CUSTOMS

It could be part of the identity of Afghan refugees that as Muslims they do not eat pork. I made a survey among them to see how decisive this prohibition (and the difference it generates between Hungarians and them) is in their self-identity. Many of them admitted that they had already tried pork, and one of the families openly admitted that they ate it at
home many times. “We are not hypocrites. We are sure that others also do it at home when nobody can see them, but on the surface they pretend that they are good Muslims. We do not like that.”

In Hungary most of the children have their main meal in the school canteen. Many children admitted that they had already eaten pork with their peers, and that they “did not die of it!” Of course there are teenagers who insist on refusing pork under any circumstances. One of them even stated: “The soul of the others will go to hell.” Most of the parents also suggest that at school their children do not have any choice but eat what the others get. One of the teenage girls, who comes from a very religious family, stated that she had her own meals separately prepared at the canteen: “I would never break the most important rule of the Koran.” In one family the parents do not follow this restriction but the son vehemently explained to me that he did not understand them and that he would never follow them in breaking the rules. At the admission centres and refugee camps the Muslim families are very strict about their eating habits and they always protest when the leaders of the canteens “want to feed them with pork.” But in reality when they move out after receiving their refugee status their children start going to Hungarian schools and meeting Hungarian peers, and, in the end, they do not restrain themselves from eating the prohibited pork dishes.

Most families stated that the children preferred Hungarian dishes to Afghan ones. Many parents find it difficult to have two types of food, a traditional Afghan diet for the parents or grandparents in some cases, and another one for the children, or just some of the children who are not willing to eat Afghan dinners. One of the mothers admitted that their diet might be boring for the children since it usually consisted of rice and beef, so she was not surprised that “they’d rather get some rolls and sausage or cheese.” The older girls also prefer Afghan dishes. The favourite restaurant of most Afghan children and teenagers is a McDonald’s. In Afghanistan most of the families eat on the floor and do not use forks or knives. They put a white cloth on the floor and sit around it. In Hungary only few of the families follow this custom, and only occasionally. They also admitted that already in Afghanistan it was only a tradition in villages since the families in cities had already abandoned it.

EDUCATIONAL METHODS

In Afghanistan, as well as parents and grandparents, uncles and aunts have a decisive role in the education of the children.

The father’s sister or brother has the greatest influence. One of the girls stated that her uncle also lived in Budapest and tried to “educate her.” She added that “I can refuse listening to his advice and I always remind him that I have my parents who can teach me, and I do not need his help. I could not do that in Afghanistan. Here I can.” However, the situation is different in the family of her cousins. Their father died in Afghanistan and the same uncle is the dead father’s brother. He is now the highest authority in the family, and he has greater influence in the education of the children than the mother herself.

One of the women explained to me that the girls in Afghanistan were not allowed to go anywhere on their own without their brothers. It is the brother’s responsibility to take
care of his sisters. Many women and the older teenagers agree that the most important
time in the education of the girls is when they “get mature,” that is when they have their
first periods. If they do not learn and understand the rules at this time then “later it will
be impossible to force them to obey their parents’ advice.” Prior to this, they are still
immature and “do not understand what is good for them.” When they turn 18 and go to
university, the parents can already be sure that they will not do anything a Muslim girl
should not do, and that they would only go to places where they are allowed to according to
their customs. “When the girls reach a certain age their parents and relatives will trust
them and will not watch all their steps.”

The teenagers added that when they had been young the strict rules had not applied to
them. They could wear mini skirts as well. “The older we get the stricter our parents are,”
cried almost all the girls. One of the mothers is already afraid of the future although her
daughters are younger than nine. “How will I be able to control them here, in this free
country?” The older girls explained to me that when their niece had got mature they had
only told her once not to wear mini skirts and sleeveless shirts any more. “An Afghan girl
understands this very soon. And actually she would be very ashamed if anybody told her
that she was not properly dressed.” This fact also shows that it is very important what the
community thinks and their opinion is always taken into consideration.

If somebody does not behave properly then it is not only his or her shame but also of
the whole family. “And there can be no bigger shame than hearing that you did not know
how to educate your own child properly,” explained several parents. This is why all the
uncles, aunts and older brothers “keep an eye on the girls.” The teenage girls stated that
their parents were so strict only because they were afraid of the others’ opinion. One of
the girls gave me an example: “My mother once said, ‘what would happen if one of the other
girls saw you when you were doing something improper and told this to her mother and
then she would tell this to the whole Afghan community?! Imagine that.’”

According to the older girls the families have become stricter here than they were in
Afghanistan. The girls who are older than 20 suggested that in their country they had
been allowed to wear shorter skirts and sleeveless dresses and shirts, but here they
were afraid of the gossiping of the other Afghans. In Europe where everybody is free
to do anything, at least according to their point of view, they try to emphasise their
“being different” by showing their strong belief in their rules and strictness. This is
especially true when the community is together. On these occasions the women are not
allowed to dance, only when their husbands go and ask them to dance. The women have to
sit separately and watch the men dancing. “At home it was different. We were quite
relaxed with each other. The families have changed a lot in Hungary.” One important
fact for the explanation of this is that at home they usually went to parties and visited
people where only their relatives were present. Here most of the families are not relatives
but “strangers,” and this is why they have to obey the rules and have to be careful in the
company of “strange men.”

It is difficult to reconcile their Afghan customs and the culture of their Hungarian peers.
They feel sad when their classmates can go to discos or movies and they are not allowed
to. When one of the boys would like to have a date with them they have to give a definite
refusal. “We have to say no, and that’s it,” stated many of the girls. The older ones added
that they did not really talk to boys at the university either, except about their studies. They
do not blame the boys for trying to get closer to them since “they surely do not know that Muslim girls are not allowed to have boy-friends.” “You have to stop them before they get started or you will not be able to say no to them later on,” they added. One of the girls said this about a day at her school: “One of the boys dared at me … examined me from my head till my feet and whistled after me. I was shocked! I am sure he did not know that I was an Afghan girl!!!” One of the Afghan boys stated that if he wanted to have any relationship with one of the Afghan girls or expressed his feelings towards her the girl’s father would kill both the girl and him. An Afghan man can have as many European girl-friends here as he fancies but the Afghan girls are taboo even for him.

The parents do not know the peers and friends of their children. They do not invite local children into their flats and the Afghan children are not allowed visit their Hungarian peers either. The girls can only go with a person the family really knows and trusts; that is with a person who knows what they are allowed to do and what they should not. The girls can only go to the school parties with their brothers or if other Afghan children are there as well. They are not allowed to go to the disco and this is true for most of the younger boys as well. One of the mothers asked: “What will I do if anything happens to him? I do not know anybody here.” When the boys start working (they usually start helping their fathers at the markets at the age of 14 to 16) they get much more freedom since they can be financially independent. Most of the girls really envy Hungarians their freedom. “They are so lucky. We are not allowed to do anything because we are Afghans!”

When I asked one of the boys whether he would allow his sister to have a Hungarian boy-friend he gave me a definite answer: “Never. I would kill both of them.” Neither would he let her go to a disco since he “can never be sure whether she’d stayed ‘innocent’ or not.” “And an Afghan man would never marry a woman who was not a virgin.” He would definitely like to avoid such a shame on his whole family. One of the mothers added that the little boys in several families had already started controlling their older sisters. If the girls do something “improper” they report everything to their parents. One 3-year-old boy already tries to educate his much older sister. “This is why it is very important and better if the boys are older than their sisters. Thus they can control the girls and nobody has to worry about their proper education. I feel sorry for those girls whose brothers are younger… they will not be good Afghan girls,” concluded one of the teenage boys.

Reaching puberty brings a definite difference in a girl’s life. The difference between Hungarian and Afghan teenagers becomes more conspicuous at this stage. Those who arrived here when they were already adults have a strong “Afghan identity” but those who were younger or were born in Hungary are different. The parents have to protect them from the “bad influences” of their Hungarian peers. At the same time girls really regret that they cannot talk openly with their parents about certain topics. They find it very good that the girls in Hungary learn about “those things” at an earlier stage. “In Afghanistan nobody speaks about ‘those things’ either at home or in the families,” stated the girls sadly. Their parents reinforced this fact: “During the Biology class the teacher skipped those parts about sex or birth or anything related to these topics.” The girls believe that it would be much better if they heard about “certain things” before they actually happened since “they would not get scared if they knew all about them in
I wondered whether the parents knew what their children studied at school. They all responded that of course they were aware of that. They are glad that their children learn a lot about everything but they are also happy that it is not them who have to explain all that to the girls. One of the mothers suggested that her young daughter already had a lot of questions about certain things while watching the TV commercials. “I felt so ashamed. These little girls here know so much about everything!” In Afghanistan the girls do not get information about getting mature and they are first told about sexual relations on their wedding night.

One crucial aspect in the process of starting a new life in a new place is the knowledge of the official language in the given country. The majority of men acquire Hungarian quickly in language schools run by the Hungarian government and they often meet Hungarians at work, too. However, the majority of women stay at home with the children and it takes them much longer to acquire proper command of Hungarian. In many cases, the children come to act as translators for their parents, especially in the beginning and in the admission centres, since they catch up Hungarian words and expressions much sooner. The children prefer speaking in Hungarian to each other outside school as well. The parents insist on using their mother tongue and if the children try to use Hungarian at home while speaking to them they immediately stop them with: “I don’t understand Hungarian!” They would not like their children to forget their own language.

In the families interviewed none of the women go out to work. If there is no father with the children the close relatives and the Hungarian authorities provide financial assistance. Several mothers responded that when all the children were old enough to go to school they would like to start working. They would most like to study English and computer sciences. They believe they will be able to use this knowledge in Afghanistan as well. (They still have not given up on returning to Afghanistan one day, so they already think in advance of what will be useful at home in the future.) In many families who come to Hungary the women had jobs in Afghanistan; most of them were teachers and secretaries. This situation, that is staying at home with the children, is also new for them. The circumstances in Afghanistan have worsened only in the last few of years when the Taliban came. Since then women have not been allowed to work or sometimes even to leave the house or go to school. “But before the Taliban it was very much like here in Europe. You would not believe how similar the situation was at home. But now?!” added some of the women. Of course it was true mostly in the big cities especially in the capital (90% of the families came from the capital, Kabul) since in the villages women had a similar role in the families even before the Taliban’s rule. When I asked the teenagers what they would like to be they all answered unanimously that they would definitely like to have high-prestige jobs as doctors, lawyers and teachers. In Afghanistan doctors have the highest prestige. However, many of the boys responded that the girls might graduate from university but they did not believe that they would actually work: “For what? The husbands would get enough money. Women have to work only if the family is short of money. If they want to be teachers that is fine, because this is a job for women. Teaching small children is their task, I admit,” one of them responded. The older girls concurred: “You know, we are not sure whether we would work even if we get our university
degrees. The reason for this is that the salaries are very bad and it is really humiliating and embarrassing to let the women work here for such a low amount of money!! Then it is better to stay at home and raise children.”

MARRIAGES HERE AND IN AFGHANISTAN

Due to differences in religion there are many differences between the ways of choosing spouses and how the role of marriages are considered in each culture. Although according to the Koran a Muslim man can marry a non-Muslim woman the opposite is forbidden. I was curious what the parents would say if the men here married Hungarian women. Most of the families would not be happy about it, but they usually added that unfortunately this might happen though. Many of them concluded that “those marriages would result in a divorce anyway.” And divorce is not common among Afghans!

If an Afghan man marries a Hungarian woman the man sooner or later gets farther and farther away from the community. The reason for this, as the families tried to explain, is that the Hungarian wives do not like going to gatherings of the Afghans since they do not speak anything but Hungarian, and they cannot join the conversation. They would also raise and educate their children in a different way than an Afghan woman does and “those children won’t be real Afghans,” as many of the families concluded. “The Hungarian wife will take only her norms and customs into consideration so those children will be more Hungarians than Afghans,” said one of the fathers. One of the mothers suggested that she was already telling her 5 and 6-year-old sons not to marry a Hungarian woman. Another father stated that “the Hungarian wife would not respect us, the parents. They are different from Afghan women in this sense. We would not like to lose our children. This is the main reason for opposing mixed marriages.”

When I asked the teenage boys about their plans for the future, almost all of them insisted that they would only marry an Afghan woman although they were sure that they would also have many Hungarian girl-friends. “Those boys and men whose parents are here will definitely choose an Afghan wife. If not from those who are here then they would bring one from Afghanistan or Pakistan. If they do not have enough money … then they might have to settle for a Hungarian. If somebody is rich then the other families would help him find a good Afghan wife since all the families have a lot of relatives back in Afghanistan or Pakistan. They would get many offers and they would just have to choose,” admitted one of the boys. Another one added: “The truth is that we would not like to marry those girls who were raised here. They are not real Afghans any more. They would not be so obedient as they should be.” When I asked him who would then marry these girls his reply was the following: “Somebody who does not know them yet, who is new in Europe, who has just arrived in Hungary. He might marry them.”

None of the families would accept a marriage between an Afghan girl and a non-Muslim boy. If this should occur “this would be her big shame” (and of course the shame of her relatives, too). “The family would die of the shame,” many of them thought. One of the brothers responded that he would never worry about his sister since he was sure that she would never sin against the rules of the Koran and would always choose properly.

In Afghanistan it is usually the parents who choose the spouses and they arrange
everything and negotiate the marriage gift. The boy’s parents propose the marriage to the
girl’s parents and sometimes the couple do not even see each other before the marriage.
Marriages are considered a way to strengthen the ties between two families. All the parents
I interviewed insisted that their daughter would have the right to give her opinion and
objection. They would take her wish into consideration. If the girl’s father is already dead
then her brother or other relatives will help the mother find the proper husband.

When I asked the teenage girls about marriage many of them cried with fear that they
did not want either a husband or children. But during these talks one of them always added:
“Everything would be in vain. They would find us somebody anyway.” It is not
acceptable that an Afghan woman does not have a husband. “I am already afraid of the man
my parents are going to find for me,” admitted one of them.

Two of the girls found it very important to mention that if they had a daughter they
would let her do everything they had not been able to do. Their mothers keep explaining
to them that their freedom too was strictly limited and they did not have the right to look
at men or choose one for themselves either. One of the mothers concluded that it was the
girls who had to be taught about their roles and responsibilities in the marriage and not
the boys about what they could expect from their wives.

“Afghan girls have to move to their husbands’ household.” Many of the families
stated that if there were “no eligible men” in Hungary then they would look for one in
Germany and the Netherlands where there were many Afghan families. When I asked
one of the mothers if it meant that her daughter might have to leave not only her family but
also Hungary her answer was clear: “Well, yes. She must go to her husband’s home and
family.”

Only one of the men gave different answers to these questions. He has a Hungarian wife
and two children. In his opinion if somebody goes to university here then “nobody will
be able to have an influence on him or her. What can the parents tell them? Nothing.” They
will follow their own ideas and will not listen to their relatives or observe Afghan
customs. He added: “The Afghans can adapt to their new environment very easily.”

SCHOOL OR EDUCATION?

In the Afghan schools Koran studies constitute an important part of the school curric-
ulum. From the age of seven, children receive religious education and the Afghan religious
leader, the “mullah,” plays an important role besides the school. All the parents found it
strange that Hungarian parents did not put emphasis on the religious education of their
children. In Hungary, instead of the “mullah” and the grandparents, the parents talk about
the most important rules and customs of the Islam. There are hardly any children who
can read and write in their mother tongue. They cannot read the Koran either. One of the
mothers explained to me that in Afghanistan there were many illiterate but they could still
understand the religion. Another one added that “the Afghan custom would not die out in
Europe either.” It will be the children’s task to pass it on to future generations. “Even the
little children watch their parents and try to imitate what they do in secret, so they will
know all the important things by watching carefully,” concluded a third woman.

All the parents and children suggested that the requirements at school in Afghanistan
were much easier than here. What they have to learn here in Chemistry or Mathematics for example, they would only study at the secondary school in Afghanistan. In addition, they cannot count on their parents’ help either. According to one of the teenage boys, their younger brothers, who were born here or who were very young when the family arrived in Hungary, will not have any difficulties at all.

Those who were older than 10 when they got here found it even more difficult to get used to the Hungarian school system and requirements. It took them a few years to acquire such a level of Hungarian in speaking and especially in reading and writing that they could fully follow the classes. Another problem is that in some families the older sisters have to go to the same classes with their younger brothers since they had to start their studies from the first class. This shakes the older child’s self assurance and self esteem since in addition to having to go to classes with much younger pupils they also get to the “same level” with their younger brothers. In the last few years more and more families have been arriving to Hungary in which the children did not have a chance to go to school in Afghanistan. This means that once granted refugee status they would have to go to school with children who were younger by about 5-7 years. One example is a newly arrived family where the 16 and the 14-year-old teenagers are now in the 6th grade of primary school.

How do the teenagers feel among their Hungarian peers? Almost all of them admitted that they considered the Hungarian schoolmates very friendly. On the other hand, the Hungarians and also the Gypsies themselves often mistake them for Gypsies in the streets. One of the boys stated that her younger sister was often called “little Gypsy” in the classroom. “I had to go into her class to threaten them to stop it or I will beat them up.” One of the girls suggested that one only had to be open with the others and then they would like her as well. One of the boys added that his classmates were still laughing at his pronunciation. “But they are also so stupid! They do not even know where Afghanistan is!!” One of his classmates’ mother told him once: “Why are ‘these’ allowed into our country?” “I immediately replied that we were not like ‘those’, we were not refugees.” (It is very interesting that many of them keep emphasising this. They know that those who crossed the borders illegally, swimming across the river or in the back of some trucks, are looked down upon so they feel it very important to repeat several times that they have come here legally, with a legal passport.) Another woman asked one of the boys: “What kind of country is it where women have to wear those scarves?” The boy immediately replied: “This is our custom and it is nothing to laugh at. What would you say if I also laughed at Hungarian folklore costumes? I do not laugh at your customs so you also have to respect ours.”

Afghan teenagers dress like their Hungarian peers and follow the latest fashion. They do not wear their traditional Afghan clothes even on the Afghan national holidays. Many of them do not even have them here or they are already too small for them. However, the main reason for refusing to wear them is that “it is so embarrassing.” Only the older adults try to keep their tradition by wearing the scarf and some traditional clothes.

The majority of the teenagers only listen to European and Hungarian pop music. Although they cannot go to the disco they like throwing small house parties and dancing together. Most of them stated several times that they had already forgotten how to dance to Afghan songs and that “it was so embarrassing.” In the Afghan parties or at their traditional
occasions, of course, there is only Afghan music, usually a live concert with a famous singer from Germany. In spite of this, they usually do not dance at all although they are free to do so. (Only the women are not allowed to.) The boys run away and the girls also refuse joining their fathers or starting a separate circle among the dancers. (I was invited to two of their New Year’s Eve parties and to a wedding so I could experience that myself.) The adults and the older girls responded that they did not really enjoy European music and that they would not even know how to dance to those songs. “We miss those concerts we had at home. Of course without any alcohol and dancing.”

**IF THEY WERE AT HOME NOW…**

How would they imagine their lives if they were in Afghanistan? The families immediately referred to the war and the Taliban’s strict rules and atrocities.

One of the women who married an Afghan man in Hungary added: “I am sure that I would have a very bad husband in Afghanistan who would not even let me go shopping.” At home she would not have a chance to go to school but here she still has one although she has already delivered two children. Another mother responded that if they had stayed at home her children would be illiterate, they would not have enough food, and they could already be dead since besides the war there were many viral diseases and other illnesses threatening the population.

Would they like to go back to Afghanistan? All the parents’ answer was positive. “If there was peace and security again, yes.” It is a more difficult question what would happen to the children. Some of the parents would like their children to finish school here so that they would not have to start everything from the beginning. But how will they communicate with each other? “Will they write in Hungarian? We cannot read that. But the children do not know our letters. They cannot even write to their own grandparents and then we would lose them as well,” one of the mothers expressed her fears.

According to the above-mentioned man who has a Hungarian wife, this was home for the children. “If the war stopped now we would still have to wait for several years until all the landmines were cleared and the whole country again was rebuilt!! I would not take my children there. I do not want to risk their lives.” One of the fathers was sure that he would take the kids back home regardless of the conditions. But he also added that he was sure that not all the Afghans would return even if they now said so. “The families living in West Europe would not go home when they heard about the hardships and poor conditions. They would get frightened and would stay in their safe houses in Europe.” Most of the families did not agree with him. They kept emphasising how much they all loved Afghanistan and what a great empire it had been before. Most of them concluded that “if the war is over everybody will go home and we will rebuild the country very soon. The Afghans are very rich in West Europe and in the USA, so with the help of their money we will have a strong country again.”

The children cannot really remember too much from the past. They are usually not interested in the events of their homeland either. They are always ready to answer my questions if they can but I often encounter answers like this: “I do not remember” or “I have already forgotten it.” Many of the parents are not sure if their small children would ever see Afghanistan. I noticed that when the boys get a bit older they actually start reading
more about their religion and country, and some of them even start learning their alphabet. One of the men added that he himself was not sure any more where he belonged to, which country was actually his. He believes that all the other men who studied here and have been living here for a longer time feel in the same way. “Hungary is our second country.”

When I was talking to a group of Afghan teenagers we encountered the dilemma: what makes one Afghan or Hungarian. “I’m truly Afghan but one of the younger boys always asks his mother why he is not Hungarian if he lives here.” “We are Afghans since we were born there.” “And my little brother who was born in Pakistan … then he is Pakistani, is he?” “No way! He is also Afghan!” “Ah, I see … Are you sure?” “And those who were born here?” “They are also Afghans.” “So then when would they be Hungarians?” “I am not sure…” “Never, I am telling you, never!” One of the mothers stated that her son kept asking her why he was not Hungarian if “he had been born here just like his friends.” When I asked the teenagers whether they would like to be Hungarians they first replied “never.” But then, after a few-minute thought they added “well, sometimes maybe.” My question caused a big dilemma for one of the boys: “I am Afghan-Hungarian, that is Hungarian-Afghan, or … how would I know?”

Pál Nyíri

Expatriating is patriotic?

The discourse on “new migrants” in the People’s Republic of China
and identity construction among recent migrants from the PRC

At a workshop on theoretical and conceptual issues of transnationalism in July 2000, Ewa Morawska pointed out that one distinguishing element of migration today is the state legitimisation of sustained practices of dual-anchoredness or dual allegiance. After 1978, the People’s Republic of China (PRC) moved to (re-)legitimise, both by institutional and discursive means, such practices in established overseas Chinese communities. In this paper, I attempt to show how this has progressed to the next step: celebrating migration itself as a patriotic and modern act, thus encouraging transnational practices among people who are in the process, or just preparing for, leaving China.

In another paper (Nyíri, 2000), I focused on the policy aspects of this process. Here, I discuss how the state discursively constructs “new migrant” culture; how it engages in

30 I wish to thank Xiao Putao and Zha Daojiong for providing me with sources used in this paper and Joana Breidenbach for her critique of it.
imagining the transnational community of new migrants and operationalises imaginaries of the home province and the homeland. I attempt to show also how identity construction among recent migrants is manipulated by elites that participate in this state-promoted imagining process.

The method I employ is a combination of anthropological fieldwork conducted in Europe over the past decade\textsuperscript{32} with a cultural studies approach to texts produced by new migrants from the PRC both in Europe and elsewhere. It must be emphasised that these texts are narratives produced for public consumption, and public and private narratives of identity can be very different, with public narratives largely serving elites’ purposes in gaining cultural and economic capital (see Duara, 1995). Nonetheless, public narratives have an impact on private constructions of identity, and are in any case an important component in the development of overseas Chinese identities.

**THE “NEW MIGRANT” DISCOURSE**

As Zhuang Guotu, a senior scholar of overseas Chinese in the PRC who is also involved in various overseas Chinese affairs organs and can be seen as representing the official point of view, writes, “two … changes … have attracted the attention of the Chinese government from 1978 onward. One is the Overseas Chinese wealth, and the other is the new Chinese emigrants.” (Zhuang, 2000: 45). In publicly available official PRC literature on overseas Chinese affairs, people who have left China since 1978, including students, are now usually referred to as *xin yimin,* a term that obscures the traditional official dichotomy of *huaqiao* (Chinese citizens residing overseas) and *huaren* (ethnic Chinese citizens of foreign countries).\textsuperscript{33} Furthermore, the Qiaoban’s figures published on new migrants generally put together those who have left on student visas and work contracts with those who have left on family-sponsored or investor immigrant visas as well as with illegal migrants (Tanaka, 2000). New migrants are recognised as a highly useful resource for economic construction in China, the attraction of foreign investors and business partners, as well as the leadership of overseas Chinese communities in Japan, the US, and Europe, which are judged as losing touch with the homeland and Chinese culture. This approach, which involves arguments of development, modernity and patriotism, is reflected in a series of publications in the overseas Chinese studies journals *Huaqiao Huaren Lishi Yanjiu* and *Bagui Qiaoshi* as well as other periodicals by officials of the Returned Overseas Chinese Association (Qiaolian) and the Overseas Exchange Commission (the “NGO” that duplicates the Overseas Chinese Affairs Bureau, or Qiaoban) (Zhongguo Xinwen, 1999; Cheng Xi, 1999ab; Tan Tianxing, 1997; Zhu Huiling, 1995; Shanghai New Migrants Research Project Team, 1997) and interviews with them. These articles state that since the late 1980s, the Qiaoban and the foreign affairs ministry have issued directives on strengthening new migrant work. In one article in *Fujian Qiaobao,* new migrants from

\textsuperscript{32} Most recently in the framework of an ESRC-funded research project on migrants from Fujian Province to Europe.

\textsuperscript{33} As in: “In Beijing around half of the managers of the foreign agencies are new Chinese emigrants” (Zhuang, 2000: 50). Read: in Peking, around half of the managers of foreign corporations are returnees from abroad.
Mingxi are described as people who want to become modern ("zou xiang shijie," they “march toward the world”) and contribute to the development of the homeland:

Thanks to benefits provided by Mingxi County, the column (duiwu) of new migrants going to Europe that grows day after day plays an important role in the construction of the homeland. (Zhang Zhongbin, 1997)

Another article (significant because an anonymous work team wrote it clearly on instructions from the Qiaoban and the Public Security Bureau) recommends the provision of better services to migrants such as the establishment of municipal migration service centers. It quotes the State Council’s “Opinion on unfolding new migrant work” (Guanyu kaizhan xin yimin gongzuo di yijian, probably 1995):

Since reform and opening, people who have left mainland China to reside abroad (called “new migrants” for short) have continuously been more numerous. They are currently rising as an important force within overseas Chinese and ethnic Chinese communities. In the future, they will become a backbone of forces friendly to us in America and some other developed Western countries. [...] Strengthening new migrant work has important realistic meaning and deep-going, far-reaching significance for promoting our country’s modernising construction, implementing the unification of the motherland, expanding our country’s influence and developing our country’s relations with the countries of residence. (Shanghai New Migrants Research Project Team, 1997)

Other articles also judge migration as normal and beneficial to China for the reasons mentioned above, although they condemn toudu. It is noteworthy that students are always included in the discussion of new migrants. In 1992, the State Council issued a note stating that the principles of work with students overseas were to be “support study abroad, promote return, [uphold] freedom of movement.” At the same time, the Communist Party, in a “Decision on some questions of establishing a socialist market economy,” exhorted to “promote overseas individuals serve the country.” From then on, “serve the country” (wei guo fuwu) became the standard slogan for overseas students, replacing “return to serve” (huiguo fuwu) (Cheng Xi, 1999b).

Both Cheng Xi (of the Qiaolian’s Institute of Overseas Chinese History) and Zhu Huiling (Head of Division at the national Qiaoban) emphasise the contributions (ex-)students can make to China being abroad and either evade (Zhu) the problem of brain drain or judge that its negative effects are outweighed by the positive sides (Cheng). Cheng, for example, claims that a major reason why India has received more development aid than any other country is that Indians started working in international organisations long ago. An ex-student now working at a Paris bank has signed over 100 deals with China; Cheng argues that had he returned to China, he wouldn’t have been able to make such an impact. Counting Chinese ex-students who are professors at American, Japanese, and
Australian universities or executives of successful Internet companies is part of the media discourse about the rise of China.34

It is worth recalling that in a 1978 editorial entitled “Attention Must Be Paid to Overseas Chinese Affairs,” Renmin Ribao justifies the argument that despite having left China, “the vast majority of the overseas Chinese are patriotic,” in terms of “class analysis”:

Since the people in the old China could hardly earn a living, some of them were compelled to … cross the seas and work as coolies abroad. […] The vast majority … are still labouring people. […] They are also oppressed and pushed around by imperialists, colonialists and monopoly capitalists. (Translated in Peking Review, 3, 1978: 14–16.)

In the 1980s, students abroad were sometimes still criticised as unpatriotic, and their host countries as “brain plunde rers” (Zhuang, 2000: 51, n. 21).35 By now, in just over two decades, the nature of emigration has turned from treacherous to tolerated but ideologically suspect to patriotic. A similar re-evaluation has taken place with regard to sportsmen who have left China to compete for other countries (Barmé, 1999 mentions Chire Koyama’s case). Even some tabloid-style stories of Chinese women abroad marrying foreigners portray them as self-sacrificing patriots rather than as traitors of national dignity or simply victims of ignorance. In Yu Lihua’s short story “Longing”, a Chinese student in America marries a hateful old American to help her mother and boyfriend come to the United States. In a newspaper story, a student in Japan works as a “drinking companion” at a bar and falls in love with a married Japanese man of nearly 60 because his “great predilection for Chinese culture and especially Chinese antiquities” moves her (Li Jian, 2000). As Geremie Barmé has entitled his description of the ways in which sex with foreigners has been fitted into lowbrow production of patriotism, “To Screw Foreigners Is Patriotic” (1999: 255–280). Barmé describes the literature (mainly pulp fiction) and soap operas about recent migrants called “new migrant literature” (xin yimin wenxue) or “literature on foreign subjects” (yuwai ticai wenxue) that have thrived in the

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34 In 1996, according to the Asian American Political Coalition, Asian immigrants – mainly Chinese and Indians – accounted for 28% of doctoral scientists and engineers in American high-tech R&D. (Independent Federation of Chinese Students and Scholars News Release 7086, 20 February 1996). This number has since grown. According to a Chinese newspaper in Japan, more than 500 Chinese held faculty positions above lecturer at Japanese universities in 1999 (Zhongwen Daobao, 2000). According to Zhuang Guota, however, “it is well-known in China that perhaps 25-30% of first-level American scientists are Chinese”! (Zhuang, 2000: 46)

35 Overseas student politics have, in fact, changed sharply over this time: whereas until 1989, students abroad were usually critical of the PRC’s political system and government, since then – paradoxically, since the 1989 Tiananmen crackdown – they have generally embraced a sort of Machiavellian nationalism, as their reactions to the second sentencing (1995) and the release (1998) of China’s most famous dissidents, Wei Jingsheng, showed. The following reader response (1998) from a US account to a special report on Wei Jingsheng in an Internet newsletter is extreme, but typical in its general thrust: “All Chinese both domestic and overseas hate you. If you really (sic) love your motherland, why you always (sic) separate your country [referring to Wei’s ambiguity on Tibet]. We hope we have the ability to defeat America. We will be Superpower in the World. We have the right to say China is No. 1 in the World.” See readers’ reactions in China News Digest, Special Report on the Charge Against WEI Jingsheng, II–V, News Global, 28 November–22 December 1995, and China News Digest issues in January–February 1998.
1990s. As he points out, this literature, especially in the early 1990s, partly conformed to the state’s goal to portray capitalist enterprise – in which the texts’ heroes engage – positively while at the same time condemning the capitalist regimes. Thus, the Chinese Writers’ Association pointed out in 1992, they possessed a “patriotic spirit” (aiguo qinghuai) (Barmé, 1999: 456–57, fn. 116). Some of the “new migrant literature” criticises the state of social relations in China contrasting them to the foreign background against which the action is set; nonetheless, most of it keeps re-“othering” the “West” in a particular way associated with the experience of migrants.

What in essence are official publications in the two overseas Chinese studies journals show that the state brokers of migration are thinking of the migrants as people who remain part of the Chinese economy and polity, strengthen the ties of overseas Chinese to China, and, as highly skilled professionals and successful businesspeople, improve the standing of Chinese in their host societies. The language used to describe them is the late totalitarian language saturated with “ideologemes” (Epstein, 1995: 5–7, cited in Barmé, 1999: 326–28), words combining description with valuation, that is used in publications describing society in China, not the more culturalist, traditionalist language used in reportage about overseas Chinese. This difference enforces the sense that new migrants, unlike the old diaspora, are bound to China not only by ties of blood and culture but by sharing the modernising goal of the state. Local officials, similarly, regard migrants as continuing to be part of the local economy, etc. At the Third World Fujianese Fellowship Conference in Quanzhou, it appeared that the recommendation of officials plays a role in judging a business partner’s creditworthiness, even if both partners are outside the PRC, as there is little reliable information available to them about each other. People inducted in the official pantheon of “overseas leaders” – either by having been given honourary positions in the PRC or by being mentioned as such by officials or in the press – are often better known to Fujianese than migrants with some business success from their own county, indicating that the network brokered by officials is becoming a more important source of information than the native-place/kin network. For example, most of my interviewees knew about Yuan Binghua from Mingxi (about whom Fujian Qiaobao has reported in Zhang Zhongbin, 1997) and about Guo Jiadi from Putian (who is a provincial Zhengxie member), but not about Chen Qi from Fuzhou or He Jiajin or Weng Ruilong from Fuqing. Both He and especially Weng are successful businessmen very well known and influential among Fujianese in London and Moscow respectively, but they and Chen all head tongxianghui that have recently formed and whose activities have not yet been reported in the media or attended by officials.

Official narratives of new migrants as patriots contributing to the development of their home country are being promoted and amplified by the media. Chinese globalisation may have been relying mainly on personal communication, but is rapidly becoming mediated: in the second half of the 1990s, not only various commercial television channels but also China Central Television (CCTV) has begun broadcasting via satellite. As far as the triumphalist discourse of global Chineseness is concerned, commercial channels such as Phoenix or Star TV differ little from CCTV. In Hungary, nearly every Chinese I have spoken to regularly watches CCTV and Chinese Channel, the first Chinese satellite
station broadcasting specifically for Europe. CCTV news broadcasts conveying the PRC leadership’s condemnation of the bombing of their embassy in Belgrade in 1999 likely played a role in the ensuing demonstrations by Chinese across Eastern Europe, which were initiated by local organisation leaders but coordinated with the PRC embassies. Similar demonstrations took place in Japan (Zhongwen Daobao, 2000b).

Driven by higher education levels as well as greater access to news and multimedia, the growth of media run by new Chinese migrants has been much more rapid than in earlier periods. In Hungary, there are currently eight or nine Chinese-language periodicals for a Chinese population of around 10,000 (Nyíri, 1999a). In Japan, more than ten new Chinese-language papers were launched in 1997–98, and a Chinese-language television channel began broadcasting in late 1999 (Tajima, 2000; Zhongwen Daobao, 2000b). Much of the content, including all political commentary, in Chinese newspapers in Hungary comes from PRC-based Internet websites (Polonyi, 1999). The first of the surviving Chinese newspapers in Hungary, Ouzhou Daobao, was founded by a journalist formerly employed at the Mingxi County CCP Propaganda Department. Owners of other newspapers (Ouzhou zhi Sheng, Lianhe Shangbao) have invited editors from China, some of whom had worked for official publications for overseas Chinese such as Hua Sheng Bao, the Qiaolian newspaper, and Ningxia Ribao. This has also been the case with the first Chinese newspaper in Italy, Ouhua Shibao, founded in 1997.

Driven by a desire to manage its increasingly dense web of contacts with new migrants, Chinese state agencies encourage formation of migrant organisations based on province of origin or, for professionals to whom the idea of a rural homeland does not appeal, by profession (Zhuang, 2000: 48, 49). They also organise or endorse frequent and large meetings, with thousands of participants, to bring together leaders of such organisations (Nyíri, 2000). An organisation leader may easily go to China two, three, or more times a year to participate in such meetings, which have become important ad hoc clearinghouses of merchandise, business information, and capital at which contacts are forged and investment decisions made. These meetings structure the transnational social space of the “new migrant” community, creating a critical density of encounters at which the officially supported discourse is recycled to significant numbers of people.

To sum up, migrants are given to know through the press that they will not only be given economic benefits if they are successful – and success seems to mean the same, money and legal residence, to the state as it does to the family – but also will be recognised as patriots. In this discourse of success – a “spatial hierarchy” (Liu Xin) – the path of migration is strikingly unimportant compared to its result. A newspaper article characterised a Chinese student in Japan working as a “drinking companion” at a bar as having made almost ten million yen in a year and a half “through her wisdom and ability” (Li Jian, 2000). The fact that migrants go abroad with the sense that their project is in line with the values of the dominant discourse of Chineseness, rather than violating it and having to make up for it later by proving their patriotism otherwise, is probably important in shaping their discourse of belonging and political organisation. Regardless of education and social

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37 Interview in Bucharest in June 1999. See also Shichang (Budapest), 18 January 2000, 4.
background, they have the chance to prove themselves as good citizens by being “successful” abroad. This also generates pressure both from the government and their peers to be successful and share the fruits of their success (investment, donations) with the homeland within a timeframe of several years, rather than being given a lifetime or a generation. All tongxianghui and their leaders regarded as “successful” Fujianese abroad have donated funds to Project Hope (a project to build schools in poor areas), flood relief, and other projects. By providing recognition, the government promotes a discourse of success whose measures (whether investment, consumption, social status, or official honours) are tied to the sending area. It is to be seen whether this discourse can be a long-term alternative to measures of success (consumption, social status, profession, organisational leadership) in the country of residence or in the transnational community.

THE STATE DISCOURSE AND PUBLIC NARRATIVES OF IDENTITY

The excerpt below, from an article on Howard Li, a garment manufacturer, importer and warehouse owner based in New York, in a magazine published in Budapest, is a typical depiction of a “successful new migrant.”

The new century is the century of the knowledge economy. Howard Li has included the Web in his vision. […] He worked with the influential Chinese-language Qiaobao to create “Meiguo Qiaowang” (American Overseas Chinese Net). At the same time, he established the headquarters of a Net-based goods exchange system in Hong Kong, set up service provider stations at Peking Airport and in Shenzhen. The backbone of a worldwide Web-based goods exchange with hubs in New York and Hong Kong has already been formed.

[…] By now, his joint and exclusive ventures in China extend over more than 30 provinces, cities, and regions. He has helped Chinese goods conquer (jinjun) the American market. He has enthusiastically supported the revival of life and production of earthquake victims in East and South China and Yunnan. He has injected funds from abroad into China in order to promote the economic construction of the motherland. As a representative of Chinese overseas (haiwai huaren), he has been specially invited to the 50th anniversary National Day celebrations and the ceremony honouring Macau’s return. […] He is also Chairman of the Asian-American Entrepreneurs Association, Honourary General Advisor of the New York Federation of Chinese Associations, and holder of forty or fifty other honours… (Who’s Who of Chinese Origin Worldwide, 4 [2000], 31–32)

New migrant media share a remarkably standard content, style, and layout. Their reliance on the same pool of content from the Internet is in part a technical necessity, as they usually work with a small staff. The range of opinions expressed in reporting on sensitive political issues – including any coverage of Chinese or American politics, and particularly the issues of Taiwan or NATO’s bombing of the Chinese embassy in Belgrade – is, in fact, more narrowly aligned with the People’s Daily line than what is tolerated in PRC media. Apart from the reproduction of the discourse of Chineseness of the
PRC – focusing on cultural heritage and “Chinese virtues” (known elsewhere as “Asian” or “Confucian values”) – all papers have a page devoted to overseas Chinese in the world. These pages offer fiction and reporting that frequently depict the dynamic, resourceful, transnational Chinese businessman, portray the experiences of Chinese in their countries of residence in a humorous way, or report on atrocities committed against Chinese (these can range from rapes and murder in Indonesia to the spying case of Wen-ho Lee, the Chinese-American physicist). In this way, the papers continually reproduce the Chinese/foreign dichotomy and re-“other” the foreign, while both categories are geographically global and parallel. They also report on contributions of local Chinese and Chinese elsewhere to Project Hope and other donation drives in China intended to build schools, bridges, roads, and so forth and on visits to China by local Chinese organisations to participate in congresses and state celebrations; all of these are described in the official terms of patriotism and development.

Let us compare the “1999 Top ten news of Chinese in Japan” (Zhongwen Daobao, 2000b) with the “99 Top ten news of Chinese society in Hungary” (Ouhua Luntan, 2000) (see Table 1).

Even more than the overlaps in content and the kind of concerns the two papers attribute top importance to, what is striking is the similarity of styles, which are strongly influenced by the “ideologemes” of PRC officialese. Similarly remarkable is the similarity of layouts, including the wording and positioning of and choice of fonts for titles and subtitles, the kinds of photos (ranging from protocol pictures of leaders to soft-core pornography), and so on.38 Although this style has been seeping into established overseas Chinese newspapers, there is still a gap between the two kinds of publications in terms of both their language and layout.

Not just narratives of belonging but also the fact of the standardisation of new migrant media contribute to the construction of a “global Chinese” identity with shared values, raising cultural Chineseness and transnational modernity in importance above the immediate environment the reader happens to be in. One can move from Hungary to Japan, Italy, or Sierra Leone, pick up a local Chinese newspaper, and what one will perceive of moving from one country to another will be equivalent to moving from a Budapest McDonalds to

<table>
<thead>
<tr>
<th>Japan</th>
<th>Hungary</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Azuma Shiro lost defamation suit [for publishing his memoirs of the Rape of Nanjing]; 70 thousand Chinese signed their names in his support.</td>
<td>Chinese Interpol officers Chen Xiaoxian and Jiang Shui came to Hungary to help Hungarian police break cases violating the safety of Chinese lives and property; they brought the care of the motherland for Chinese compatriots.</td>
</tr>
<tr>
<td>2 Chinese Embassy in Belgrade bombed; all Chinese in Japan marched in indignation [...] The events demonstrated that while the Chinese in Japan may live</td>
<td>The Federation of Chinese Organisations in Hungary, composed of 16 officially registered Chinese organisations, held elections for officers.</td>
</tr>
</tbody>
</table>

38 For a sample “layout analysis,” see Barmé, 1999: 468, fn. 33, on a journal published by student exiles.
in the Eastern Seas, their hearts are linked to the motherland; this was another great explosion of the national emotion of Chinese in Japan.

| 3  | Federation of Chinese in Japan and General Chinese Chamber of Commerce in Japan established after nearly a century of development and convergence. Over two thousand Chinese compatriots, organised by the Federation of Chinese Organisations in Hungary and other associations, held hugely forceful protest demonstration activities in front of the American Embassy in Hungary ... fully demonstrating the patriotic spirit of loyal sons overseas. |
| 4  | Japanese Diet passed amendment to the Foreigners Registration Act, strengthened measures against illegal foreigners. Orient Hotel opened. |
| 5  | The Wang Juan case [Chinese manager maltreated by court officers]. The city of Hangzhou was twinned with Budapest under the tutelage of Mr. Ni Weilin, General Manager, Duonao Co. |
| 6  | Chinese student in Japan He Gang single-handedly sued Tokyo Commercial University. Fighting broke out at a [Chinese] company in the Xth District for reasons of passion, resulting in one dead and one wounded. |
| 7  | Chinese student Hong Yingmei shocked society by killing Japanese public servant lover. Five-year-old Chinese citizen Zou Ningkang was kidnapped by his nanny, causing outrage. |
| 8  | Forty-six Chinese trainees forced to kneel as punishment, prompting society to re-examine the Japanese trainee system. “Three Celebrations Committee of Chinese in Hungary” established. It organised the following activities: (1) banquet in honour of National Day; (2) Culture Night with the Chinese Nationalities Art Troupe in honour of the fiftieth anniversary of the founding of the PRC at Erkel Theatre; (3) banquet in honour of the fiftieth anniversary of PRC-Hungarian diplomatic relations (jointly with the Hungarian-Chinese Friendship Association); (4) lion and dragon dance in Heroes Square, artistic performance at the ceremonial hall of the Chinese Embassy, and banquet in honour of Macau’s return to the motherland, reported on CCTV-4 |
| 9  | Xin Shiji TV’s Le Le Zhongguo Channel reaches 10,000 viewers. [...] Live broadcasts of the grand parade honouring the fiftieth National Day, celebrations of Macau’s return, and other important events allowed Chinese in Japan to follow the motherland’s heartbeat for the first time. Li Jun, a 29-year-old man from Kunming, died after being attacked by bandits in the lift when returning home. A 29-year-old businessman from Zhejiang died while playing with a gun with friends. |
| 10 | The last group of war orphans visited Japan to search for relatives. Eiwa Enterprise Association established. |
picks up stories from these publications, because they are written in the same style and sometimes by the same people as their own. This allows aspiring local elites to accumulate social capital in China by showing themselves as successful and patriotic. A Chinese newspaper in Hungary criticized a rival in these words:

Some people who left China recently and want to achieve undeserved fame cover themselves with social influence gained through “reportage” in the official Chinese press in order to engage in political and economic confidence tricks in China with even greater effect. […] They use geographical distance to produce false news to trick public opinion in our country.

… [An article on the web page of the China News Agency (Lai et al., 2000) about Zhou Yongping, President of the Hungarian Chinese Association] says that while trade secures his livelihood, founding a newspaper was a spiritual need for him. What sort of spiritual need? “For the Chinese to learn more about their country of residence through my newspaper and thereby improve their long-term living conditions.” Thus, the paper of the Confucian merchant serves the public good more than generating commercial profit, which proves his noble spirit.

In fact, the matter had to do with the fact that reminders from the Wumao company, based in Qingdao, Shandong, to repay his debt were causing him great problems. […] Feeling the pressure of public opinion, the Confucian merchant decided to launch his paper, Qiyejia…

Finally, the article about the “Confucian merchant” mentions the most important organisational task that awaited the Confucian merchant in his new position [as chairman of the association]. This, “of course”, was obtaining permission for and organising the peaceful demonstration held … by over two thousand Chinese protesting the bombing of China’s embassy in Yugoslavia by NATO…

In reality … it was simply a sense of threat to the nation that prompted the descendants of Yan and Huang to express popular anger in this way.

In the report by the China News Agency, the national wrath and sincere patriotic outburst of the Chinese in Hungary is portrayed as some blind obedience of a group of bandits under the command of the Confucian merchant to the chief of the robbers. This unscrupulous lie not only distorts the image of the Chinese in Hungary, but also slanders their characters.

Official Chinese press enjoys high regard among Chinese overseas… no one has ever doubted the truthfulness of news reported by an official news agency. […] Chinese in Hungary realize that this official agency makes untruthful claims about them. […] False rumours from such a respected source accumulate political capital for those craving fame. […] Can’t we say that you are accomplices of such people, who can be accused of economic crime? (Shichang, 18 January 2000, 4)

I quoted this source so extensively because it demonstrates several important aspects of the globalisation of new Chinese diasporic media and public narratives in general. First, they are in constant touch with the Internet, to the extent that an article published only on the Web is deemed to have a broad enough appeal to elicit such a vigorous response. Second, they form a contiguous narrative space with domestic, official media in China,
amplifying its impact abroad, but occasionally also contesting its claims for the domestic readership. (In a different article, an author on the same side of the debate says that an article published by Zhou “is clearly not addressed to readers in Hungary. Your purpose is to spread slanderous information about me to Chinese around the world on the Internet, using the online version of [your newspaper] Lianhe Shangbao. And your main aim is to shape a certain image of me in China, wishing to discredit my writings there by means of the opinion formed about me.” [Fang Yongjun, Shichang, 22 February 2000, 3-4].)

Third, the narrators manipulate the official discourse of patriotism and Chineseness (see Barmé, 1999: 255–259 for its review) and alternative, conflicting discourses taken from their country of residence or from alternative globalising narratives to discipline rivals, while on their part evading disciplining. (Nonini, 1997) (To quote Fang’s article again:

We can resolutely say that in modern society, it is commonly accepted practice to express differing opinions in news articles. Have we not seen enough examples in the last years of Hungarian party struggles, debates in Parliament, criticism of government actions or scandals of politicians being revealed? What, then, are the grounds to believe that Westerners, who are much more used to democracy and the rule of law than we are, would somehow be shocked by articles debating social problems of the Chinese in the Chinese press? – Ibid.)

The organisation headed by the target of Fang’s criticism is the Hungarian Chinese Association, the oldest and most prominent Chinese organisation in Hungary, founded in 1992. The Chinese ambassadors in Hungary through most of the nineties enjoyed a close relationship with HCA’s ex-president Zhang Manxin, arranging meetings for him with visiting PRC Chairman Jiang Zemin (Nyíri, 1999b). Zhang has evolved into a transnational apparatchik: he has served a term as president of the European Federation of Chinese Organisations and is now travelling across Europe setting up Committees for the Reunification of China, which will convene a European congress in Berlin in September. In 2000, HCA published a five-point summary of its activities in the past two years and outlined its task for the coming year in a further four points. All of the points were concerned with building the organisation and organising or participating at meetings; none talked about social, cultural, or interest representation tasks (Polonyi, 2000).

While Zhang is now something of a political celebrity, HCA is quite typical of Chinese organisations in Europe, particularly those formed by new migrants. Sending and receiving delegations, organising festivities on traditional Chinese feasts and, increasingly, on state holidays of the PRC are all important facets of overseas Chinese organisations’ activities. The newer they are and the smaller the groups they represent are, the higher the weight of such activities compared to efforts spent on mother-tongue education, poverty relief, care for the aged, religious activities and the like. Major festivities now overwhelmingly include a performance by a “nationalities arts troupe” from China, with speakers of the television variety of Mandarin chosen as preferred hosts. “Pure” Mandarin serves to distance the modernity of the actors from the ambivalent image of traditional overseas Chinese. The latter, in the eyes of “metropolitan” – northern-oriented – PRC culture, is a group that, despite having served
as a bridge to the West for a long time, has never fully shed its stain of boorishness inherent in its rural Southern origins and is not sufficiently modern, global, or mobile. When asked how his project was different from old Chinatowns, Song Wuqiang, the man in charge of a project to build the Asia Center in Budapest, heralded as the largest shopping centre in Europe, answered characteristically:

The old generation of migrants was, in some ways, passive… The Asia Center’s site has been selected after having studied the investment and market environment of various countries… [It is] based on large-scale modern trade… The Asia Center is an active initiative, not a bigger or smaller market that serves the livelihood of strangers in a foreign land. (Zhonghua Shibao, 2000)

The PRC embassy is often involved in the preparation of such activities, which are attended by embassy officials and sometimes serve as occasions to communicate the PRC’s political messages, particularly regarding the “unification of the motherland.” In the case of organisations composed of recent migrants from China, the “guidance” of the embassies is often easily traceable.

For example, Chinese organisations around the world organised protests against the NATO bombing of the PRC embassy in Belgrade. I was in Bucharest on the day of such a demonstration and was told by the executive vice-president of the Fujian native-place organisation that the embassy had been consulted regarding the protest.39 In the same year, Chinese organisations in Hungary convened a “Three Celebrations Committee” to honour the 50th anniversary of the founding of the PRC, of the establishment of diplomatic relations between the PRC and Hungary, and the take-over of Macau by the PRC. It is unlikely that the commemoration of an event of diplomatic history can be prepared without the involvement of the embassy. In the run-up to elections on Taiwan in 2000, the PRC issued a “white paper”, which threatened Taiwan with war if its government declared independence. Embassies organised briefings to explain it to invited representatives of Chinese organisations. Following the briefing, the Hungarian Chinese Association convened a “seminar” discussing the white paper and condemned pro-independence views (Lianhe Shangbao [Budapest], 25 February-2 March 2000, 1). All these events should not be seen as orchestrated by PRC authorities; rather, they reflect the willingness of organisations to “seek guidance” from the former and demonstrate their loyalty.

All this, I believe, convincingly demonstrates how the state has successfully mobilised overseas nationalism, not so much through policy measures as through its discourse of patriotism, success, and modernity, through its economic value to new migrants, and through the cultivation of new migrant elites. At the same time, the state has been contributing to the construction of subnational identities by encouraging new migrants to establish associations based on area of origin (Zhuang, 2000: 48,49). All 11 Fujianese organisations in Europe have been established in 1993, and leaders of several of them have told me that their preparations had been conducted in consultation with PRC embassies.

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39 Interview with Chen Jian in June 1999.
On the surface, it may seem that, with the magnitude of Chinese presence in Europe approaching the million mark, PRC authorities are endorsing the creation of a classical segmentary organisational structure where native-place organisations representing lower-level territorial units progressively fit into those representing higher-level units like Russian matryoshka dolls (Crissman, 1967). But two things are noteworthy about these associations in comparison to the traditional native-place associations. The first is that their territorial definition, in most cases, is not coextensive with dialectal borders, and that association business is therefore conducted in Mandarin. The second is that the associations’ activities and discourses are remarkably standardised, not only between themselves but also compared to other new organisations, whether native-place based or not. Even association premises are decorated with the same little banners and mementoes received from Chinese government bodies and from each other and with photographs with Chinese officials. It is as though the name of the native locality is a mere formality that legitimises the organisation as the representative of the host country’s Chinese population to elites of the corresponding administrative unit in China and, conversely, of that territorial unit to elites in the host country. The associations strive to be a bridge not only between their constituencies and local society, but between China and the country of residence, and sometimes name specific areas of business they wish to promote or information services they offer. They receive and send delegations and organise fund-raising drives to build schools and help flood victims in China, both in and outside the native-place area. By contrast, they rarely undertake charitable and mediating functions for the benefit of fellow provincials in the country of residence, which was traditionally the main role of the tongxianghui, even though the vulnerable situation of masses of Fujianese asylum seekers and undocumented migrants in Europe necessitates that. In other words, they engage in a highly situational and instrumentalised identity discourse.

Chen Tiequn, provisional chairman of the Fujian tongxianghui (native-place organisation) in Italy, said that the establishment of the tongxianghui was motivated by three factors. First, since now there were so many Fujianese in Italy, the provincial leaders came to visit, and there was nobody to receive them formally. This stood in the way of even more frequent visits. Second, every year there are world Fujianese congresses, and you couldn’t go on select people randomly for these congresses as well as to represent Fujianese in Italy toward the province and embassy. Third, there was a need to explain to the embassy and the province what kind of people the Fujianese in Italy were; otherwise they wouldn’t know whether these people were engaged in legal or illegal business. (As other migrants from Fujian told me, the embassy would not efficiently help individual applicants seeking to obtain proofs of identity required to obtain legal resident status in the regularisation campaigns in Italy. The embassy would help when approached by the tongxianghui as an intermediary.) Leaders of the French, German, and Romanian tongxianghui mentioned that their efforts were inspired by seeing, at congresses, how many tongxianghui existed in other countries or continents. The French tongxianghui was founded after the current president’s visit to the first World Fujianese Fellowship Conference in the United States.40

40This section is based on interviews with organisation leaders as well as charters of the Romanian, Czech,
Thus, what we really have here is not a recreation of the segmentary native-place organisational structure described by Crissman, but an instrumentalisation of the traditional and emotionally charged notion of native-place and the traditional organisational form of tongxianghui connection by the state – at its various levels – and by migrant elites for their respective goals: mobilisation and control by the state, “flexible accumulation” (Ong, 1998) and legitimisation of power by the elites. The new organisational structure reproduces the structure of the PRC administration and is largely standardised across host countries. Tongxianghui liaises with provincial bodies in the PRC. (In cases where the population of migrants from the province warrants the establishment of subprovincial tongxianghui, such as with migrants from Zhejiang or Canton in many countries, there is a province-level tongxianghui liaising with provincial authorities, while the others liaise with city or county authorities in China.) Most countries have one or several organisations purporting to represent all Chinese, which liaise with the embassy and with national overseas Chinese bodies in the PRC, and also professional, commercial, sports, or even religious associations that also have their particular counterparts in China. The system can be drawn up as follows (see Figure 1).

These organisations have little active membership, but their activities – mainly those celebrating major festivals – draw significant numbers of those they claim to represent. Through these events and the media, their identity construction has some impact outside the elites. Charges of inauthenticity do occasionally surface with respect to the organisations. One young Paris-born Fujianese complained that the Fujian native-place association in Paris “is gradually degenerating” because instead of transmitting Fujianese culture to the young, it focuses on business networking so much that even non-Fujianese can become members. Two of the leaders involved in preparing the ground for the Fujianese association in Italy were not born in Fujian but in Zhejiang, and, as some Fujianese pointed out, should thus traditionally be considered Zhejiangers. They explained that they had become leaders of the tongxianghui because they had the necessary time and money and because the president was located in Rome, where few Fujianese live but where, as it was felt because of the presence of the embassy and delegations from Fujian, the tongxianghui should be headquartered. The efforts of these leaders to organise a Fujianese association must have been influenced by the fact that while resources in Zhejiang were “already taken” by Zhejiangers who dominate other Chinese organisations in Italy, connections in Fujian were still “up for grabs.”41

41 Interviews in Paris in March 1999 and in Campania in April 1999 and June 2000.
Operationalisation of the imaginaries of the home province and the homeland is amplified by economic competition between provincial/local governments in China, but it also fits into the central government’s discourse of Chineseness, anchoring it in the easily understandable myth of the authentic “homeland”. Furthermore, encouraging the organisation of migrants in different host countries along standardised provincial, prefectural, and county identities corresponding to present Chinese administrative divisions – however ahistorical these may be – makes it convenient for the government to order and administer its relations with them.

Figure 1
The system of Chinese “overseas” organisations

DISCUSSION

In this paper I attempted to contribute to our understanding of the state’s role in the “imaging” of the transnational community, that is, in identity construction. It has been acknowledged that while migration weakens the state, transnational links can work to extend it (Shain, 1995). This is particularly so in cases like China’s, where most migrants had experienced little institutional or discursive participation in the practice of citizenship before they left. The state, with its institutions, symbols, and officials, is frequently less involved in the everyday life of a rural non-migrant than that of a migrant.

Furthermore, while a migrant may have felt disenfranchised by the status quo as a farmer, worker, or state employee in China, he acquires a vested interest in it as an entrepreneur abroad who sees a hope for his fortunes and his recognition in forging relations with the elite at home.

Finally, a migrant has more opportunity to make his views heard at home through migrant-produced media without going beyond the realm tolerated by the government. In such cases, in the short-term, migration can actually contribute to state-building and embourgeoisement. To paraphrase Eugen Weber, it can turn peasants into Chinese.

The essays in Ong and Nonini’s 1997 volume come to the conclusion that in order to exercise its effect, a nation-state regime must localise its subject, and the subject will use various transnational tactics to evade this localisation while himself employing the nation-state’s discourse to localise others. I would go beyond this to say that in some cases, nation-states (or elites employing their discourse) may actually seek to delocalise, to transnationalise subjects.

It turns out that subjects do not need clearly defined spatial referents to participate in the disciplining practices of the nation-state: wherever they be, they can participate in the New Year’s ritual of a major overseas Chinese organisation, have themselves photographed with officials, hear and make the same speeches in the national language, watch folklore dances, and have their donations noted in newspapers. Within this unified nationalist discourse of belonging, then, various elites – political, economic, and more traditional social – and institutes of power both at the core and on the periphery of the transnational system contest transnational resources, and who comes out winning has everything to do with business interests. This is played out in the construction of identities in public narratives, such as native-place organisations.

(Consider the case of those overseas Chinese leaders who had the choice between positioning themselves as Fujianese and more specifically Sanmingers, or Zhejiangers and more specifically Wenzhounese. Each of these affiliations or levels of affiliation carried particular benefits and implied a certain level of competition. On the other hand, while using their native-place affiliation as cultural capital, organisation leaders nonetheless shop around for the most favourable investment and trade opportunities in China.)

Other sending countries of migrants, such as Mexico, El Salvador, or the Philippines, have utilised migration in ways strikingly similar to the PRC, and provided more overt support for the migration projects of their citizens. Mexican government agencies have not just encouraged the establishment of hometown associations by Mexican migrants in the United States but have created schemes under which every dollar donated by such an association for the development of the hometown is matched by one, two, or three dollars
of state money. The Chinese state has found its ideal agents in new migrant elites who have a sufficient measure of economic success and education to be responsive to the temptation of becoming “patriotic overseas Chinese leaders,” yet not enough to have an independent base of legitimacy. It is, incidentally, these arriviste semi-elites that have the least knowledge of or interest toward the host society, as they have neither the lowbrow, everyday cultural exchange with locals that a market peddler engages in, nor a highbrow exchange that established elites are to varying extent exposed to. To these elites, the words “Japan” or “Hungary” merely denote different Chinese economies and regimes of immigration.

This class of transnational apparatchiks is the main vehicle of the Chinese globalisation project, which is constructed with an eye on “Western” globalisation but which carries a claim of authenticity, and in which the state has a stake. It is they who do most to institutionalise Chinese globalisation, organising holiday celebrations, exhibitions, arts festivals, and sports contests, handing out awards, congratulating each other with them, and then reporting on them. Even the most thorough of Hungarian art fans would not have heard about the “21st Century Budapest Arts Festival,” at which the “Chinese Culture Overseas Promotion Award” was handed to an official of China Central Television. The backdrop of the ceremony was a European Union flag, symbolising the exoticism and modernity of the setting as well as Western globalisation (Who’s Who of Chinese Origin Worldwide, 4 [2000], 38). Conversely, if a Chinese in Germany encounters the name of a Hungarian president, it is most likely to be in a report about a Chinese organisation leader who has been received by him.

In the case of new migrants from China, state-building overseas is accompanied by the state’s promotion of Chinese identity that is both global and grounded, in the concept of the nation and in the People’s Republic of China. Indeed, the image of the global Chinese migrant has become so much of a carrier of authenticity and modernity that the ability of a homeland to muster its own migrants or diaspora boosts its claim to modernity and historical authenticity (see Thunø 2000). This, in Yoshino’s term (1999: 11), is “secondary nationalism,” in that it is focused less on historical memory and ancestral myth – which are taken for granted – than on essentialised character traits and patterns of behaviour, to which people in their everyday practices can relate. Global Chinese media are taking an active role as producers of this discourse, not just because of a desire to conform to the discourse promoted by the state, but also due to an expectation of both Chinese and non-Chinese audiences to consume essentialised images of Chineseness and because of a willingness of many Chinese elites around the world to consume and reproduce patriotism. But, along with Ong and in counterpoint to the importance Yoshino or Barmé attribute to that willingness in itself, I stress that displays of patriotism in public narratives and ceremonies are symbolic instruments of proving one’s loyalty to an official audience in China, and thereby, ultimately, of capital accumulation. The opinion


that organisations are instruments of (economic) self-interest is widely shared among non-elite migrants and occasionally surfaces in the press. The only Chinese organisations in Europe that have an active membership, rather than just a core of leaders, are certain religious organisations (mainly Christian churches) and, in some countries, the China Democracy Party, a dissident organisation.

For purposes of management, Chinese state agencies prefer to cut up global Chineseness into administrative units, typically by province of origin or, for professionals to whom the idea of a rural homeland does not appeal, by profession (Zhuang, 2000: 48, 49). While I have not problematised the question of state agency for the purposes of this paper, the discourse of belonging and achievement is used by various levels and branches of the state differently, depending also on the locality (Nyíri, 2000). What is important here, however, is that there is no separate, officially produced discourse of “Fujianseness” or “Cantoneseness” of the kind that has traditionally been produced among overseas Chinese, especially in Southeast Asia. Provincial identities are derived from a single national discourse.

Although in this paper I have focused on the production of public narratives of identity, it is obviously a crucial question to what extent they are actually consumed and internalised. Aihwa Ong (1998) has captured the way migrants from Hong Kong selectively mobilise various elements of various identities to cope with “competing regimes” of family, capitalist workplace, and nation. In personal conversations, I often hear “secondary nationalist” statements about the Chinese as being industrious, hard-working and “an outstanding nation” (youxiu minzu). I also often hear statements about China’s problem being that people at home are of “lower quality” than abroad. Both kinds of statement fit into the speakers’ agenda of picturing themselves as embarking on a modernising project having to do with opening China to the world, but nonetheless carrying an intrinsic value that can’t be found in non-Chinese. This would be a natural agenda when speaking to a foreigner doing research on Chinese migrants. But in other situations, the nation is abandoned for either a cosmopolitan, a host-country-oriented, or a subnationally based identity. In these two excerpts from a conversation, my interlocutor keeps including and excluding various groups in the we-group. All inclusions and exclusions are based on essentialised behaviour patterns, but the “we” is distinguished by transgressing the normative behaviour of “Chineseness” as often as by conforming to it.

(A Xing:) Those inland people are strong on culture. We don’t have as much culture as them. Since we were little, we have been brought up to look only at money.

(Liu:) The inland people want just to make a living, to have a normal living standard. We don’t want to live like average people (bu yuanyi guo pingmin de shenghuo): we want to strike it big. We are not like those inland people, we are totally different.

(Liu:) Just from the way someone walks, you can tell if he is from Fuqing or from Zhejiang.

(PNy: How?) For example, if someone wears his shirt like this (tucked in the trousers), that’s definitely from Zhejiang. (Actually, Liu wears his shirt loose, but others in the company wear it tucked in.) Or they wear slippers.

(A Xing:) We are cohesive.
(I: Whom do you include in the “we”? Fujianese or Fuqing people?) Chinese people! Everyone with yellow skin!

[Later:] (I: What about Changle people?) They are about the same. But they are petty; we are generous. The saying goes “Fuqing dage (elder brothers), Fuzhou zi (children), Changle gui (devils).”

State-building and nationalist mobilisation in the transnational community of new migrants from the PRC are, for now, largely proceeding hand in hand. It is likely that state-building will continue in the mid-term. But the celebration of migrants by sending states – not just China – is now in its honeymoon stage. Migrants not only revel in new-found recognition as patriots, but significantly, unlike migrants from other countries, are reaping economic benefits from it, rather than simply being donors. In the introduction to a volume published in Hong Kong, social scientists from the PRC wrote in 1997:

“Propagating nationalism is the safest form of political opportunism there is [in China today]. It is also a way of achieving the greatest economic return” (Xiao 1997, quoted in Barmé, 1999: 370).

It is a question when Chinese migrants, like their Mexican counterparts whose support for Vicente Fox helped end the 71-year rule of the Institutional Revolutionary Party, will demand a real say in the political process. Sooner or later, embourgeoisement is likely to be decoupled from nation-building and show its subversive potential. Economic changes in China – such as a general slowdown or lowered competitiveness of Chinese products abroad – can bring this moment forward.

REFERENCES


Larry Olomoofe

Africans in Budapest: an emerging subculture?

“You see the thing to understand about all these European women here, is that they don’t want no licks (beatings). Dem-gal here just want you to take care o’ dem and give them a good time. These-gal here, if you take care o’ dem right, then after a while you have them under a kind of spell and they will do anything for you – even sell dem body fe you (my emphasis),…”

Ken Pryce

“I will go and live with one of the girls that I am seeing at the moment. She no no (doesn’t know) the other ‘tings’ I dey do, so dis is no problem for me. If she give me any ‘wahala’ (trouble), I go just tell am say I dey go and she go keep quiet…”

Response from one of the people I interviewed in Budapest November 1999

In this paper, I intend to present an analysis of the current cultural trends associated with the presence of a shared Black African social field in Budapest.

I argue that the current situation here in Hungary is reminiscent of the formative debates on race in Britain (circa the 1970’s and 80’s) where relative positions, i.e., “black” and “white”, “us” and “them”, etc., were staunchly challenged and defended by their advocates and supporters. The strategies employed by some members of the marginalised local Jamaican community share visible similarities with those used by some of the black community here in Budapest. There, the discourse on race was underpinned by various notions of exoticism47, fetishism48, mysticism49, nativism50, and racial stereotyping, evinced by the notion of black criminality and sexuality, and I contend that this is the same here. Much of how Hungarians in Budapest see Black Africans, along with how these black people see and present themselves, revolves around these themes.

47 This is where people hold exotic perceptions of “others”. Far from being a position born out of sympathy for the exotic other, it shares many traits used in the technologies of racism since it is premised upon the objectification of the “others”; i.e., a desirable object of satisfaction.
48 By this, I am referring to the perception of black people being objects of obsessive devotion or interest.
49 This is a similar practice to exoticism. However, the important point of departure is the mythologising of the “other”, shrouding these people and their practices in a cloak of mysticism. The most popular examples of this are perceptions of “black sexuality” and its attendant dynamics, and black athleticism, i.e., running, jumping and dancing ability.
50 This is the crystallisation of all the other “isms” mentioned earlier. This form of stereotyping emphasises the importance of putative hereditary qualities. This, therefore, privileges biological underpinnings of human activity and behaviour, over environmental factors such as place, culture, etc.
I contend that the sense of a Black African community in Budapest is a consequence of several factors that work to “push” disparate people, who are often connected only by the fact that they are asylum-seekers in Hungary, together into a shared social field while concealing the many fissures and tensions which exist amongst the members of this “community.”

Some of the factors that we will need to consider in the examination of the (theoretical) construction of community is the role played by three organisations: The Office of Refugee and Migration Affairs (ORMA) and the non-government organisations MEJOK (Hungarian Human Rights Centre) and the Mahatma Gandhi Human Rights Organisation. Many of the refugees that comprise the black “community” register for asylum at the various refugee centres around the country run by ORMA. One such centre is located in Debrecen, and it is here that many members of the community come into contact with each other for the first time in Hungary. In the case of MEJOK, its director, Dr. Márton Ill, has an unusual arrangement with these reception centres, which allows him to take his clients who he represents out of these camps to come and work as “volunteers” for him at the offices of the organisation here in Budapest.

I will suggest that these institutions, along with other public sites in Budapest to varying degrees, help create a sense of camaraderie amongst those people who rely upon them in pursuit of their claims for asylum and other social aims.

My discussion rests on a limited series of interviews. The process of gathering this information was not without its difficulties. This was due, in part, to the difficulty in conducting some of the interviews in the formal sense, i.e., me as interviewer with tape machine and note-pad, and them as comfortable “subjects”. The main reason for this was the sensitive nature of some of the information offered by these people which many of them felt uncomfortable talking to me about. I had to offer assurances of anonymity along with me not recording any of the interviews on tape or in writing. Therefore, I had to consign much of the information to memory, drawing on it only for reference as opposed to using it in a substantive way.

Another problem I experienced was the fact that some of the people I interviewed did not, and still do not, live in Budapest. Therefore, I had to conduct some of my interviews over the telephone. This is a partially unsatisfactory method of enquiry, simply because it is difficult to observe the “body language” of the subject, which is an important part of the face-to-face interview technique, because it allows the researcher to judge the probity of the subject as well as being able to discern whether the information being offered was reliable or not.

It should be mentioned that the group of people I interviewed was a limited sample, and their views are not representative of others which may be held by people within the putative black community. It is offered here merely as a means of reinforcing the counter-critique to the concept of “community” I am presenting in this paper.

Many of these people come from west Africa and a cursory glance at African history will reveal the local tensions between people from this part of Africa. An example of this is the relationship between Nigerians and Ghanaians. The perception of each other, steeped in a long history of animosity and marked by a discourse littered with pejoratives, is one which continues today. Indeed, even within the contiguous borders of Nigeria, the ethnic tensions persist today with sporadic explosions of ethnic hatred, the most recent occurring two weeks ago.

These are a church in Golgota utca and the night-club Maszk in Oktogon.
“BLACK PEOPLE”: A SHARED IDENTITY?

The first factor that contributes to the construction of a Black community is ascription by the majority population, reinforced by widespread racism. “Community” is used as a descriptive collective signifier for the collection of black people in Budapest. In this case, the idea of community is constructed by “outsiders”, which hints at the existence of a racial/ethnic discourse already in place, similarly to that about the Roma, within which black people (students and refugee and asylum seekers mainly from Africa) are placed by the locals. This lumping together is facilitated by the high degree of acceptability of racist discourse, both public and private. In Hungarian, the term “néger” is still commonly used for Blacks, and is perceived as neutral by most people. The official discourse tends to blur the boundaries between the legitimate discourse on difference and the “illegitimate” racist one. A representative of an NGO supporting the rights of refugees allegedly told one of my informants: 53 “All you blacks are lazy. You do not want to work. All you want to do, is fuck women, wear nice clothes and smoke drugs.”

Experiences of racism force Blacks together, creating a sense of solidarity.54

The second factor contributing to the construction of a “community” amongst black people is experiences at government refugee reception centres. All of the asylum seekers interviewed by me were registered at the Debrecen reception centre in the east of Hungary. Many of them, who now reside in Budapest, first came into contact with each other at the centre, and have maintained their solidarity with each other in Budapest. The official practice in the centre to house people of the same colour in the same building was instrumental in the forging of this solidarity. All black people in the centres are assigned accommodation in a building informally referred to by members of the camp as the “African Building”.55

It is here that they share knowledge of their various experiences and the troubles in their countries which forced them to flee the impending cataclysm there. Regional differences, i.e., “inter-state”, and internal ethnic/tribal differences, i.e., “intra-state”, are relegated to a minor position in the daily interactions, forced upon them by the housing policy of the camp. Familiarity with Africa is promoted and expressed by the exchange of anecdotes by these people in an arena where they share commonalities (skin colour, Africa, oppression, language, i.e., “pidgin” English, etc.) and where they are a visible “other”.

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53 This was one of the many pronouncements by my respondents which were expressed “off the record.” The reason behind the request is that although this particular respondent is extremely critical of the official and has an ambivalent relationship with him, he was still frightened of the influence wielded by the organisation the official represents since the respondent was still officially being represented by them. Consequently, if the allegation came to their attention, this would/could seriously threaten his chances of being given asylum by the Hungarian authorities. Therefore, he only felt comfortable talking to me off the record and on condition that his identity remained concealed.

54 It should be stressed that many of these people have not encountered explicit racist behaviour. However, they have all spoken of how they experience implicit racism when dealing with Hungarians, in shops, on the tram, in the street and other public arenas. The most expressed form of racist “behaviour” is the “gaze” of their white counterparts, i.e., negative and hostile.

55 There is another building where the majority of the white asylum-seekers (mainly from Kosovo) are housed known colloquially as the “European Building.”
The third factor contributing to the construction of a community of black people in Budapest is the importance of NGOs such as MEJOK. As mentioned earlier, MEJOK operates a somewhat unusual system where they act as a guarantor for those registered asylum-seekers who are their clients, allowing them to come to Budapest and work for the organisation in various capacities. Because of MEJOK’s reputation for employing radical tactics when representing their clients, they are a popular organisation among the African people they represent. As a consequence of this radical posturing, many people seek their assistance, and MEJOK seems to represent African clients disproportionately when compared to the activities of other NGOs in this area of human rights. The fact that the organisation’s head, Dr. Márton Ill, can communicate in “pidgin” English adds to the organisation’s appeal. This fact further reduces the distance between him and his clients and allows him to establish a bond with them outside of the traditional “advocate”/“client” relationship.56

The result of this practice is that many African “clients” and “volunteers” meet and congregate at the offices of MEJOK. It could be said that it is a central meeting point for black people in Budapest, somewhat akin to a community centre. Two other sites which play a relatively minor role in the construction of this “community”, are the Greater Grace church located in Golgota utca and the night-club Maszk in Oktogon.

The majority of the people I interviewed were members of the Greater Grace congregation, run by U.S. missionaries.57 They attended the church for worship as well as to meet other members of the church community who are mainly white. They made use of the social network of the church as well as the support system practised there, especially the church policy of providing temporary accommodation for people experiencing difficulties (usually on the premises) whenever the need arose.58 Therefore, most Sundays, these people would attend one of the two services held on the day, and sometimes both. Despite the relatively low number of black people who attend the church (four at the time of the interview), the church was widely known amongst the members of the black “community” because information about it was spread by word of mouth by those who attended its services. The connection with MEJOK was a shared experience amongst all the black members of the church, a further indication of the importance of this organisation for these people.59

56 The other organisation mentioned earlier, Mahatma Gandhi, performs a similar service for black asylum-seekers in Budapest. The head of the organisation is Mr. Gibril Deen, an African from Gabon, who has lived in Hungary for over 25 years. Also, allied to this “service” which they provide, Mr. Deen regularly organises African cultural events, rallies, and other awareness raising activities in Budapest.

57 Many have already left this church and now worship at the Calvary Chapel in Csengery utca near Oktogon.

58 Three of the people interviewed had benefitted from this support programme and were living in church owned property in Budapest. However, at the time of the interview, two were encountering difficulties with the church authorities, since their tenure at the house was about to expire, and they had to find alternative accommodation because the church had refused to grant them an extension.

59 Only one of the black members of the congregation was not an asylum-seeker, and therefore, was not being represented by MEJOK. However, he had sought legal advice from MEJOK and had been introduced to Márton III by a fellow member of the congregation who was being represented by MEJOK at the time. This serves to indicate the informal connections between these two autonomous and unrelated Hungarian institutions, one offering legal support and representation, and the other spiritual support and guidance.
The other site, the night-club Maszk, caters for their social needs. Most of its clientele here is Hungarian. However, many members of the black “community” attend this place to meet members of the opposite sex, both black and white.

Ohhh, it is a lovely place. You can drink, dance, and meet girls there. If you have worries on your head, you will forget them there. The [white] girls go there to find “brothers” (black men). Many of us meet women there and have a good time. Sometimes, they want us to be their boyfriends, but there are too many of them. I love it there. Plenty of blacks go there. It is good to go there because we can meet other blacks…” (Luke, interviewed in November, 1999)

The idea of “community” is not uncontested. There are no clear figures on the composition of Africans in Budapest or their status as students, professionals, or refugees. The people I interviewed came from, mainly, West Africa, i.e., Nigeria, Liberia, and Sierra Leone, and one person came from the Sudan. Some Black North Africans such as Libyan students have virtually no interaction with other Black Africans and do not consider themselves part of the “community”.

These Libyan students have nothing significant in common with the asylum-seekers and other African students: they come from an Islamic, Arab-dominated country and do not make use of either the religious or social infrastructure shared by most sub-Saharan Blacks.

Apart from ascription by the majority population and shared experiences with Hungarian institutions, thus, a sense of subalternity informs the “black” social field. This is related to the presence of a “sub-culture” comprising of “deviant” activities and behaviours such as criminal practices, i.e., petty drug-dealing and use, prostitution, conspicuous sexualities, clandestine labour practices etc.

**SUBCULTURE, SUBALTERN, SUBTERFUGE?**

The anguish of growing up poor in the richest city in the world (New York) is compounded by the cultural assault that “El Barrio” (east Harlem) youths often face when they venture out of their neighbourhood. This has spawned what I call “inner-city street culture” (sub-culture): a complex and conflictual web of beliefs, symbols, modes of interaction, values, and ideologies that have emerged in opposition to exclusion from mainstream society. Street culture offers an alternative forum for autonomous personal dignity… […]

This “street culture of resistance” is not a coherent, conscious universe of political opposition but, rather, a spontaneous set of rebellious practices that in the long term have emerged as an oppositional style. (Bourgeois60)

In this section, I shall examine how subalternity and the ascribed and imagined commonality of cultural traits constructs a distinct “Black Budapest sub-culture.”

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Subcultural practices are inextricably linked to the “mainstream”, which dictates and limits what choices are available to members of the sub-culture in their everyday pursuits. Philippe Bourgeois points out that the “margins” and the “mainstream” are locked in a symbiotic relationship of opposites, where practices and attitudes displayed in one arena affect and are affected by those displayed in the other.

It is important to bear in mind here that this is an asymmetrical relationship, and that the position of black people in Hungary is disproportionately affected by the practices – mainly rejection – of the indigenous population. Yet the two cultural “others”, incompatible at the discursive level, share practices and tastes, evidenced by cultural events where people from the two groups come together and enjoy/witness cross-cultural activities (music, dancing, food, clothes, etc.).

How are the perceptions of the “other” determined and internalised by these groups? What, if any, are the alternatives available for blacks and their local “hosts” to reach a better understanding of each other?

Extravagant sexual behaviour of black men, male/female prostitution, clandestine working arrangements, drug-peddling, and fraud, amongst others, are considered by the larger indigenous public visible manifestations of cultural traits. This leads to the belief that black people are predisposed to participation in “underground” activity, providing a convenient excuse for the mainstream’s continued marginalisation of them.

All of the people I interviewed were active participants in the informal economy. Although they stayed out of it themselves, many of them knew, or had accounts of, people who participated in drug-trafficking for instance. Although many of the “respectable” did not stand in judgement of their black colleagues, they did display a degree of ambivalence towards them, indicating an awareness of the wider structural forces which had placed them in the position of considering drug-peddling as a legitimate option for survival, but at the same time seeing the choice of drugs over physical work as a lack of (moral) character which has a deleterious effect on the whole community.

This can be evinced from the following account offered by “Franklin”, a church-going Nigerian:

Those boys are bad! Ah, ah! They sell drugs and give every black person a bad name. They all have phones (mobiles) and nice clothes. They are supposed to be refugees! […] Where do they get the money from? huh? They do not work. I see them all, doing nothing. Nothing! But they have money. Everybody knows that they are dealing in drugs. The Police. MEJOK. Helsinki [Committee]… Ah, it is bad. Terrible. […]

Hungary is a racist country. They do not like blacks here. We do not have anything to do. What would you do if you were in their position? Those people sell drugs because they have nothing else they can do. They have to eat!! Me! I cannot do it, but those

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61 One such example is the joint cultural event held on the 10th December, 1999 at the Almási tér Recreation Centre. This was a celebration of many ethnic cultural practices – Roma, Chinese, Transylvanian, African, and Hungarian. The main focus, however, was upon Roma culture and the event “showcased” many Roma acts, and the other representations/acts were of marginal importance.

62 Pryce (1979), ibid.

who can…. Then the Hungarians, especially the Police, say we are all criminals…”
(Franklin, interviewed in December 1999)

This account shows the double-sidedness of the situation faced by many blacks in Budapest. Whilst acknowledging the right of those who decide to dabble in drug-peddling to do so, Franklin is acutely aware of its negative impact. This example of sub-cultural practice (drug-peddling) is a highly visible and “public” one, which hinges upon the (lack of) morality of the individual. However, many of the “private” dealings of blacks are suffused with moral implications also. An example of this are the sexual relationships many of the men have with white Hungarian women, and it is to this that I now turn my attention below.

You dey speak like you no know. Once de ‘rod’ don catch am, she no go fit say anyting. Wetin [what] she wan say? She know say na only me go satisfy am properly.
(Luke, interviewed in November 1999)

Sexual relationships between black men and white Hungarian women are fraught with many difficulties. Many of the relationships have some material aim as well. Most of the people I interviewed had had at least two lovers, and one had had six. They justified this by the difficulties they had encountered in Hungarian society, mentioning that any relationship would involve the furnishing of material goods, such as clothes, food, accommodation, and money.

Yet there was the pretence of a “proper”, “conventional” relationship, but tinged with the tacit understanding that the women made the various material provisions because they knew that their men had little or no opportunity of acquiring legitimate paid work to fend for themselves. This is discernible below:

What! She go come here and see say I have nothing in my fridge and she go sit down with me. Why? If she no have the sense to know say I am desperate and cannot feed myself, and she wan make I sex am, she must to go. I no wan know am den. All my girls know say I am broke and have no money. If dey come here and see say I no too dey, then dey go sort me out. (Bartholomew, interviewed in December 1999)

Another of my respondents had this to say on the matter:

Man, what would you do? Ol’ boy. Na wa [amazing]. These girls love black men. You can see it in their eyes. Man!! At Pepsi Island [a rock music Fest] in the summer, they were just hanging with the African boys in the tent. They were looking for black dick. These boys were performing, and all these girls jus wanted to fuck them. There were so many condoms on the floor. So many girls. In fact, too many. At night, in the field, these girls would go…” (Thompson, interviewed in October 1999)

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64 This interview was conducted in “pidgin” English. Luke was answering my question of what kind of relationship he has with Hungarian women. Here, he was extolling his sexual virility, stressing that his sexual prowess was so good (“de rod”) that he could do and ask for almost anything. This was based upon his understanding that his partner was conscious of the fact that he was the best and would do anything to keep him.
All my respondents, being church-going Christians, were aware of the moral implications of their acts. They knew what they were supposed to do, but concluded that in order to survive in Hungary, they would have to step out of the prevalent idiom of sexual morality, so as to be able to continue to stay within the legitimate spheres of society. For them, this was the alternative to drug-trafficking and was considered the lesser of two evils. They all proffered the explanation that these girls were aware of this dynamic and were only after one thing: sex with a black man. Therefore, it was only right for the men to sell their blackness as a “commodity” to the highest bidder. This transforms the role played by public social arenas such as the night-club Maszk mentioned earlier into “markets” where people go to “buy” and “sell” commodities.

Blacks’ “deviant” activities are used to confirm Hungarian society’s scepticism and rejection of these people. The preponderant stereotypes are justified because many of the values and motives underpinning the strategies employed by the black subaltern are considered as part of their “culture”. The apparent lack of morality, miscreant sexual behaviour, loud-talking, aggressive posturing, oppositional style etc. are viewed as sub-cultural indices denoting an incompatibility with mainstream society which cannot be bridged. The actions of this visible minority, therefore, challenges all that the mainstream has been able/allowed to take for granted, thereby hinting at a subterfuge of some sort. The conclusion that the mainstream draws from this is that the current situation needs to be discouraged and stopped, and this is perceptible in a variety of actions and responses displayed by the indigenous population.65 The association of subalternity with conspicuous sexuality and petty crime is similar to the perception of Roma by the majority population, but in this case informs their relations with immigrant newcomers.

CONCLUSION

You are lucky. You are from Britain, so you have more choices than we do. Yes, you are black as well, but you did not come here as a refugee. I want to work but I cannot. I am not a recognised person in this country. If I want to work, I will have to do all the shit jobs that the Hungarians do not want to do. I am exploited by them, but I have no choice. If I get the chance, I will leave this country. I have seen many bad things here. But I cannot go home. I would be in big trouble if I did. No, that is not an option. I will have to just stay here and hope that it gets better. (Victor, interviewed in November, 1999)

For various reasons – ascription by an unfriendly majority population and shared experiences of contact with Hungarian institutions that are central to their ability to remain in Hungary – Black Africans in Budapest are being pressed together into a shared social field.

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65 Some of my respondents stated that they encountered hostile reactions, whilst out with their girlfriends, from Hungarian men in public places like bus-stops, shops, and even in the club Maszk. This does not discourage them, however, from seeking the attentions of Hungarian women.
This field is characterised by a – mainly sexual – “subculture”. Blacks are conscious of its problematic nature as the shared identity and experiences that inform it are rather accidental. Yet this shared identity is likely to remain important as long as they keep hitting a “brick wall” when they seek the support of wider Hungarian society. The people from the Hungarian mainstream think that they have no obligation to these people and view the compassionate efforts of NGOs in the field as meddlesome and ill-conceived.
At the very end of the 1980s Hungary opened up and allowed Western corporations to enter the domestic market. Along with the companies and investments came expatriates in huge large numbers. The focus group of the present study is American expatriates living in Budapest. The American community is one of the largest communities of Western expatriates in Hungary and also in Budapest. The number of US citizens residing in Hungary is estimated to be around 15,000-20,000, 75-80 per cent of which live in the capital city. The target group of my study is citizens of the United States who have come to Budapest and resided here for more than one year, and who are not of Hungarian origin.

My primary goal is to find answers to the following questions: How do they find their way in a strange environment – what is the process of adaptation? Is it oriented towards isolation or integration? What are the factors that influence the choice of strategy? Are they successful in their efforts to cope with the unfamiliar environment, and what are the reasons for success or failure?

I conducted six face-to-face interviews. In selecting the interviewees, my primary intention was to find individuals who represent different types of expatriates in terms of age, sex, occupation, motivation in deciding to move to Hungary, and marital status. Some of the interviewees I had already known, others I found through friends.

Allison is a homemaker. Her husband was born in Hungary but emigrated in the early 1970s. She spends a lot of time taking care of the house, transporting her two daughters to school in the morning and home in the afternoon. She also spends time in the American Women’s Association of which she is the vice-chair. She coaches a competitive tennis player as well.

Chris came to Hungary to teach English as a second language and learn Hungarian. His wife is American and also a teacher. He previously worked at a state secondary school but now he works at a language school, and he also teaches at one of the international kindergartens. They have bought a home in Budakeszi.

David arrived as a corporate expatriate in 1995, for a limited period of time, working mainly with expatriates, but also some Hungarians. He moved to London for a year but last year returned in an early-retirement mode to write some books, a passion of his.

Ron is the pastor of the English-language Church Danube International Church. By the nature of his job, he is obviously surrounded by expatriates, mostly American and

66 This is a shortened version of a thesis paper written at the faculty of American Studies at Eötvös University.
Canadian citizens. He came to Hungary with his wife, Barbara, in 1998. Ron and Barbara were interviewed together.

Steve came to Hungary nine years ago as a journalist. Now he has his own construction company. He works exclusively with Hungarians.

Ted came to Hungary in 1995 to work as a consultant for 1-1.5 years. Then he decided to stay. His three children and divorced wife live in the US.

EXPECTATIONS

The fall of socialism and the subsequent changes played a major part in bringing American expatriates to Hungary. All of the interviewees were attracted by the changes. Some of them were brought by curiosity: they wanted to witness and participate in a “once-in-a-life-time” process: “...the pulling down of the wall was going to be, I thought, the biggest change happening in my life-time and I wanted to participate in it somehow...” (David). In other cases political and economic changes played only an indirect role, for example by the creation of new business opportunities.

Most of the time people have not only one reason for coming to Hungary, rather it is a multi-dimensional issue. Ted, for example, listed 5 reasons for coming here: “It was a good job, I liked it here, I wanted an international experience, and I needed the money. [Also] We have a chance to be sort of at the cutting edge of history here.” It is also possible that reasons named by the interviewees for coming or staying are not necessarily the actual primary motivating factors – which might be invisible for a while even for the person involved. Chris’s case seems to be a good example. “The motivation for me moving to Hungary was twofold: it was to teach English as an experience, and an experiment, and to study Hungarian as much as I could.” But it seems that beyond curiosity, learning Hungarian and teaching English there is also an emotional factor: a preference for Hungarian over American culture:

I never really felt comfortable with American culture and I think it’s getting worse... People are running their lives like businesses. And I think they tend to run their personal relationships like businesses relationships. And I think this is a mistake. Hungarians run their businesses like personal relationships. And this is much much better. At least I like it much better. I think the culture is much more emotional. It’s much less rational. Much less logical, much more based on group of people’s feelings.

All the interviewees came with the intention of staying only for a couple of years. It can not be known whether Ron will return home at the time planned, since he came a little more than a year ago. But all the other interviewees ended up staying much longer than they thought they would. What motivated them in their decision to stay here? Steve and Ted have more or less the same reason for not going back to the US: they have built a life here. They feel at home in Budapest. It is a kind of inertia: they have no reason for leaving, in fact, going home could be the worst option. “I’ve built a life. I have a lot of friends now here, I have a company, an apartment... I have no reason to go,” says Steve. Ted comments: “But the real thing is now I’m comfortable living here. And I don’t know if I’d be comfortable living back in the US or not.”
Allison’s family has stayed longer in Hungary for similar reasons, because “when [business] starts to go well, then you stay with it.” But whereas in the former cases it is the feeling “this is home” that makes those two people stay, for Allison it seems to be only a practical issue without any emotional element. Chris has also built a life here, but his reason for staying is not the lack of impetus, but the fact that “I really like where I am now. I made a conscious decision and poured all of my emotional and financial resources into coming here, and I don’t regret the decision at all.” David’s motivations for coming back after the year he spent in London are very different. He has not “built a life” here or anywhere else. He feels comfortable wherever particular people that he loves are. So for the period of time he wants to spend in “mid-life retirement” he came to a place where he has close friends and feels comfortable.

The fact that five out of the six interviewees stayed longer than they had planned, may allow us to see more deeply the connection between motivation and adaptation. Comparing behavior before and after the decision to stay, a change in adaptation behavior can be observed in three of the interviewees. Motivations have changed in four cases. Let us look at each individual separately in order to understand the relationship between motivation and behavior (Chris and Ron are not discussed here, because their motivations and behavior have not changed).

Allison’s family is still staying in Hungary for practical reasons. The date of return to the US gets delayed all the time. In the last couple of years her family has become very much involved in Hungarian culture, but she feels isolated. Probably that is the reason why the American community has become very important to her recently. It gives the feel of home, where she belongs: “After a while I felt like it was nice to be able to shoot the breeze with American people without having to slow your modulation down and your English you speak with your slang. I’m in with really fine people. That you do things together.”

David, after returning to Budapest, became more involved in the local society than before: he teaches at a school, deals with all his administrative issues by himself, uses public transportation instead of taxis. With the exception of teaching, which is “all for my fun and pleasure,” changes in behavior are attributed to financial reasons. If he could afford it, he would not deal with all these things himself.

Steve’s adaptation behavior does not appear to have changed over the years, though his reasons to be here have. When he arrived in Budapest in 1991, he thought it was a temporary job, traveling around in the region. After half a year he made the decision to settle down for an undetermined period of time. He did not have a plan about when to go back, so it was not like for many corporate expatriates who know that “I am here for two years, so this particular effort is worth making.” Also, at that time the presence of Westerners was a new phenomenon, the establishment of the institutional network of the American community had just started. He did not work for a large company that could have provided social and instrumental support. If he wanted to deal with the difficulties of local life, he had to learn the Hungarian way as quickly as possible. So he did.

Ted came for a specific job for 1-1.5 years. He tried to learn the language, but did not get far with it. He may have thought it was not worth his while investing so much time and energy into doing something he would not be able to use later. Now, after 5 years, he realized “this is home” and that not speaking the local language is a huge impediment.
His social sphere has changed since he decided to stay. He joined a golf club and a tennis club, and they are very important to him, because he now feels that he belongs there.

Three out of the six interviewees – Ted, David and Allison – claimed that they had had no or low expectations. Their narratives, however, suggest that they had expectations, some of which were unrealistic.

Allison had heard a lot about Hungary from her husband. Also, they had visited the country three years before they moved here, so she saw what Hungary is like in reality. She may well have felt that she knew what to prepare for. She expected the Hungarian experience to be like an adventure. When visiting Hungary in ’87 she saw that Budapest “was a little bit on the edge.” Then in 1990, when they arrived in Hungary everything looked even more exciting:

…what was really interesting was the feeling of complete… not anarchy but you could do whatever the heck you wanted to do and nobody cared… That was a really interesting time, kind of like… like Casablanca. You could… because the laws changed, so it was this openness, anything goes.

She had been focused on these positive images, not thinking about potential problems. The realization that life in Budapest was not only about adventure came as a difficult and painful one.

David had expected Hungary to be gray (based on his experiences in Prague) and although Hungary looked gray at first sight, he soon realized that Budapest is a colorful, enjoyable cosmopolitan city. With people he had the reverse experience:

I thought people would become more open… maybe I expected too much of people having this open attitude of saying “Yeah, OK, we need to learn a new way of doing it, yes but there are lots of opportunities and let’s just find the solutions, in almost an American way, opportunity, opportunity, opportunity. So let’s go out there and grab it.” I think one of the most difficult things in the first year was constantly meeting people who were not happy with the changes and being surprised about it and also them having good reasons for not being happy with the changes…

Ted made contradictory comments on his expectations:

I didn’t really have any [expectations]. I guess that’s why I wasn’t disappointed. I didn’t know what to expect, but I knew I was going to come over here and pretend to be somebody big and important and know-it-all [versus] I guess having been here for short assignments prior to coming here permanently was some sort of a training. And I sort of knew what to expect.

The fact that he had visited Hungary before for short assignments might have given him the false impression that he knew what to prepare for, “but it didn’t take long to discover that there is a different way-to-do here, that people just see things differently and that causes things to be done differently and you have to learn that.” Ted soon realized that Hungarians were not willing to prostrate themselves to “experts”: “A
prostitute really gets more respect than a consultant. Most people think prostitutes are more honest than consultants.”

The other three interviewees have had fewer disappointments, for three different reasons. Chris had had expectations, but they were either personally irrelevant (industry, architecture), were met, or were very low.

Peoplewise, I got exactly what I expected. I think that the Hungarian mentality was accurately represented with everything that I came across….But in terms of the culture I didn’t expect to find such a highly developed educational system, for example the universities, with so many students coming from other countries to study here, especially medicine and chemistry. I didn’t expect to find people to be so open actually, because really every one is so… I think it’s a culture that tries to include people rather than exclude people.

Ron is the only one in the sample who is an experienced expatriate: “We have lived overseas before so this is not new for us. We have lived in the third world, in Haiti, so we knew what it meant to live cross-culturally…” Being a pastor of an English language church, where his work is to provide the social and emotional and spiritual support for other expatriates, and where the same community can give similar support to him, the significance of the local society is minimized. It is, therefore, easier for him to appreciate Hungarians for what they are and not to take anything for granted.

Steve had learned quite a lot about Hungary before coming here: from a friend who had traveled around Hungary and told him about it, from a Hungarian professor of his, and from his university studies of European history. Maybe such prior knowledge made adaptation easier. But the fact that he arrived here with the intention to travel around as a journalist so he could take his time to observe what it was like to live here without any pressure and made the decision by himself, probably had a more important role in his success.

Two of the interviewees (Allison and Steve) have lived in Budapest for more than 9 years, three of them (Chris, David, Ted) arrived in 1995 so have five years of experience (in David’s case with an interruption of a year), and one person (Ron) has been here a little over a year. All the interviewees (except Ron) stayed longer than they had planned to. Some of them have become more integrated over the years, some of them have not changed much in this respect.

Time is certainly a factor in adaptation, especially in the first 6-8 months (three interviewees commented on the length of time they needed to accommodate themselves enough to feel comfortable in Budapest; they said that had taken about 6-8 months), when the person has to go through the most difficult phases of adaptation, struggling with all kinds of negative feelings – confusion, loss of confidence, etc. – and has to learn the local way of thinking and doing. Data provided by the interviewees do not support the assumption that length of stay and integration are in any close correlation: stagnation and processes in a contrary direction can also be seen.

A change of motivation to be in Budapest may influence the direction and the speed of the adaptation process to a great degree. In the case of Allison for example, who at the beginning was very much willing to integrate, the realization that some of the cultural
differences are unacceptable for her caused a lot of frustration and a feeling of isolation and loss of identity. This consequently reversed the process: now she is back in the shelter provided by the environment of the American community. Another good example is Ted who originally came for 1-1.5 years. Having some interest in the culture and opportunity to meet Hungarian colleagues, he began to adapt to life in Hungary. His wife’s joining him in Hungary for a year or so turned this process around, a sign of which was that they moved from the city center to an expensive garden neighborhood in Buda. After she returned to the US, Ted decided to move back downtown, where he could once again join the city’s life and go to restaurants, movies, etc. After having decided to stay in Hungary, he extended his social relationships (e.g. joined a golf club).

In adapting to Hungarian culture, interviewees attributed great significance to previous experiences requiring adaptation:

…my father worked for the military so it means we traveled around a lot… So the reason I think it’s important background is that I’m accustomed to being slightly rootless from a fairly early age… The benefits of being a rootless person is that wherever I go I’ll find friends, I’ll find things to do, I can enjoy myself. (David)

We have lived overseas before so this is not new for us. We have lived in the third world, in Haiti so we knew what it meant to live cross-culturally. (Ron)

I think I can adapt pretty well to the situations. I spent a lot of time traveling. I’ve got used to being in foreign places with different people. (Steve)

WHAT IS “SUCCESSFUL” ADAPTATION?

I am examining two dimensions of adaptation: the “how” and the “how well”, in other words the way my interviewees deal with adaptation difficulties and the extent to which they are “successful”. The first one is their personal approach to adaptation, the strategy they choose (either consciously or unconsciously): isolation or integration. The second one is actual behavior, that is how successful they are in adapting.

First I look into the question of success: “how well”, because it is easier to understand the strategy if we know the goal, in this case successful adaptation. We have to start with defining the concept of “success”. Then we will examine how they evaluate their own success. After that, we will examine the objective side of success. There are three aspects assumed to indicate how comfortable they are with living here: 1. their view of the host culture; 2. the level of frustration and the use of tools to deal with frustration; 3. things they miss from their home country.

What do we call “success” in adaptation? Only two authors addressed this question. Cohen points out what success is not: that mal-adjustment can be expressed in boredom, depression, anxiety, regression, psychosomatic symptoms: preoccupation with food, health, sanitation, as well as hypochondria or drinking. Adler’s theory of the five phases of adaptation claims that the adaptation process is completed when cultural differences are accepted and enjoyed, and the expatriate experience is seen as an opportunity for
personal growth. If characteristics of the first few phases (such as feeling of helplessness, anger, constantly comparing host and home culture, etc.) are still present, it indicates that the person is not (yet) well-adapted.

Some of the interviewees expressed their opinions on what they consider successful adaptation. As Ron put it: “We’re not frustrated and we’re not miserable, we’re content and happy to live here. I guess that’s successful.”

Relying on the above, we shall call “success” in adaptation a condition where (1) the foreigner is content with living in Budapest, not regretting the decision to move here; (2) she accepts, values, and enjoys cultural differences; and (3) he has a low level of frustration with the host culture.

All of the interviewees consider themselves very successful in adapting to their new environment. Only one of them admitted that he had not been completely successful: “My major area of failing is language. But I think I’ve been fairly successful. I feel like Budapest is home,” says Ted. All others say that they are completely happy with their life here. Chris puts it this way:

I really like where I am now. I made a conscious decision… and I don’t regret the decision at all. It was a good move. I was right. I could have been wrong, but I was right. I’m very happy about that. It’s been 100% successful. More so than I hoped.

Hungarians are considered warm, friendly, fun-loving people, very bright and capable, who have the capacity to learn and the mentality of “let’s go for it, let’s get it.” They are not rigid or frugal. Hungarians are typically honest: “…in the beginning especially we made mistakes we handed the people 10,000 Ft notes and they would give it back and say “no, no, no, no,” says Ron. Three of the interviewees said that Hungarians were closer to the Mediterranean/Italian type, especially the men. Hungarians are serious, more skeptical and they think about things a lot. They are also very social. Hungarians are emotional and they show it too, which can be offensive.

Hungarian women are found culturally different by five of the respondents. The women are beautiful/attractive/sexy who like to flirt and tease, but are also dangerous: “there are young Hungarian women who are willing to break up the marriages” (Ron). According to Allison, Hungarian women are less independent than American women though they are on their way of gaining more equality. Steve has a different opinion on this issue:

Yes, you should walk the women home, open the doors, bring them flowers; I used to do these things. And most Americans here think it’s strange. But it’s not good for Hungarian women. But they don’t know it yet. Because you end up too dependent on the man. And they neglect you and laugh. And when you get divorced when you’re 35 years old you finally have no career, you don’t know what you want to do. It’s very difficult for them to survive. None of the people take her seriously.

According to Chris, Hungary is an “inclusive culture.” One probable reason why he has drawn such a conclusion is that he speaks Hungarian very well. About the significance of the language Chris says:
I didn’t know what to think of people. And I couldn’t really communicate with the people until I spoke some Hungarian. Lots of people speak English but it’s not really the same. You can’t take part in something if you don’t speak the language… Before I felt comfortable talking, no matter how well or how badly I spoke, I didn’t really have a chance to form such opinions on people’s personalities.

Some other characteristics mentioned concerned the whole country or the capital city. The high quality of the educational system, cheap living and good public transportation were the positive, while corruption, pollution, bureaucracy, and a slow pace were the negatives. Ron found finds the ethnic languages in of Central Europe completely incomprehensible. Both Ted and Steve found pessimism an important cultural trait. This is Steve’s interpretation:

Because most of the people I know, I see, not all of them, but they do suffer from I don’t want to use the word “pessimist”, but they can find obstacles that don’t exist. And they get too concerned about this and it slows them down, and makes them frustrated. This is a kind of Hungarian stereotype. Pessimist, you’re killing yourselves too much, and drinking a lot. I don’t have any problem with drinking. But killing yourself is not something that interests me.

Ted found that rules must have some special role in Hungarian culture, but what that role is sometimes impossible to determine:

Rules here are very important. Except when people don’t want them to be… When people don’t want to do something that I want them to do, they tell me there is a rule against it. But yet, if they don’t want to pay their taxes, or they want to drive somewhere that’s they’re not supposed to drive, or park somewhere they’re not supposed to park, or drive too fast, whatever, they do it. So I still don’t understand for sure the place and position of rules in the culture. When I first came I thought it was entirely rules driven. But it’s not. There’s a lot of individual initiative and people use rules as part of the individual initiative. “Oh, you can’t do that, there is a rule” translates “I don’t want to do that.” I guess in a way it’s polite because instead of saying “You’re crazy. I’m not going to do that.” They say “there’s a rule,” so maybe it’s a way of being polite.

According to Chris, there is a phenomenon characteristic of all Central and Eastern Europe and this is an important part of the Hungarian experience:

If I want something, there are the four stages of Central and Eastern European problem solving. The first stage is that the person you are talking to in the office, in the train station or wherever tells you that what you want is impossible. Then you start arguing with them. Then they say that there is a very slight chance but they’re not sure and then they have to talk to somebody else. That’s when the curtain usually shuts. The third stage is when they say you have this option or this option, you can do one of these two things. And the final stage is when they act as though there wasn’t any
question in any one’s mind whether it’s possible, it’s the most natural thing in the world that you’re going to do this. In a customer service culture, like the US, people will be right there with a huge amount of information so that you can make the decision yourself, and they’re smiling most of the time. Other people are telling us “don’t let them say that, ask them, tell them that you have to go, tell them that it’s really important, or tell them that you don’t have that much money” and you do that and you find out that it’s actually what everybody else behind you in line is going to do. The rules will be bent as far as possible for each person. That’s why it’s a particularist culture. In the US if they say “no” it means “no”. This idea that you’re negotiating with this official representative even if it’s some 65-year-old woman who wants to finish her knitting, you still have to manipulate her and try all these strategies and tactics.

Most of the sources of frustration mentioned are connected to the behavior of Hungarians: bureaucracy, corruption, a slow pace of getting things done, lack of political correctness with respect to minorities and other groups, rudeness, bad service, littering, overcharging tourists. Other complaints included locals not listening to expatriates in business situations and refusing to speak Hungarian with foreigners. Objective, that is, not culturally specific causes of frustration included the inaccessibility of language (i.e. inability even to read street signs), pollution, and the unfamiliarity of things (such as consumer goods).

As long as one considers cultural differences only obstacles that you one can overcome (e.g. learning the language), or peculiarities that you one can get used to (e.g. lack of service), these differences are relatively easy to deal with. But if you one takes a certain behavior as the manifestation of a basic value which is possibly in total opposition with your one’s own, then it can seem to be threatening your one’s own values, ultimately your own or even identity. For Allison littering is such a problem:

…one of the things I’ve found difficult in the Hungarian culture is the attitude of at times apathy. “Oh well it’s Hungary, it’s just the way it is” and that I have a very hard time accepting. I’m so unaccepting of that attitude. I think it’s being American, because we’ve never been raised like we can’t do something. This is part of freedom… This attitude of “well, it just is.” An example is with the garbage, the littering. When I pursue that at times and people “just don’t garbage” and they don’t want to pick it up, they don’t want to do anything about it. I’ve gone crazy about it. I’ve tried really hard to explain that “you must try to come together and this is now your community, this is your home, this is your forest, you have to take care, you have to want to care of it” this has come up at times but “it’s just the way it is, but it’s Hungary, it’s only Hungary.” I just hate that. It’s very engrained… An American person growing up and born into a home in a country of total freedom, and our attitude of being permissive to… if you want to sing, you sing, if you don’t want to do your schoolwork and you want to do art work, you can do that. It’s very… total opposites. I have a real problem with that being able to accept that we are different in that way. It’s not always possible, it’s not going to happen. This is their culture, it may not happen the way you want it to happen. It’s going to happen their way and it may not happen. That’s hard.
In Allison’s view, the apathy of Hungarians as manifested in littering is in total opposition to one of the core beliefs of Americans: freedom. The same might be the case for the concept of time. Four out of the six interviewees complained about things taking much longer here than back in the US. Here the American belief that “time is limited” contrasts markedly with the idea prevalent in Hungarian culture that “time is plentiful.”

Although rules can in general be learned, many foreigners might feel that the world around them is totally random. This can create a lot of tension and anxiety, because it makes the person feel insecure: he can never be sure what will happen in the next moment. One of the interviewees talks about this:

Everything probably has a reason even though you may not know what it is, you may disagree with it when you find out, but at least everything that happens to you is not random and arbitrary, and negative. Sometimes there’re some reasons. (Ted)

In dealing with stressful, frustrating situations such as being an expatriate, people tend to use different “tools” to overcome difficult times. The interviews show a wide range of such tools. These tools are very important for dealing with the strangeness of the environment. They enable one to find “logical” explanations for things that seem arbitrary and therefore threatening.

Ways of dealing with difficulties and frustration may be divided into two categories:

Minimizing cognitive dissonance / rationalizing / avoiding
- “the same would happen in other places” (e.g. people in crowds are rude)
- “someone else takes care of that” (obtaining residence permits)
- “think positively” (life became richer, but it is still hard)
- “Hungarians might be doing it right” (political correctness)
- a sense of humor (e.g. self-irony: laugh at yourself)
- denial (we are not frustrated)
- sharing one’s frustration with locals
- ignoring it (mail in Hungarian)
- “it is not a big deal” (overcharging)
- finding excuses (why something does not work well)

Acceptance / adaptation to local culture
- “you just have to cope with it” (isolation)
- “the problem is yourself, find out why” (unrealistic expectations)
- “that’s life” (corruption)
- “you have to pay the price for sticking to your own values” (corruption)
- finding explanations why it is so (corruption)
- finding alternatives (sign language)
- taking responsibility (language learning)
- “be sensitive to other’s feelings” (differences of status)
- “learn the rules and the culture” (finding shortcuts)
- fixing problems (something does not work well, then fix it)
HOW TO ADAPT SUCCESSFULLY?

In this section we will explore what kind of “strategies” our American expatriate interviewees use in order to adapt to the foreign environment. What I mean by the word “strategy” is their principal approach to adaptation difficulties: do they want to isolate or integrate themselves?

All of the interviewees were very happy to give their recipes of success. This is the question I obtained the most focused, organized answers to. Since their opinions on the issue are so well formulated, it is best to allow the interviewees to speak for themselves.

Recipe 1.

Take some Prozac. Take lots of drugs… You have to be open, you have to be patient, and you have to respect the fact that you’re in a different country and culture… And understand that you can not look at things from just one angle, which is maybe going to be the American way. You have to accept the fact that this is a different culture and their way of seeing things and doing things can be just as legitimate, and just as valid even if it doesn’t make sense to you. Just get out there and just try to experience, don’t be afraid to try some new things, and expose yourself to new places and try to learn the language. Definitely, try to learn the language to have a few words you can say, because that makes a huge difference learning a little bit so that you can converse with your neighbor or somebody. It always helped because it shows that you are making an effort. Try and enjoy yourself, and not take some Prozac. (Allison)

Recipe 2.

You have to simultaneously believe that the people are the same as you and different than you. People are incredibly complicated, and contradictory like that. Not at the basic level but in overlapping layers: I’m like the people around me and I’m not like the people around me, and I have to remember that. If you come from the US you should be prepared for a culture that does not give you superficial positive reinforcement as much as the US does… You should be prepared for the fact that Hungarians will draw on the negative more. That doesn’t mean that that’s all they see. I know that they see more. Don’t try to adjust too much. I think people stress themselves out trying to adjust too much. I shouldn’t try to make myself into a different person. Don’t rely on your partner for all of your emotional support. That you have to learn to step outside and ultimately that’s what will make people your friends is when you build up a history of supporting each other. Trusting people. (Chris)

Recipe 3.
My recipe is to be open, just to be extremely open. Every time you make a judgment or get… frustrated about something, you either realize that that’s just life, different rules, and it’s OK that there are different rules, not to judge these different rules, and to learn about those different rules as quickly as possible… So I proactively try to learn as many of these as possible, as quickly as possible. The other thing is to learn as much about the differences of cultures and as quickly as possible. And again not to judge them but just understand them. Because the more perspective you have, the better. When I don’t feel I have a perspective I go out of my way to be a good listener, and again not to be judgmental and to look like an American. So the more I try not to look like an American, and the more I listen to the local people, everywhere I’ve been, they like it, they respond to it and they would tell me more… I don’t get upset with them, I listen, I still try and find a language that we can share. I will even sometimes act the same way that they do and get emotional the same way or not emotional, depending on the culture, in order to try and create some level of bond, to understand from their point of view… I think that’s what acclimating to a new society, a new culture that’s what makes me personally happy and successful, because I understand what’s going on, why it’s going on. (David)

Recipe 4.

I think they [expatriates] have to be flexible. And willing to be laughed at, if you’re not willing to be laughed at, if you’re going to be upset if someone laughs at you… I think you have to be relaxed. And I think it’s important for expatriates to see the value and the worth of the people who live in the host country. If you don’t see the value and the worth in Hungarians and you’re trying to live here, you’re going to be miserable. Being Christians we see the value of other people, how important they are to God. So that’s what makes it easy. (Ron)

Recipe 5.

Think before you open your mouth. And take time and pay attention and see what’s going on around you. You have to do this all the time anywhere you are. Don’t let yourself believe in stereotypes. Don’t believe in generalizations. If you start to do this, you create fake barriers that don’t exist. Some of them may be good, but it’s still fake. If you tell yourself something like “oh, Hungarians are good, happy, friendly people” then you get really disappointed when you meet one that’s an asshole. Or if you tell them that all of them are like this, it’s never true. You have to remember this. Wherever anybody goes. (Steve)

Recipe 6.

Try to identify all your preconceptions and burn them and let things develop. Don’t believe that anything is obvious… Everything probably has a reason even though you may not know what it is, you may disagree with it when you find out, but at least everything that happens to you is not random and arbitrary, and negative. Sometimes
there’re some reasons. Try to be open, try to have fun. Learn the language… I don’t let the irritations bother me. (Ted)

Expatriates seem to have their recipes ready with a lot of different “ingredients” to be given to an imaginary new expatriate moving to Budapest. Most of the advice is not specific to Hungary, but could be used in any new environment. Altogether, the six “recipes” included 28 different pieces of advice, which could be divided into five categories: attitude (e.g. respect for cultural differences), mentality (e.g. flexibility), action (e.g. finding a common language), tools (e.g. language, drugs), learning (e.g. rules, culture).

If we put together what our interviewees said, we get a procedure as if out of a manual.

Steps of the learning process:
• Forget what you have learned about the subject before: “Try to identify all you preconceptions and burn them’, “Don’t let yourself believe in stereotypes.”
• Open your mind and listen: “…take time and pay attention and see what’s going on around you,” “…I go out of my way to be a good listener.”
• Learn the material: “learn about those different rules as quickly as possible… learn as much about the differences of cultures and as quickly as possible.”
• Practice: “don’t be afraid to try some new things, and expose yourself to new places.”
• Apply: “Try and enjoy yourself,” “try to have fun.”

Preconditions – beliefs without which you can not make it:
• “You have to simultaneously believe that the people are the same as you and different than you.”
• “Don’t believe that anything is obvious.”
• “[Believe that] Everything probably has a reason even though you may not know what it is,… everything that happens to you is not random and arbitrary, and negative.”

Appropriate attitude: Be open, tolerant, relaxed, flexible. Respect, trust, but never judge the hosts.

Excerpts from the curriculum: “be prepared for a culture that does not give you superficial positive reinforcement as much as the US does… You should be prepared for the fact that Hungarians will draw on the negative more. That doesn’t mean that that’s all they see.”

Supplementary material: language

Tools: Prozac, other drugs, wife – (do not overdose!)

Attention: do not overdo it: “Don’t try to adjust too much.”

ADAPTATION OR INTEGRATION?

Expatriates like to point out that they do not conform to the negative stereotype of the expatriate living in his insular world. Here is Allison’s definition of that type:
The typical American... They’re insular. They’re happy, they enjoy their time, but they are somewhat separated from the community. I’ve met some that are very demanding, and very intolerant of just being in the place they’re assigned to, their mentality, and those I’ve really been turned off by, their life, while they’re living in that particular city evolves around the school and the things that are going along with school. That’s their choice, that’s their way of doing it. They’re very content to do it, but it’s insular, it’s separate from the city, until they move to the next city.

Steve and Allison try to be not very judgmental about them, whereas David and Ted describe them in very negative terms: “a bunch of snot-nosed superior Americans,” says Ted. “...it makes me feel uncomfortable.” David has similar negative feelings toward them: “I don’t want to live with that negative image [of expatriate Americans] because it’s negative to me obviously and I don’t want to be associated with it. I will often deny my Americanness.”

All of the interviewees have their own particular approach to the issue of integration versus isolation. None of them wants to be complete strangers, but nor do they want to “become Hungarian.” Still, they follow different other strategies. Chris can be described as the most “integrationist” on this scale, and Ron, on the other hand, as the most “isolationist”.

Ron wants to understand more about the host country and society, but he feels that he can only be a visitor: “So we’re just visitors here. We understand that... We want to be welcomed here.”

Chris would like to fit in, but is aware that he will always remain an outsider:

“I’ll always be a foreigner. It’s OK. I just want to be a foreigner who is accepted. I feel that with the people I know I’ve gotten to that point. I want to be taken for granted. The same way I take immigrants for granted in the US. I realize it will never be like that, because it’s a different kind of country. Totally different in that respect. It’s also part of Europe. People live in each other’s countries. It’s happening more and more... I will always be a foreigner here, but I think the hard part is over.

David enjoys getting to know different cultures. He feels that home is where his friends are. Therefore, he doesn’t make any effort to integrate or keep apart. Allison, on the other hand, feels that it is a question of choice: “You can choose to be either completely removed from the native city [i.e. the city of the locals] you’re living in or you can integrate but you are still kind of dependent on each other.” Ted, like Chris, wants to feel home in Budapest. He thinks his situation in Hungary is a little strange: “...it’s difficult to call a place home when you don’t really speak the language, but still I feel like Budapest is home.” Nevertheless: “It doesn’t make any sense for me to isolate myself from people or events at home.”

Steve’s example is the most interesting: he seems to be the one who has most successfully adapted to everyday life in Hungary, without ever feeling that his American identity is in danger. He does not want to isolate or to integrate himself, but lets things develop naturally. This relaxed attitude may be the reason why he could so successfully adapt to Hungarian culture. What does this “successful adaptation” manifest itself in?
The only tangible effort the interviewees have given an account of is language learning. All of them have tried to learn Hungarian. Only two of them succeeded. One of them is Chris whose primary reason for coming to Hungary was language. So it is not a surprise, after more than four years of intensive studying, that he actually learned it.

Steve, whose Hungarian is also very good, had a totally different approach to language learning:

[I learned Hungarian] by accident. I didn’t read a book, I didn’t take lessons. I didn’t learn from my girlfriend... I think 9-10 years ago when I came here there were less people that spoke English. So all the things you wanted to do, if you wanted to do them, you either spoke Hungarian or you didn’t do them. If you wanted to go buy cheese in the store you had to learn the word for cheese.

The significance of family, spouses and partners is twofold: they can function as a sanctuary that provides emotional support, and therefore facilitates adaptation to the new environment, but they can also serve as an impediment, making adaptation more difficult. A spouse or children unhappy with their lives abroad are not a help any more, but an extra difficulty one has to deal with. Sometimes it is impossible to solve such a problem, and the individual has to decide which one to sacrifice: the relationship or living abroad.

Another avenue is having a Hungarian partner or spouse, which one would expect to provide easy access to the local culture and create an emotional bond to it and therefore increase the willingness to learn about it and as a consequence reduce negative feelings toward the hosts.

Let us first see the sanctuary-impediment aspect. Five of the interviewees (Allison, Chris, Ron, Ted) thought that families/partners are an important factor in personal success in adaptation. Ron expressed his views on the issue in general terms:

We think that family is the most important. Without a strong family I don’t know how anybody survives anywhere... For a number of years I was involved in the US in finding people jobs overseas and helping them come overseas. One of the things we used to say to them was that if things are not right at home don’t go overseas, they’re not going to get better, there’re going to get worse.

Chris and Ted give examples of the general tendency for spouses to rely on each other heavily as sources of emotional support. They both see this tendency as a potential danger.

People say to me “don’t you want to go somewhere and speak English?” and I say “No, because I go home and speak English with my wife, and we talk and talk.” She is very much a sanctuary in one sense. But we have to be careful about dealing with each other like this... I, on the other hand, find that a lot of the humor that I make might be culturally dependent on growing up in America. I can only get the response that I want, and the gratification from her... Not just because of the language but because of the background information. If someone comes in and says “Mi újság a Futrinka utcában?” [What’s the latest news in Futrinka street?], it doesn’t make me laugh because I don’t have the background unless I understand this particular cultural
reference. And so much of people’s conversation is like that, that it’s really underestimated how important it is. So in that sense I do rely on her for sanctuary and she relies on me as such. (Chris)

I come home just beat to hell because I was in the office at 6 o’clock and here it was 7 o’clock at night and I just wanted some time where I can sort of be alone and unwind, and that was difficult because Jane had been alone all day and she was just getting warmed up and she was looking forward to the opportunity to interact. That’s fair, I can understand that. But it was maybe a little bit of tension. I don’t think it was as big as other issues, but it was an issue. (Ted)

Ted learned the hard way what expatriate life might mean for a family:

I decided I wanted to stay, family was a little skeptical, a lot skeptical, and my middle daughter feels like I had abandoned her because I wanted to stay here. She was in college at the time, finishing university. My younger daughter is not quite as angry about it, but she feels like I’d missed the better part of her childhood. Now I’ve tried living here part time, living back in the US part time, and it strained our relationship. And we’re negotiating a divorce right now. That may be my mistake, I don’t know.

As to Hungarian partners, my assumption that they would help adaptation was not confirmed by the interviews. David and Steve have had a number of Hungarian girlfriends but both of them claim that it did not help in adapting to Hungary. Allison believes that “Probably it was easier for us to move, for me to settle in, obviously because it was my husband’s former country that he lived in and hopefully I’ve been more open and more tolerant.” It seems that in the beginning it did indeed help: her husband’s social connections and knowledge of the country made her feel comfortable. But as the years went by and they were still living in Hungary, she developed a kind of split personality with her two homes, one child going to a Hungarian school, the other to an international school, and her feeling that she does not belong to either side. She feels different. Different from Hungarians, different from other Americans in Hungary, different from friends back in the US. The frequency of protestations like “I am/we are not typical” or “I am/we are different,” together with claims of being isolated, suggests that she does not feel she really belongs anywhere.

Keeping in touch with the home country can be very important. Constant communication with family and friends in the US indicates a sense of belonging and functions as a source of emotional support.

For expatriates who move abroad only for a couple of years, especially if they remain more or less within the boundaries of the American community, it is probably not a question where they belong. But for those who have lived in Hungary for many years and have integrated into the host society to a high degree – “they have built a life here” – the question of “where do I belong?” might be a very important one. Cohen claims that integration into the host society can be dangerous: one can lose identity.

Chris, David and Ted: each has a different reason not to attribute a special importance to home. But they all agree that the US is not home (any more).
David is the rootless one. He does not feel the US to be his home: “Why do I not want to be in the US? Because I’m bored with the US, I think. It’s not multicultural enough. I feel stifled many times in the US.” His parents as well as his brothers and sisters live in the US and he also has friends there, but as he says:

I don’t proactively try to keep in touch with people from my past very well… I call my family once in every 2 or 3 months… I am pouring myself into whatever environment I am in. I don’t keep in touch or long for these things, these past friendships. I never feel lonely. I never feel abandoned. If I start feeling this, I’ll find a way to solve it… The benefits of being a rootless person is that wherever I go I’ll find friends, I’ll find things to do, that I can enjoy myself.

Chris likes to be “rooted” somewhere but he apparently has decided to cut old roots and grow new ones here in Hungary:

I don’t feel at home there. I feel like I’m playing a part, sometimes. So I feel like I know how to do everything, but it’s not interesting really. Interesting is a bad word. When I go home I get really irritable. I get really irritated with the way people are in the stores, in the shops. I get really irritated with the way people are dealing with me, because I think it’s insincere. It’s a customer service culture. And I don’t need that kind of service… My family have come here to visit and they will. My mother has come here and my mother and stepfather and sisters are going to come here in the future, this summer, which I’m looking forward to. That’s much more meaningful to me, when they come to me. Because they don’t understand my life here.

Ted’s case is again different. He rarely goes home to the US, although his family live there.

I’m comfortable living here. And I don’t know if I’d be comfortable living back in the US or not. I’ve been back several times… I’m always a little bit relieved to get back to Hungary. It’s interesting. I’m not quite sure what to make of it, to tell you the truth.

Two people in the sample – Allison and Steve – keep strong connections with their home, in spite – or precisely because – of the fact that they left the US more than 9 years ago. Maybe the reason why home is so important to them now is that they have built a life that is linked to Hungary with so many ties that it might make them feel that they are losing their identity. Steve finds it important to emphasize that although he lives in Budapest, he is still American:

I am not an expatriate. I am a foreigner living abroad. I am a patriot of the US. I haven’t deserted my country in terms of the way I look at things, the way I look at the world. The first thing I always think of is the US, family. All sorts of things come from the US. I’ll always be American. I used to spend a lot of time trying to say this to people.
Expatriate, I really don’t like this word. Maybe it’s a fine distinction, I’m not an expatriate, I am a current patriot, but I am a foreigner.

Allison and Ron are the only interviewees who participate in any organized “expatriate” activity. Allison is a member of the American Women’s Association and the American Club. Ron is by definition very active in the Church that he is the leader of. The other interviewees have only vague ideas about what is out there for American expatriates. Allison is quite familiar with the institutional network of the American expatriate community existing in Budapest. She believes that they have an important role for both the American expatriate community and the local society.

…the American community is one of the largest communities, as far as in a business sense and everything, we’re an important role model, so I think that it’s really positive, there’s now Women’s Professional Association, the American Women’s Association (AWA), the International Women’s Association, American Club which is a club of mainly social recreation… There are quite a number of foreigners that are also members, it’s like sport and social… there is the AmCham, and there are a number of private clubs, like the Lion’s Club. A bunch of the clubs are new and it’s very good for community. That’s one thing that Hungary and Budapest is missing and needs to reclaim, this is a sense of community, and by opening these private clubs it helps, if it’s historical, or any arts or something, because really thriving vital cities have the community is so important to help preserve the good aspect of the city. All these other clubs, that’s one of their primary focus, besides social, is to help do that and teach a little bit of that, show it just by examples. Americans did a tremendous amount. With the fine arts, with orphanages. I think they are great.

Ted has a very different opinion of these organizations:

Every now and then [I go to] an AmCham function or something like that, but I’ve only been in the American Club once or maybe twice since I’ve been here. It’s a bunch of people who… I don’t think they have the right attitude about being here. I shouldn’t make broad generalizations but a lot of the people I tend to run into at the American Club have sort of come to save the heathens from themselves, bringing enlightenment to the masses here.

Ron believes that the Church is capable of helping expatriates with their adaptation problems:

There are people who come here with very little cross-cultural preparation, maybe with their business so they probably have a difficult time and do need the community to encourage them… And their children are here, and what do you do with your children? It’s very difficult for children to live cross-culturally. Because when they go back home, they don’t fit. They are really different. So the English speaking Church is a way to kind of have the sense of community even for children that “Hey, this is a part of our home culture.”
There are some “American” or “expatriate” places in Budapest – pubs, restaurants, etc. – where “you can go and see all the foreigners if you want: Becket’s, Iguana, Fat Moe’s” (Steve).

Expatriates in general enjoy a *privileged status in the host society*. No matter if this status difference is more a perception of the locals or that of the expatriates themselves, it still determines the attitude of the two groups to each other and enhances separation. Status defines a role for expatriates, suggesting a certain path to be taken, though not everyone actually takes it. The attitude of the host environments is capable of attenuating or mitigating perceived status differences, and thus of reducing or increasing the chances of an expatriate taking a different path.

All of the interviewees perceived the status difference between Hungarians and Americans. Allison sees only the positive side of the role American expatriates play in Hungarian society: “[Americans] are also supportive, they do a lot of really good things for Hungary. Charities, orphanages, things we do… we’re an important role model, so I think that it’s really positive.” The other interviewees are aware of both positive and negative emotions the locals have toward Americans living in Hungary.

Locals have a love-hate relationship with expatriates generally… In some ways people have this esteem that they place on these other Western countries where they would like to live instead of, which is one interesting thing about Hungarians,… especially the younger Hungarians, they almost unanimously would not like to live in Hungary… So I think there are some images that they have of people of other countries. At the same time they also have lots of bad images to make fun of anyone who is also not Hungarian,… they always have lots of nasty stories how stupid they are. (David)

The “we-know-everything-better” mentality of Americans appears in some of the interviews:

I do know of expatriates who definitely believe that they are better than the locals and therefore it affects their treatment of locals and therefore probably affects the locals’ treatment of them. Lots of Americans feel that America is the greatest, biggest, most powerful, and they get to enjoy and they do enjoy being part of that, whether they deserve it or not. (David)

Steve has a slightly different view on this, he makes it into an objective factor without any emotional elements:

So I think what ultimately sets apart Western foreigners is that they have a much different mentality about what they can do in life. It’s not a question of intelligence, or anything like this… Right now I have the fortune to come from an economy that’s extremely successful in the world. And I can see how things work in one of the most efficient ways in terms of economy. It’s not a humane thing, because it makes people work too much, they’re too focused on money and they’re too focused on material
things. But I can see the representative of how everything works very well… because everyone there is obsessed about saving money, and doing everything the most efficient way, and the cheapest way, and it has to be perfect… So I can see that when I come here. Maybe a Hungarian that hasn’t left Hungary doesn’t see that the same way I do. So because of that and all these other foreigners that are here, they can see some things quicker because to them it’s normal and they see it “it’s not here”… This is the thing I think which really separates the social class of these foreigners, because some of them do have money, some of them don’t have money, some of them care about Hungary, some of them don’t care about Hungary, some of them want to get to know the country and integrate themselves, some of them don’t. So there is no one thing among them that makes them different. And a lot of them don’t have money. They don’t have any more money than the same Hungarian that’s coming out of university. Maybe they make 20% more, but it’s not a big deal. So it’s not so much of a money thing.

Not everyone identifies with this attributed status:

…the locals treat me differently because I am not local and it depends on what their attitude is toward Americans, whether they treat me nicely, or not nicely. So I don’t think I’m encouraging this… I think people make judgments about me based on how I appear, if they see me take a taxi all the time,… they see me in my expensive business suit they say it’s obviously some rich business guy. Nowadays they see me with long hair and blue jeans and they say this is some sort of eccentric. (David)

Some expatriates feel uncomfortable with their relative wealth whereas others have no feelings connected to it:

We make a lot of money compared to Hungarians, and we ought to be a little bit more aware of that I think. Most Americans have trouble grasping the reality of the average Hungarian makes about 60 thousand forints a month. I carry more money than that in my pocket most of the time, and it’s kind of a sobering thought… we need to be more sensitive to that… Some of my friends… we consciously do not focus on things like that, because it does make us uncomfortable. I have some Hungarian friends; when I’m with them, I just don’t talk about prices or money or anything, because I know they’ll think some things are just unbelievably expensive that I don’t even think about. I try to watch out and behave and not to throw money around and be stupid about it, because it’s really insulting to some people. (Ted)

I’ve never felt that “Oh, I don’t deserve this [status in Hungary], it’s just unfair.” The world is not a fair place… I’ve never felt guilty for having too much money or for having too much power and prestige. In part because I’m proactively trying to make sure that I’m not abusing it. (David)

There can be other negative consequences of being treated as a wealthy expatriate. Some Hungarians tend to take advantage of Westerners:
…when this young woman called for one house, they asked her “Is this for foreigners or Hungarians?” And she said “what difference does it make?” “Well if it is for foreigners it will be $700 a month and if it for Hungarians, it will be $250 a month. R: But that’s OK. B: To a certain degree. R: We expect to pay more that’s no problem to anybody. But within reason. B: But also, being in the situation we’re in, being here in a church situation, we are not in the business community and they, money is unlimited for them. It’s not the same game.

Integration versus isolation is a question of choice between two options: associating with the locals versus expatriates.

Some of the interviewees expressed negative feelings toward their compatriots, while others had vague or ambiguous feelings towards American expatriates as a group. Ted and David do not find them very attractive. Chris just does not know anything about the American community: “If I had to go find an American in the city right now, I don’t know where anybody lives.” Allison sees more of their positive. Steve and Ron seem to be quite objective observers.

Let’s see one negative, and one positive opinion:

There are lots of negative images: there is the ugly American, that sort of loud, “I want what I want, when I want it, why is service so bad, why can’t I find the same brand I have at home,” and other stupidity, insensitivity to other cultures; arrogance. The other negative image is the “we are better than the locals.” The third one is the “I want to live separate, I want to recreate a little America here.” And all three of those I find not worthwhile. There is nothing positive for me in any of those and some of them are embarrassing. I’m sure there are more of my kind, but if they are my kind they want to mix with locals so I wouldn’t see them necessarily. (David)

[Americans] In general they are really positive about Hungary… even though some of the people might be separate, they are also supportive, they do a lot of really good things for Hungary. Charities, orphanages, things we do. (Allison)

Steve and Ron, maybe because – as a consequence of their profession (Steve as a journalist, Ron as a pastor) – they meet many Americans, have both created their own typologies of expatriate Americans.

There are different types of Americans that are here… the [first] type that’s come specifically to work at a company. They come either by themselves or with their family and they have zero contact with Hungarians, the Hungarian way. They walked into a company which is in their mind… if the company sends you here they expect you to work. Ten hours a day, so these people don’t have, to be fair to them, they don’t have any time. They work, they’ve come here to work, maybe they make more money for a little while. And they go home and spend their time with their family or they go to a bar, with just foreigners, because they have no way to get involved in the local culture. But the same thing happens to a Hungarian if they go to a company
abroad... The other type is American university students. After their university they come here for a year or two to teach English because they are not sure what they’re going to do and probably waiting to write their first novel and they’re really great artists and they haven’t been discovered by the world yet. And so they have come to a new place where it is cheaper to live. And wait to become famous at something. I don’t know what they think. But generally they don’t learn Hungarian either and I don’t know why. They would be the people that should learn Hungarian because they have the time, but maybe their work is based on teaching English so I don’t know why some one doesn’t learn Hungarian. And these people usually hang around together. They hang around with other Hungarian teachers that teach maybe Hungarian or English, and other expatriate teachers. These are the two main types of foreigners. I think most of these people [who belong to neither type] they have their own world, they have their circle of friends, and they do with the people they know, in the district they live in. They don’t meet people as much because they’re involved wherever they are. (Steve)

Most of the people that come to our Church are very well adjusted here. Many of them have lived in Europe for many-many years. 25-30 years. Many of them have lived in some of the Eastern European countries before 1989 they were here. So they have lots of experience living cross-culturally, many of them do, and it’s nothing for them. They’ve already learned numerous languages. And then we have lots of people who are here for just 1 year or 2 years, and they probably, you know that’s the hardest for them. The first year isn’t hard, but the second year maybe it’s a little hard. It also depends on what’s happening in the US... problems with parents or somebody, a loved one, so they’ve had to make a lot of flights home back and forth... I think this is the biggest problem expatriates have living overseas is that they get separated from their families and when there is a problem in the family they feel like they have to be there. That’s one of the reasons why many people go back... Some people here are committed to live in this area of the world for the rest of their lives. Lots of people in our Church have purchased homes. That tells you that they are committed. (Ron)

Stereotypes of the locals about expatriates in general and Americans in particular strongly influence their attitudes toward them.

Two out of the six respondents had no idea of what Hungarians think about Americans. The others believe that Hungarians identify Americans with negative images. There is only one positive trait attributed to Americans – likable – mentioned, and even that was attached to the word “idiotic”. The following characteristics were mentioned: rich, brash, arrogant, loud; overly optimistic, not in touch with reality, naïve, childlike, stupid, undereducated, idiotic but likable; prudish. Let’s see three opinions:

Europeans in general think that Americans are a little bit stupid. They think that they’re undereducated, sort of idiotic, but likable. That’s my general impression from Europeans, from Hungarians, so I feel like they treat us as though we can’t do anything for ourselves. After living here for four years, I still have people explain to me that there are three metro lines, and how I should get my ticket... [on the other hand]
people tend to overrate how wonderful America is because they see it a lot in television and they see it in movies. It’s a two dimensional view... I don’t feel I am pushed into any particular position, that people stereotype me too much, except that they’re always shocked that I’m happy here. (Chris)

Probably all of the caricatures that people have of Americans, and Americans have of themselves, the locals know. So, brash (overly aggressive, overly self-confident), arrogant and loud. They have the same images of being overly optimistic that Americans have of themselves, the locals... have found it very entertaining and funny, that Americans believe that there is no such thing as problem just opportunities and challenges... they think they are not in touch with reality. There are morals in the US that are considered naïve and child-like: everything from “don’t take a bribe” to being prudish... I think, because every one has this knowledge of these stereotypes, that it has to color their view of me and other Americans that they know, until they get to know him better, this will continue to color their image. (David)

They believe we’re all rich. We’re mostly a little bit arrogant. But we’re not all bad. Some are a lot worse than others, and none of us really understand Hungary, because we come from such big country with abundant resources and wealth and all of that. I don’t think there’s a wide-spread anti-American feeling, I just think that often Hungarians don’t take us seriously, because we come from such different circumstances. (Ted)
Lajos Horváth

Some went away – some came to stay
(or would have stayed)

Most of the ethnic Hungarians who left their Croatian homes in large numbers in 1991 found shelter with their relatives in Hungary, but the majority of Croatian and Serb refugees had to be accommodated in camps. At the time neither the new arrivals nor Hungary considered their permanent settlement or integration in this country as a serious option. Will the war end by the time the leaves begin to fall? people wondered. Many had taken their annual holiday, but the year ran out and nothing was settled.

Things had changed by 1992. Most of the refugees from Croatia could now return to their country if not all of them to their actual houses or towns. But it was also then that the Bosnians began to flee from their homes. At the beginning they had no intention either to travel further or to settle down here, even though their lives were made even harder by huge linguistic and cultural differences. As the months went by many of them changed their original plans and decided to settle and work here instead of returning home.

In 1993, the Canadian authorities launched an immigration programme, to which practically every camp inmate applied. Many were rejected in the preliminary screening and those who were allowed to travel to Canada under the annual quota of 200-300 were but a fraction of the several thousand applicants. The refugee camp at Bicske was used as the venue of the selection process. It was to Bicske that those whose written applications had been accepted were summoned for a personal interview, the second round of the screening. The final hurdle to be taken was a medical test. Those taking all three obstacles were enrolled in a language course and received instruction on Canada.

A few months later the authorities of the United States and Australia also started their immigration programmes, but they set stricter conditions and narrower quotas. Meanwhile, the issue of integration came to dominate the agenda at the other refugee camps and temporary accommodation facilities.

After the Dayton Agreement hundreds of refugees began to return home, a process organised in part by the IOM, but also supported by the UNHCR and assisted by a number of private organisations. The returnees were not discouraged by the fact that a group of their own representatives, having returned from a fact-finding tour of Bosnia with video footage to document their findings, did not recommend immediate return to the country.

That was how the refugee sub-groups of those intending to return home, those wishing to travel on, and those planning to settle down here emerged. For the purposes of this study no separate category has been made for those who wished to stay, or perhaps to go on, but for a number of reasons failed to carry out their plans.
The article is based on data gathered in 1989–1989 via both informal and questionnaire-based interviews.67

RETURNEES

Around the end of the war in Bosnia, ninety percent of all the refugees were Muslims. As they neither spoke Hungarian nor found the religious-cultural environment auspicious for settling down here permanently, these people seized the first opportunity to return to their native land. What made this decision harder were fears of massive ethnic cleansing. The first steps were taken by the IOM when they arranged for the safe return of 93 people.

A prerequisite of signing up for the homebound trip organised by the IOM was a certificate issued by the local authorities in Bosnia to prove that the applicant had a house standing or else their relatives were willing to put them up (an intention to be declared in writing). Although this slowed down the process of resettlement, it also guaranteed its safety and thus those leaving the country in this way were only to be readmitted to Hungary as tourists. The more restless took their chance and risked returning home on their own initiative. They were helped by a German-Austrian organisation which arranged for the return of several hundred persons after a short period of waiting. True, many of these carried counterfeit certificates, and it was not before their arrival “at home” that it came to light that no accommodation, work or financial assistance awaited them. Some of them were in fact driven away by unpleasantly surprised relatives.

“I had no job in Hungary, but my wife knitted sweaters. We did not try to go on to a third country, because all we wanted to do was come home. It was in November of 1996 that we returned to Bosnia after being away for four years. We’d heard that our house had been destroyed and we could not come back to our village, where there was nowhere to come back to.

When we did return, we brought just a few essentials along, such as our underwear. It was not our own house that we moved back into, because it had been burnt down. This one here belongs to my brother. He gave us two rooms, which were in acceptable condition. Those who had never left did not despise us for our having run away. We do not regret that we have come back, but here we are still no more than refugees.

We live on my pension and humanitarian aid. The aid consist of flour, sugar, rice, detergent, and toilet chemicals. My pension is DM 133. The government has given us nothing so far.

In future we’d like to move back into our old house, which we’d like to rebuild, but that would take plenty of help. Wages are very low, as low as DM 40. It is the same everywhere, and payments arrive two to three months late at that. It’s not worth working here.”

67 Those who do not speak Hungarian were questioned by Róbert Rontó who also prepared the translation of the interviews he made. As not all our interviewees agreed to have their particulars be made public, no names are given in the article, but references to the ethnic and religious backgrounds of the interviewees are authentic.
“It is mainly Serbian refugees who live here at Tuzla. They came from the Sarajevo region. There is no knowing why they settled down in Tuzla of all places, far away from any Serbian enclave. The law says they have the right to do so. That’s what the law is like. The Serbs can settle here without any problem. And we cannot go home, as the Croatian army has not retaken our homeland from the Serbs. Rather few refugees came back to this place. Men between 20 and 40 are especially wary of returning, as they can be suspected of having been members of guerilla organisations. I need not be afraid of that as I served in the Croatian army. But I still cannot find a job or get a loan for a fresh start.

My brother emigrated to Australia. He is a Bosnian, too. He has not come home yet, as he hasn’t got the documents required for a visa. He’ll return as soon as he can, together with his wife whom he met at the refugee camp at Nagyatád.”

“I do not exactly know how many of them there are waiting for a chance to go home. There might be about 60 thousand of them or more. I have been home to see my house or what remained of it. Then I talked to my Serbian neighbours. I’m not angry with them for what happened. I don’t blame them for having elected the wrong man President!

Until the time I was driven away from my house by the Chetnik, the Serbs that is, I had never dreamt that I would have to leave my home one day. But that’s what happened in 1991. My home family fled the country together. We simply had no other choice. We had to leave everything behind: our furnished house, our land, the livestock, everything. Luckily not one of my family was killed in the war.

Before we went to Hungary, we spent 15 days in Szabadka. I can’t remember the day we arrived at Nagyatád. We stayed there during the war. We could not find employment, but it was still good to be there because at least part of the family could stay together, and the people there were also very nice to us. We spent three years and a half there.

None of the family emigrated to a third country. We all wanted to return, so the whole family could be together again.

When we came back it was not peace yet. We found next to nothing in our house, but we were at least given a friendly welcome. We do not regret having come back. Many of us were not allowed back into our houses by the Serbs, and the law is also on the side of the Serbs.

It is hard to start life again, because the government won’t give us anything. For now we’d be happy to get back on our feet again. I am unemployed. The government wouldn’t even give us a job.”

“I left in January of 1995 and came back in July of 1996. I set out for Austria but got no farther than Hungary. In Budapest I submitted my application, for I wanted to go to a friend in Melbourne. I thought I would either get to Australia or come back home. I don’t regret having returned.

I liked it in Hungary, and my only problem was being alone. I had left my family in Bosnia. I was away from April of 1992 to December, 1995, until the time of the Dayton Agreement. I knew that starting life again would be hard, but I had self-confidence.
I am a single mother. I receive no help from the government as I returned to my own house.

I left Sarajevo because of the adverse circumstances there. You had to queue up for water for 10 to 12 hours, sometimes with bullets flying around, and there was no food. I found my house in fair condition, and the neighbours were glad to see me again. The neighbourhood, however, was in ruins with the hospital and the power supply centres ruined in the bombardment.

I’m 31 now. I have a job at the registrar’s office. Life is not easy but I get by. It will take a long time before peace fully returns. Now the whole place is a mess with some 24 thousand refugees in temporary accommodation. My daughter Amela, who was born in Sarajevo, is 18 months old. All she is left with is the hope that one day she can live the life of a normal child.”

“We’d never thought that one day we’d have to leave our native land, but then we were driven away. On 14 August 1992 they broke in and ejected us from our houses. They beat us up, threw grenades about, set the houses on fire and expelled every Muslim. Part of my family were in Sarajevo. My husband was taken prisoner, me and my daughter remained together, but we knew nothing about anybody.

We left everything here – the house, the land, the animals. My brother-in-law went missing in the war. He was taken prisoner, and we haven’t heard of him ever since. Of my next of kin I lost two sisters and three cousins.

When we escaped, we first went to Pazar, Serbia, and then to the Sandiakh, Turkey, and then on to Hungary. We were driven to Budapest in buses. The family were dispersed; some went to Nagyatád, others to Csongrád.

I found a job in Hungary. I knitted sweaters for an entrepreneur. I didn’t earn much, but it went a long way. What was most important to me was the fact that I had something to do.

I had no wish to stay in Hungary, but I did not want to go on to a third country either. Most of my family had remained in Bosnia. There was nothing wrong with staying in Hungary, we even had a good time there, to the extent that one can have a good time under the circumstances. But we were badly missing the rest of the family and we had serious problems with the language, too.

Before setting out for to Bosnia, we heard that it was back to normal here with everything restored to working order. Then we found our house in very poor condition, with the doors and windows missing. For the time being this is all we have, we haven’t even got our documents. The people here welcomed us back without any reservations, and we’re really glad to be back home. True, we haven’t got any jobs, but still we are fine. At least nobody is shooting at us, and we’re not cold.”

“Back in the late eighties I’d never have thought that one day I’d have to leave my house, and I didn’t even think there’d be a war. And it all happened in 1992. We were simply driven away. We were left no choice but to leave.

While I was in Hungary, I had no opportunity to work. We did not try to go to a third country, but then we didn’t have the money for the journey either. We spent five years there. Things were very fine in that country. We had everything we needed. It was
better than back home. Not one of my family remained in Hungary, everybody came back. My son emigrated to Australia.

When we returned, we found nothing of what we’d left behind. Now we live in a Serbian house. It was one of the houses that stood empty when we arrived. The neighbours received us back without a problem. Still, we very much regret that we had to come back.

Given a chance I’d go back to Hungary this very moment! Life is bad here: there is no work, we live on the dole and donations. We get a monthly ration of 12 kilo flour, half a litre of cooking oil, and a kilo of peas per head. I can see little chance of things looking up. I would like to move back into my own house and renovate it. I hope I have a chance to do so.”

TRANSMIGRANTS

In 1992 rumour was spread in Nagyatád that Sweden would receive the Bosnian refugees. At the time the camp had some 2,500 inmates. Printed forms were sent to the camp, but so few that photocopies had to be made. Everybody wanted to fill in one; nobody was eventually to travel.

In 1993 Canada also advertised its programme and the tumultuous scenes were repeated. In the first year they undertook to arrange for the travel of 100 to 120 persons, but then more than 200 were allowed to board the plane. At first every applicant had the same initial chance with no distinction made between Bosnian, Serb or Hungarian. It can’t be said that it was a form of brain draining: the uneducated could go just as well as those with a degree. There was just one serious condition: good health. It even happened that an applicant was struck off the list because of their high blood pressure. Later on screening became stricter: first the Hungarians were excluded because they were supposed to stay in their mother country whose language they spoke and where they had relatives. Eventually it was only the couples of a mixed ethnic background who stood any chance on the grounds that they were not wanted in any of the successor states after the war.

Meantime, the USA and Australia launched similar programmes. Far fewer people got to these countries’, however. To begin with, Australia only wished to receive people who had relatives living on the continent-sized country. Later on, only mixed couples were let in to Australia, too. Although the USA received a smaller contingent, they were more liberal in evaluating applications. Many of those who could not go to Canada (e.g. for medical reasons), live today in the United States.

Many thought that once they got to their chosen country, they’d get along all right. That, of course, was not quite the case. Although they were given significant support (in the form of language courses, accommodation and loans), they had a hard time getting used to the climate, the social conditions and the frigidity of human relations characterising these countries. They were not asked where they wished to go within the host country but were “spread out” according to considerations of the local population policy. This certainly did not mean enforced permanent settlement, as immigrants had freedom of movement inside the host country, but the measure did slow down integration.
“The region of Canada where we were supposed to go was not for us to decide but was chosen by the government. I don’t think they themselves quite knew what they were doing. They drove many families into pretty difficult situations. We are lucky to have been able to come here, because it is much tougher for our kind in Nova Scotia. If you could not find a job there right away, you were in for some pretty hard times.”

Almost all our interviewees complained of the poor standards characterising the language courses, and that it was not worth spending a whole year at school. Most of them started to work within a few weeks or months instead.

Their wages were much higher than those they had been used to at home, and they were given loans at low interests, too. And yet, although it was easy to live on their wages, with one or two exceptions they were caught in a trap. Contrary to the practice applied back home, where those can get a loan who earn well and have a healthy bank account, over there it is the one with a good job and owe a sizeable debt. For example, one of the former refugees said that he had bought everything with his savings, because he did not like debts. But when he wanted to buy a car – of course he had the full price at his disposal in cash – he had better think the possible consequences over. Later he would want to buy a flat for which he would certainly need a loan. And to get that he would have to prove his credit-worthiness, something that could not be done without a credit history registered with the bank. That was why he eventually decided to take out a credit, even though he had enough money, because that was how he could safely count on a credit for a flat.

However, this attitude forever binds people to money. Although they are well paid, and appear to live well, almost all of their time is spent on making money. One has to have the means to finance one’s continuous indebtedness. No wonder Canada is called by many “the country of the pyjamas and the working garb.” The 40-hour working week means that instead of going home to their families after the official working hours, people spend at least an extra hour at work every day from Monday to Friday. At least another 6 to 8 hours are spent working on Saturdays. In the first year of employment the normal annual holiday is but a week, and most people refrain even from taking that short time off. It is of course not compulsory to work all that overtime, but everybody knows that it is enough to say no once and you won’t be asked again. Needless to say, overtime is paid at 1.5 times and holidays at twice the normal rate. And one needs all the money one can get. When the grace period of one year is over, the immigrant has to begin repaying his government loans, because after that interests accrued to the capital are also collected. There is no hurry as everyone can choose the annual instalments, but then a prerequisite of conferring citizenship is precisely the full repayment of all government loans. And these loans do amount to very much. One has to repay the air fair as well as the IOM’s expenses related to arrangements and medical examinations.

In all this rush, language will suffer. To make themselves understood, it is enough for the immigrants to speak rudimentary English. One can even be granted citizenship without speaking impeccable English. People have little leisure, which they tend to spend with families or close friends speaking their own language. And then their greatest handicap is precisely the lack of appropriate linguistic skills, as no matter how well paid they may be, it is only manual work these people can hope to get.
There are lots of people older than me who promised anything just so they could go abroad. They’d work and they’d learn English. Now they have no intention to do any work; they’d sooner deny that they know a word of English, even though they must be able to understand most of what they are told after all this time. These I have of course left far behind, but then there are those, too, who have made better progress than I have done. My wife and I were always put in classes beyond our own level of competence. And that was for the better as that was the only way to get ahead.

There’s a trap that I wanted to avoid at any cost. Everybody can soon find a job where they can make more than the amount of the welfare money. And that’s enough for them to get credit and buy a flat and a car. That would be all very well, but then they work their guts out to make more and more. So they spend all the time at work where they have nobody to communicate with. All they have for company is a machine or another person whose English is just as poor as their own. At home with their family they will speak no English either. Years will go by and these people will still not master English, without which they won’t be able to get a better-paid job. They will thus fall behind in the long run, even though they get more money at the beginning. They’ll be left with nothing but working overtime.

I’ve thought all this over and discussed it with my wife. We’ve decided that we could do without a car: after all you could get to places on a bike or by bus. And you didn’t have to buy your own flat right away as renting one would do just as well. The welfare money covers all our expenses even if we have no money to throw about. We devote a few years of our lives to learning a trade and mastering the language, after which I’ll find a job in which I’ll make many times more than the amount others can earn with years of experience behind them.

A friend of mine works in a factory in a blue-collar job. His duties are not specified and even his working hours are uncertain. He works 12 hours a day and has to work on Saturdays and, when he is unlucky, sometimes on Sundays, too. When he is finished with one job he has to find another right away. If he can’t find anything, he’s supposed to report to his foreman who will then give him something to do. This man is a Hungarian, to whom he can complain of how tired he is, and the guy will even understand him. But then the foreman will report the case to the manager in very different terms saying that our man no longer has the proper attitude to work. Now the manager will take a firmer stance warning my friend once, possibly twice. But there is no third time with plenty of others waiting for the job. My friend is fairly well paid now, but he has to work very hard for his money and if he says no a few times, he can’t be sure he can keep the same job. He may not be fired, but he will certainly get less well-paid assignments.”

Although working conditions seem ideal from our perspective, as the immigrants work in cleanly, orderly and safe factories, but they do dirty, menial jobs despised by “native” Canadians for which they get wages slightly above the statutory minimum. And it does make a difference whether these North American wages are compared to Central European or local prices. Many of them would like to be promoted and become foremen or start their own businesses. This, however, requires perfect mastery of English. And these people mostly work in the iron industry chained to their machines for practically all their
working hours, and in the few-minute breaks they see people whose English is hardly any better than their own. These plants are full of Hungarians from the Vajdaság (Voivodina), as well as Serbian, Croat, Vietnamese and Mexican immigrants, who came here seeking employment. By the time they get home after work, they are glad to be with their families and see friends form the old country in their leisure time. And that is certainly not the way ahead.

“At first we were very happy with our wages, which we received every two weeks. We furnished the flat one step at a time, bought our first car on hire purchase, and began to get back on our feet. In November a new plant was opened where 70 per cent of the employees were women. That was where my wife found a job. Fortunately she was among the first to be hired.

I don’t think I have changed in any major way, but I’ve become more thoughtful. At work, too, I’d better think twice before I answer a question. For one thing, the money is quite good. Although a working week consists of 40 hours officially, I’d get much less if I didn’t work 50 to 60 hours. For another thing, I can’t afford not to say yes when my boss asks me to go in to work at the weekend. This is the right attitude if I am to hope for a better future. When I finish school one day and speak English well, I might be the boss myself. Bosses do not work at the weekend, and if they do, it’s just for an hour or two just to drop by and assign everybody’s job, after which they can go home. For now there is nothing for it but getting up early, which is bad for the kids, as they, too, have to get up with us.”

“At first I had a hard time understanding what my task was at work, but the foreman spoke German as well as English. He would translate whatever he thought was really important and the rest he’d just explain with the help of a sketch until I understood what he wanted. It only happened once or twice that he had another worker translate his instructions. Slowly I myself learnt the basic vocabulary needed for my job. I do not study English at school. I tried to, but I couldn’t pay attention after work, I wasn’t really with it. There were a whole lot of us crammed into a classroom, and the door was left open, so all the noise came in from the hallway. At work there is very little I can learn, because it is only the machine that I am always in touch with. When I have something to ask, it is only the little I already know that I can rely on. When they explain something to me, I will either understand the new words or I won’t. But the sketch is always there to help. Life is easier now that I have experience with the job and have got the hang of reading drafts. I have no big problems, but if I had to read the newspapers, I’d be at a loss.”

“Within 10 to 12 days of arriving here, I already had a job, the one I still work at. I was relatively well paid. The loans I owed them for the air fare, the medical check-up and the price of the arrangements made by the IOM I repaid a long time ago, so I soon expect to be granted citizenship, too. Now I see my future here, I came over hoping for a decently paid job and a normal life. When I have saved up enough, I’ll open my own workshop or start some other business. You can get a loan, too, and I’ve
already been invited to join somebody who needed a partner. I talked about that with my boss, who says that once I start something, I might just as well be my own boss as team up with some other guy. If I go about something in life, I’d better be on my own, without anybody telling me what to do.”

“I was soon employed illegally. I was allowed to seek legal employment, too, but for not more than two or three hundred dollars a month tax free. I earned more than that but told them I was making just that much. And they didn’t bother to find out about it. I began to work for a someone from Hungary, where we assembled dentists’ equipment. There I was not registered as an employee, but took out some kind of independent trade permit, which was used as the legal basis of my employment. Working hours were flexible, so I went in when I was needed, but if I did not feel like work I simply stayed at home. Eventually I found the money too little, and found another job as an iron miller. I put together machinery, milled and ground parts. My boss was very pleased with my work, but would not give me a rise. Well, I said I didn’t get things for love myself and quit. I found another job, and I’ve been in it ever since. My starting wages were three dollars above my previous pay. Its a quiet place, the owner is a nice guy and I feel just fine here. And I’m insured, too. If I fall ill or am taken to hospital, I won’t have to pay a penny. And the insurance is valid in Europe, too.”

“Money is the only thing you can’t have too much of. One feels satisfied after the uncertainties of the period between 1991 and 1996, to which I count the time spend in Hungary, what is more, the first Canadian year, too, because there is no sense of relief before one finds a job and has to live on government handouts.

Once you find a job, you can buy a car and furnish your flat, and as soon as there is a sense of financial independence, you feel much better. You have to start from scratch here, too, but it’s still easier than it is in Hungary.

I went to school for six months. I didn’t really like it but I had no choice. I found work through acquaintances. I’ve been working in the automobile industry for a year and a half. It’s not the best job, but there is little choice. Here I’ve been given on-the-job training. I’ve attended a crane-operator’s course, and I’m very proud of that because it has been the first qualification I’ve received in Canada.

If I have the time and money, I’d like to study more. Due to my qualifications I earn more, even though I have no use for my new skills.”

“I spoke no English and I already worked for three or four weeks. I’d also begun to go to school, and my teacher called my boss at the office so I’d go back to school. That was how I lost my job. And I rubbed it in, too, when later on the government aid ran out and I had to be put on welfare. The first question the social security people asked my was why I hadn’t looked for a job after a whole year I’d spent here. Well, I got real angry then and had that other guy called in and got him tell them where my job was. I’d been fired and they’d hired somebody for my job, whom they weren’t going to sack for me if the person did their work well. Then I went looking for a job
and enrolled into training courses; it was there that they finally found me a job in a sewing shop.
I sewed curtains for the minimum wage.”

“We are now four and thus receive higher social benefits. From Ottawa we came here to London [Ontario] hoping we’d find jobs more easily. In any case, life is cheaper here than it was in Ottawa. But you had to take job-hunting really seriously. If you just sit around, you’re not going to find a job. I only do casual work. I’d like to go into training; then it would be easier to find a job. I’d like to go to the police academy. For me, language was not a problem. Armin, who is my eldest son at ten, speaks perfect English. My younger one was born here, and is a real Canadian. I met my woman at Nagyatad. We’re not married yet, but are planning to tie the knot soon.”

“I didn’t spend more than three months at school either. Academic standards are miserable. School is a waste of time if you already speak some English. We were put in the third form, together with people who could not even count in English. We dropped out of school simply because we were bored stiff. It gave us nothing new. I’d learnt English back home, so I had the foundations.”

“Language is a major source of difficulty as I’d never have thought that differences between the British and the American varieties could be quite so great. I only spoke British English, the only English I knew, and with that I could get by in Europe. In America each group of immigrants has added something to the language spoken here. I can hardly understand English as it is spoken by the Chinese or the Japanese here. And Spanish, too, has more and more influence. At the hotel where I work, most people use Spanish. People speak too fast here and it is not the English of Shakespeare that they use, either.

I can’t dispense with learning perfect English, as I’ll have to sit a supplementary exam where I’ll have to answer 130 questions, preferably in impeccable English. You are given a minute to answer each question. Earlier on the questions were played from a tape recorder, but they have now computerised the whole thing so you have to have computing skills as well. Everything revolves around the computer in America, so the first question they ask practically everywhere is how competent you are at using it. If you are really proficient at running all sorts of software, then you can find a good job in next to no time.

Even if I do find a suitable job, I will only be taken on as T. A. first. Before I speak perfect English, there is little chance for me to be employed in higher education. And I will have to look where I step or else I might end up being paid less than I get at the hotel. I will certainly have to pass supplementary examinations, and in any case, I don’t quite feel prepared to start working at a university right now. And employers at universities are also pretty good at finding excuses for paying less than they should.”

SETTLERS IN HUNGARY
Of the refugees obliged to live in camps there were hardly any who said they intended to settle down in Hungary. And this was not any different when the proportion of ethnic Hungarians was high among the arrivals.

The majority wanted to move on. Dozens of families lived in refugee camps waiting to be accepted into one of the emigration programmes. Their hopes were kept alive by the fact that the embassies evaluating their applications never told anybody that they were rejected once and for all; there were families with a history of five or six rejected applications before they were eventually included in one of the groups leaving the country.

When the official programmes were terminated in 1997, those rejected permanently blamed the staff running the camp. Not only did they have to give up their hopes of emigrating for good, they were even obliged to vacate the camp at short notice.

For years they had been living in Hungary, where many of them worked illegally to supplement the rations received at the camp. Out of sheer desperation, one family decided to return home, even though the head of the family feared being arrested and imprisoned as an army deserter the moment he left Hungary. They went into all lengths to cross the Yugoslav–Hungarian border before the expiry of their passports. This they managed to do just one day before the much feared deadline. So that beginning life anew would be easier, they were provided with non-perishable food, bedclothes, pots and pans, clothes and even some furniture here, which was all loaded on a lorry belonging to the refugee camp. Then it all went smoothly when they crossed the border. Fearing arrest they had discarded their papers documenting their status as refugees, which they had waived before setting out for home. They crossed the border pretending to have lived at Bicske for years as “persons under temporary protection.” They were sent from one town to another, while everybody along the way demanded baksheesh even for bits of information. In two days’ time they’d spent all their savings on bribes, and by the time they got home they had nothing to live on. On top of that, their passports had expired and they were told to obtain a certificate as proof of their stay in Hungary from the Yugoslav Embassy in Budapest and to have their travelling documents extended, in which case they’d be allowed to bring their belongings home tax free. No wonder that within three days they were residents of the reception centre at Bicske once again. Their request was rejected by the embassy, whose staff knew of their status as refugees, which was regarded as tantamount to treason. Following that, our family was obliged to decide on settling down in Hungary. Although they are all hard-working people with children doing well at school, it is a question whether they will ever really feel at ease in Hungary, whether they can treasure their Hungarian identity with the same loyalty as they did in the Vajdaság (Voivodina).

There were some who held on to their Croatian papers while applying for refugee status or retaining their status as persons under temporary protection. Croatian nationals were given until May of 1992, a deadline extended until September the same year, to present proof of their (non-Serbian) ethnic origins, their nationality and residence and thus obtain new documents issued by the Croatian authorities. This duality is the reason why these people put off making a final decision whether to settle down here or return home. They were waiting to see what options offered themselves to choose from. Retaining their original citizenship might later come in handy as grounds for claiming compensation for
war-time damages or enable them to sell their property back home and use the proceeds to lighten the burden of making a new start in Hungary.

“I don’t say that Hungary is the terminus for me. I like being here a lot. We live here with a residence permit. We haven’t waived our Croatian citizenship, for one thing because we wouldn’t get compensation for war-time damages without it. The part of the city where we used to live was bombarded into ruins and it is now being rebuilt. We were planning to change our house, when rebuilt, with somebody who wanted to move from the seaside and would like to come to Vukovar, because it had remained a multi-ethnic city. This change would still not mean that we’d want to move back; it would only serve the purposes of spending our holidays at home. We’d like to keep our permanent residence here in Hungary.

I am really torn between conflicting feelings. I love the people there, but those now living in Vukovar are not the same as they once were. The one who had been a friend for 25 years would now do anything to hurt us.

We’ve never intended to go to a third country. Of manual workers those made the best deal who went overseas, because they do the same jobs that they used to do back home, but for better wages. Hard-working people who are good at their trade can find employment very soon where they can live decent lives as respectable citizens. Professionals are not welcome, though. Having your degree accepted is a relatively simple affair, but the language is a major problem. Unless you speak the language of the host country at a native level, you won’t find a job in your profession. A child can pick up the language effortlessly, but it is all but impossible for a mature person. So these people have the worst of both worlds, as they can only work as unskilled labourers even though they are independent personalities with their own opinions, which is why they are not very popular.”

“I’ve been living in Hungary since 1992 when I came over because of the war in Bosnia-Herzegovina. Then we thought the war wouldn’t last long, but then it dragged on and on. At first we’d have liked to emigrate to some West European country, but unfortunately we were not given a visa to any of them. A year passed, then two and then eight. Of these we spent five in a camp, and it is now for three years that we’ve been living outside one. It was in the camp that I met my great love whom I married, and then we had our daughter. So I had no choice but to stay in Hungary. It was my husband’s choice, too, because he is an ethnic Hungarian from Voivodina. He’d like to have something to show for staying here and his only ambition is to get Hungarian citizenship.

I cannot visit my mother. She lives in the Republic of Serbia and there are only Serbs living there. Those people do not like the idea of a Bosnian wishing to move back there, even though they get on with the Bosnians already there. There were vicious fights in the eastern part of Serbia, so separatism is observed much more strictly there. Maybe Sarajevo is the best place in this respect. Serbs, Bosnians and Croats all live together there. So I can visit my brother without a problem because he lives in the Bosnian Federation, in Sarajevo.”
“When I left home I didn’t tell anyone about it, but I knew I’d never come back. No matter who’d seize the power, everybody would want the same thing with minor variations, as I reasoned to myself. All that amnesty is good for is that you’re protected from bodily harm, but not from being ostracised. Without work, without a livelihood, the whole thing is worthless.

At first I applied for refugee status but it was a never ending story. But there was a job right away so I went to Lake Balaton. I earned more eight years ago than I do now. I was originally trained as a car mechanic and a truck driver but I worked as a bricklayer at Balaton.

I almost spent three years in the camp, but I regarded it as a black hole. You had everything you needed and could live without a care. If you could find a job on the side, you could pocket all your earnings. But then if you fell into a torpor and couldn’t be bothered to find something, well the days would pass just the same and once you accept the situation, you’d never get out of it.

We have long-term plans. One thing is for sure: we’ll stick to this city. We’d like a flat so we’re not building a house. Some German acquaintances offered a legal job in Germany. I could work as a cook there. I’d make a net of 800,000 forints in three months time. With that I could start looking for a flat. Our kid is two and a half and goes to nursery school. Not long ago we went to M, where the wife had her previous address, and which is now a Serbian region. The Bosnians have already started privatisation and you can buy your rented flat there. Everybody is given compensation vouchers which can be used for the purchase of flats. We also filed a request to buy the wife’s 60 square-metre flat. They say the selling price will be at DM 5,000 and can be paid in vouchers. It is not a problem if we do not actually live there. About sixty per cent of all the tenants there live in somebody else’s flat. Mine is now taken by a customs officer with his two kids. They seem to be all right; they’ve just walled in the balcony, which is how they’ve got an extra room, and the flat looks just fine. The market price of the flat would be at DM 2,500 per square metre. If we sell the flat to the tenants at half of that price, we’ll both have made a deal. It is almost quite certain that the deal can be done, but there’s no knowing when. M, by the way, is a multi-ethnic town. My acquaintances there greeted me as if nothing had happened. I keep in touch with my parents, but I have no intention to cross the border. During the bombing they were more or less all right, but my dad is asthmatic and getting injections was a problem. Now you can get anything for money, of course. And I can help them from here. My sister was able to come over here even during the war. It cost me two thousand German mark to help them during the sixty days of bombing. They didn’t get into any trouble because of me, but when the bread rations were being issued, my old folks were somehow “forgotten”.

“We arrived at Bicske on 7 June 1992 and stayed there until May of 1993. Then there was a chance to go on to a third country, for example Canada. When we had come over, we’d decided to stay here in Hungary. We received 450 thousand forints from the Immigration and Naturalisation Office and were told that we could buy a house anywhere in Hungary. We began to look at advertisements and that was how we got here to Katymár. It was only here you could buy anything for that sort of money. Now
we’ve been here for almost six years. I don’t regret that I came here. With 80 per cent of its population made up of refugees, this place is unlike any other village. The tenants of every other house have relatives in Szabadka.

I’ve submitted my application for citizenship. They say I’ll get it in 2000. One reason why I need it is that when I wanted to go to Yugoslavia they would not let me in, saying that I didn’t belong there any more. Where do I belong then? I can’t even go to Austria, because I’d need a visa. I do not belong there and I do not belong here either. When I’m a Hungarian citizen, things will be different.”

THOSE WHO WOULD HAVE STAYED

Although only a fraction of those seeking shelter in Hungary stayed here permanently, there was a large number of refugees who would have settled down here if they had received adequate support.

“We tried to stay in Hungary, but it was very difficult. We did not have proper knowledge of the opportunities and the law of the country. If the conditions of a new start or at least refugee status had been provided, we would probably have stayed. My eldest son got married in Hungary, so with his help I could have opened at least some kind of shop or restaurant. It was mainly because of my children that I chose emigration. All that I’ve done since ’92, I’ve done for the sake of my children.”

Sometimes everything was given for integration: a job, a school and a flat. And yet the refugees sold all they had so they could seize an opportunity that seemed to be far better than what they had here.

There were those whose greatest ambition was to go overseas, but their position is not permanent there. They live a good life, but have a hard time getting used to their new environment and the very different attitude that people have there. They try to get their new citizenship as soon as possible and then return to Hungary for shorter or longer periods. There are a few who’d like to retire in Hungary as a Canadian citizen, or else spend a few months here and the rest of the year in their new country. Others look to Canada or the USA as a place where they can get back on their feet financially after which they’d come back and settle down in Europe, in Hungary say, permanently. Hungarians, Bosnians and Croats are all toying with plans like that.

“We were not attracted by Canada, and the only reason we took our chance was that we simply could not make a fresh start in Hungary. Once our sisters came over here, and we could not go to any other country, then we decided to come.

I don’t think Canada will be our final choice; it is more like a springboard. We have not made any specific plans yet, but we are attached to Europe. We lived in Sweden for a while, in Stockholm and Kiruna. We took a lot of trips all over the country. We liked it there a lot. It felt like Yugoslavia with people being more decent.
and honest in the offices. At first we wanted to gain Canadian citizenship. Before we came here we had to waive our status as refugees. We would have preferred to keep it, though. That was how we retained our Yugoslav citizenship. As Canadian nationals it will be easier to settle down in Europe. I’m not sure it will be Sweden – maybe we’ll go elsewhere.

I have no intention to return to Yugoslavia, not even as a visitor, because most of my friends and relatives have left the country. The only tie to Yugoslavia is that my parents are still there. In Sweden we were intensely homesick, something that we felt in Hungary, too, but here we have no nostalgia at all. It is to Europe that we are attached, because of the different mentality that people have there. I’ll never be a Canadian, just as I was not turned into a local Hungarian in Hungary either. I treasure my individual identity. That’s one of the reasons I left Yugoslavia, too: I don’t want to assimilate. That’s something I could just as well have done in Serbia.”

“In 1994, when the first group of emigrants bound for Canada got to Bicske we had to move out. We could have gone to Békéscsaba, but we bought a house at Tompa instead. That was where I worked in a repair shop. It occurred to us to build our own garage by the house and perhaps buy and sell used car parts. I’m a tinker, but I know a thing or two about cars, too. The house stood right by the main street. The official in charge of issuing permits would only have given permission to have a shop built in an outlying location. And then he made further demands which were almost impossible to meet. He would have prescribed things that no-one has ever seen in a garage. We’d have had to buy the guy off for him to let us begin, and we’d have had to bribe somebody else if we later wanted to close the shop down. That was when we first considered leaving for Canada. And then something else happened that I didn’t like at all. Some guys would walk into my cousin’s garage who was known to have come from Yugoslavia. Now they asked me why this ‘Yugo’ had come here. I said I didn’t know. Me they hadn’t met, so they didn’t know I was also from Yugoslavia. Then my cousin arrived and they began to revile him. When it came out that I was a Yugoslav, too, they left without a word. Eventually we decided to risk emigration. We didn’t feel like we had a place in Hungary, even though we were Hungarians ourselves. We were called Hungarian in Yugoslavia and Yugo in Hungary.”

Although they were not given sufficient support for a fresh start here, it is to Hungary that these people keep returning to, because it was here that they had nothing to fear, that they found shelter and were given full board. Beyond that this is the country closest to their native land, a country where they may no longer have family, but where they grew up and spent most of their lives, a place that they are most strongly attached to – a place where they have no intention – or courage – to return to, but where some of their relatives are still staying. To them Hungary is the place where they can see their beloved ones any time without having anything to fear.

“When we went to Sweden I was full of energy: I liked the language which I studied as hard as I could. I wanted to integrate, to settle down for good. And I also had a chance to learn the language. But then it all came to nothing as I lost impetus. I have all sorts of reasons for not liking Canada; it is a place quite different from what I thought
it would be. I don’t see where my future lies; I’m not sure I’ll stay here for ever. I
don’t know, I may go back to Hungary one day. The children go to school now, and I
don’t know if it’s a good idea to take them from one school to another. I can’t explain
what it is – it is not that I feel homesick. Countries in Europe are closer to one another;
here on the American continent life is very different. At first we did not notice the
differences, but then we saw that they react differently, they do things differently than
people in Europe. Money dominates this world here too much. Money is all people
can think about, that’s the only thing that drives them on.”

Translated by Ákos Farkas
“It could have been worse: we could have gone to America”

Migration Narratives in the Transylvania–Hungary–Austria Triangle

In this study we explore the relationship between narrative identity and migration. With this analysis we hope to contribute to professional traditions concerned with migration and as well as those using interview methodology. First, we have attempted to introduce methods whereby interview texts are interpreted in their own structures. This interpretation can be repeated by others due to the employment of predefined interview techniques and analytical procedures. Second, we attempted to avoid subordinating the words of migrants to dominant political and social scientific discourses, and instead provided subjects with an opportunity to present their life and migration stories freely. We assumed that such narratives provide the soundest empirical approach to questions of self-definition and identity. That is to say, we think that this interview approach produces texts with which the subjects identify freely. Third, this study is the first to compare the migration narratives of the Transylvania–Hungary/Austria and Hungary–Austria paths, and thus we accept every responsibility that publishing the findings of basic research entails.

The identity-giving function of oral life stories is well-known: one of the sources of our social identity is the sum of narrated stories we present and hear about ourselves. In other words it is one of the pledges of our self-identity that with the help of such texts we generate consistent, authentic stories about ourselves.

What exactly is our method? The narrative interview technique and analytic approach, because of its extensiveness and incredibly rich analytical opportunities, is usually used with a limited number of interviews. We, however, had the opportunity to work with an unusually large data set: over 60 interviews averaging 90 minutes in length each. The

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68 The Western part of Romania (the eds.).
69 The research was commissioned by the European Cultural Foundation.
70 The statistical characteristics of the immigrants in Hungary (mainly members of Hungarian minorities in neighbouring countries) can be found in Juhász (1997).
71 In hermeneutics and in certain schools of psychoanalysis, it is accepted that understanding arises from the discussion of experiences. The process of understanding is based on the editing of a series of biographically supported stories, whose inner cohesion is given by the context of the discussion and the meaning ascribed to it. Its structure carries meanings beyond those of the events themselves. Discussion is a communicative action adjusted to the socially defined conventions of understanding and authenticity, meaning that themes cannot be presented in “any way.”
interviews were conducted by trained interviewers, who had to ask the subjects – after telling them that our research project was concerned with those who had migrated to Austria and Hungary – to tell their life stories freely. Due to the rule of non-interference our subjects were free to construct their narrative identities within the given context (i.e., migration) relying on their experiences viewed from the present perspective and on narrative conventions. In this way we collected a corpus of texts whose inner construction and structure could be analysed. This part of the interview was called the main narrative. In the questioning part of the interviews, the subjects were asked about the migration experiences mentioned but unexplored in a way that allowed us to follow closely the evocation of the past experience. (What this follow-up part contained were not questions proper, as they were not designed to elicit specific data, but were instead “bits of encouragement.” For example, “You mentioned you came out in 1956. Could you tell me more about this?” In those cases where the main narrative did not include the description of migration, the question “Can you recall the day of your migration?” was asked. This technique generally proved to be successful, and hence the interviewees told a migration story satisfying our narrative interview methods.

Then we analysed these migration stories and accompanying biographies from the point of view of how migration creates narrative identity, and what the main types of this identity are and what kind of discursive methods are employed. During the analysis we modified the hermeneutic reconstruction methods by limiting the texts analysed to the parts concerning the migration story. These parts were then investigated sequentially, that is they were analysed socio- and psycholinguistically in a chronological order by the meaningful units of the narration. Finally, we collected a few biographical data as well. The comparison between the hypotheses of the sequence of narrative migration stories and the biographical analysis led to the identification of the types of migrant narratives, and collective narrative patterns called “supernarratives”. These structural hypotheses in turn revealed other narrative conventions, or text-driving binary oppositions.

As social historians and sociologists we have focused on cultural exchange, on the textual analysis of different cultures, and on studying narrative identity. Our earlier, interview-based investigations conducted independently led us to the conviction that such methods are fruitful in the analysis of identity and they can be used to explore certain aspects of migration. It became apparent when studying Hungarian-Americans that life histories of migrants are identity narratives, i.e., the subjects tie the basic frameworks of their life histories to the events of migration. It was also revealed that the narratives presented by the migrants show a break: migration constitutes a rupture in a life history which breaks the continuity of life stories and which in some cases is described as a trauma. Furthermore, we found relevant aspects of these personal migration narratives, which the major political discourses on migration were unaware of. Hungarian-Americans

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72 We would like to thank Ákos Bognár, Eszter Bokor, Vera Gács, Gábor Greiner, Vera Kálmán, Zsófia Kovács, Dorka Sik, Bori Simonovics, and Anita Terner for their work.
73 For a detailed account of the methodology, see Rosenthal (1996).
74 A similar problem was raised by Freund–Quilici (1996).
77 Melegh (1999).
did not only talk of themselves as political and economic refugees, but they were quick to use religious and cultural patterns to ascribe meaning.

TYPES OF MIGRANT NARRATIVES

The types of migrant narratives which arose from the joint analysis of the migration stories and biographies will be introduced in the following sections. First all migration stories were subjected to sequence analysis. The essence of this hermeneutic interpretation is that narratives can be broken into smaller units according to themes and ways of expression. Every change of theme and style created a new sequence. These sequences were analysed in the order of narration and at each sequence we set up hypotheses concerning the possible continuation of the story with regard to themes and types. This series of hypotheses led to a thematic field analysis, which made it possible to establish the different modes of narration called narrative types.

As a second step the biographies were analysed. Biographical data were collected from the interviews, which were then put into chronological order. Similarly to our sequence analysis, we were looking for alternative life courses, which could be derived from the sequence of biographical data and from our own sociological and social historical knowledge. Using the biographical analysis, we attempted to explain why each subject followed the life course he/she was talking about.

Finally, the hypotheses yielded by sequential and biographical analyses were related to each other. This led to the following “typical” migrant narratives:

1. Migration narrative about a change in the quality of life
   1.1 Welfare Migrant: a migration or life story that describes emigration as a result of a welfare decision. Regularly this meant that the interviewee migrates because of the “will” (the welfare decision) of his/her relative.
   1.2 Forced Migrant (often a child or a wife): following somebody not of one’s free will.
   1.3 Private-Life Migrant: migration as a result of a decision concerning private life.
   1.4 Migration as Life Strategy: migration as an answer to life’s important questions, conscious decision entailing rational expectations and strategies.
   1.5 Consumption Migrant: the reason of migration is the difference in the quality of consumption.

2. Narratives of ethnicity
   2.1 Ethnocentric: migration recalls the theme of lost/preserved national identity.
   2.2 Integration, Assimilation: a migration or life story that describes adaptation.
   2.3 Multicultural: a migration and life story that is structured around human rights issues and presents several identities.

78 In the sociological literature on migration the following main migration types dominate: ethnic, economic (labor) and political. See e.g. Fassmann–Münz (1994).
79 For example, Sequence 1: story about the father – narrative. Sequence 2: “it was difficult” – argumentation. Sequence 3: the interviewee is silent – break.
3. **Interpreter narrative.** Emphasis is on the mediation between two cultures and on the role of the interviewee as “globaliser”.

4. **Political Refugee narrative.** The interviewee presents himself/herself as a person oppressed in the political system left behind.

5. **Supernarratives**
   5.1 “Unterwegs, on the road”: typical East-Central European narrative also found in literature. Its essence is that life is always elsewhere, not where the subject is. The subject always floats between worlds, never arriving anywhere.
   5.2 *Shoah, Post-Shoah*: describes migration as a result of the Shoah.
   5.3 *Buddy or Švejk*: In the former type the emphasis is on activity, teamwork, “getting around” superiors. In the latter type things go bad for the subject and he/she tries to make the best of the situation.
   5.4 *1956 Revolution*: builds on the themes formulated in the collective memory of the revolution and the exodus that was to follow.
   5.5 *Archetypical, sacral*: the interviewee tells the story within mythical or sacral frameworks (Odysseus, Oedipus, exile from Eden, born-again story, etc.).
   5.6 *Documents*: tells the migration story as a passion narrative of going through the mills of bureaucracy.

6. **Emotional narratives**
   6.1 *Over-compensation, conformity*: a migration or life story characterised by trying to make up for the disadvantages and requirements arising from migration.
   6.2 *Paranoia and anxiety*: structured around hidden fears and anxieties.
   6.3 *Homesickness*: homesickness is the basic motif.
   6.4 *Guilt*: presents a struggle with bad consciousness related to migration.

The Table 1 contains the relative frequency of narrative types in the three subsamples of the interviews.

<table>
<thead>
<tr>
<th>Migrant Narratives</th>
<th>Transylvania – Hungary</th>
<th>Transylvania – Austria</th>
<th>Hungary – Austria</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Change in the quality of life</td>
<td>33</td>
<td>25</td>
<td>27</td>
<td>85</td>
</tr>
<tr>
<td>Ethnicity</td>
<td>8</td>
<td>12</td>
<td>9</td>
<td>29</td>
</tr>
<tr>
<td>Interpreter</td>
<td>7</td>
<td>4</td>
<td>1</td>
<td>12</td>
</tr>
<tr>
<td><strong>“Unterwegs”, on the road</strong></td>
<td>1</td>
<td>0</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Political refugee</td>
<td>6</td>
<td>1</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td><em>Shoah and post-Shoah</em></td>
<td>1</td>
<td>3</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td><em>Buddy or Švejk</em></td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td><em>1956 Revolution</em></td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td><em>Sacral, archetypical</em></td>
<td>1</td>
<td>3</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Documents</td>
<td>5</td>
<td>1</td>
<td>–</td>
<td>6</td>
</tr>
<tr>
<td>Overcompensation, conformity</td>
<td>5</td>
<td>4</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>Paranoia and anxiety</td>
<td>1</td>
<td>3</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Homesickness</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Guilt</td>
<td>10</td>
<td>5</td>
<td>–</td>
<td>15</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>81</strong></td>
<td><strong>65</strong></td>
<td><strong>50</strong></td>
<td><strong>196</strong></td>
</tr>
</tbody>
</table>

112
Naturally several narrative schemes could appear in any given interview but there are only a limited number of narrative schemes. The schemes available reveal a limited discourse on migration “prescribed” and “composed” by cultural norms and political discourses.

1.1 Narratives of Change in the Quality of Life

This self-representation collects those subtapes that, considering their structure, characterise the day of migration as a step forward for, or common movement of, the given individual or family. Common movement is sometimes described as a collective decision, but more often the individual is a “victim” of the migration of those closest to him/her, i.e., he/she follows his/her spouse or parents. This is often related to that type of narrative where forced migration is also the end of an old and opening of a new chapter in one’s life, e.g. one becomes an adult or a parent.

One sub-type of this self-presentation is the narrative of migration as a life strategy. In such stories migration solves some financial, personal, professional, or political problem, or in other words it is a response to problems piled up over time.

During the comparison of migration stories and biographies this type of narrative was the most frequent as one third of the structural patterns revealed got into this category. The strength and acceptance of the narratives focusing on the change in life style is shown by the fact that with the exception one sub-type, both Hungarian and Transylvanian migrants are equally ready to present this self-image, independent of the place to which they emigrated. This balance does not exist when the subject constructs his/her story as one based on the welfare-inspired migration of the parents, or on marrying out. The former sub-type does not appear among Transylvanians who migrated to Hungary, while the second is frequent among migrants from Transylvania who emigrated to Hungary.80

One of the most important sub-types is the enforced migration narrative constructed by migrants who, as children, followed their parents. In these stories the subject generally describes the migration and relates the life story as the act and will of the parents, and only rarely attempts to create their own, “independent” account of the events. In some cases interviewees refer to events as being told by parents or in other cases when confronted with the question concerning the first day of migration they immediately start to speak about somebody else, for instance the father. K makes this link very clear:

Yes, yes the whole thing started when °°°° my father was born in 1900 and I in 1946 °°°°81

Passivity and the surprising superscription of one’s own narrative with those of others is observable not only in the enforced sub-type, but is also a common element among those marrying out, who are also apt to speak of themselves as puppets or victims. Some

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80 This is reflected in statistics showing that during the 1980's the most common way of leaving Romania was via fake marriage. See Juhász (1997), p. 4.
81 Rules of transcription: typed by words; ° break in the text; • sounds after texts, relief, laugh etc.; … omission in the text; [ ] our comments.
of them speak about the idea of leaving the home country just for the weekend or refer to the “unconscious” character of the decision to migrate. Furthermore, the idea of “drifting” can also appear in the texts of welfare and career migrants, who do not, on the whole, present themselves as passive subjects of migration.

Despite exceptions of the latter type, the dynamic of narratives focusing on change in the quality of life is provided by lack of consciousness, gaps in memory and superscription, and the difficulty of verbalising the underlying trauma. One of the most important explanations of “drifting” in self-description may be that on a normative level it is difficult to justify private, welfare reasons as opposed to commands (from parents, peers, the state, cultural discourse, etc.) to stay at home. At the same time such interpretative frameworks might also be “inadequate” in terms of resolving traumas arising from migration and this lack of legitimacy is solved by “self-victimisation”.

There are two sub-types within the category of change in the quality of life, which, in some cases, might stand alone as self-presentation. These are the narratives of welfare and of private-life migration. In Gy’s story all elements (moving, adapting, breaking away, earlier desires regarding the “West”, disappointments) were related to the husband or his activity. It was worth leaving the country, renovating the home, and leaving the parents’ family in Hungary (who came to be strangers) for his sake. The text is a short exercise in sublimation, as one individual represents all migration-related anxieties.

When I came here, when I got married, then it was a conscious decision and I knew what to expect here. I knew that •••• at least my husband would be happy to accept me here and that it’s worth coming for him. Even then •, it wasn’t the West waiting for me, it wasn’t milk and honey, it was my husband. Because after I graduated from university, I could have been in milk and honey at home, at least from my limited point of view. So then, for me, thinking of going to the West ••, as an emigrant, because •• there was something better for me there, that didn’t occur to me at all.

It is important to note that the private-life type of self-representation as an exclusive form does not occur among the migrants from Transylvania. In the texts of these migrants the passive emigration story always contains elements of disharmony, like pangs of conscience, guilt. Furthermore, the narrative of the welfare compulsion migrant is completely missing from this group of migrants.

1.2 Narratives of Ethnicity

A classic problem in the literature of migration for decades has now been the integration of migrants into the society of the host country, and the effect of migration on ethnic identity. Various, sometimes interrelated multigenerational models have been set up to describe the different steps of integration or assimilation. These attempts in the field also reflect the political and social discourses which expect migrants to quickly integrate or even

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82 See e.g. Tabori (1972); Glazer–Moynihan (1975); Barth (1969); Smith (1981); Gordon (1978); Elschenbroich (1985); Richmond (1988).
assimilate into the majority society. At the same time, the countries of origin have opposite political and social expectations, which require from the emigrants – if they must leave their homeland – to preserve their ethnic identity, gather into a diaspora group, and at the same time to fit successfully in. In this controversial sphere of discours migrants have often been directly forced to use the themes of ethnic identities, and to present themselves in ethnic terms.

Our interviews have many examples of the above. The truism that movement across space increases the need and force of self-reflexivity is readily apparent in the interviews: while the person who spends his/her life in one place or in one country can have a latent, unconscious ethnic identity throughout their life, the migrant must reflect on this identity consciously. This applies not only to the post-migration period, but also to pre-migration times. The migration process often retrospectively activates or establishes linguistic, ethnic, local, or regional identities:

I should add that my association with Transylvania really became apparent once I was no longer in Transylvania. (KZS O)

A unique linguistic example of retrospective identity formation is illustrated in the following quote:

…and it was very difficult to lose the Heimat [in German], what do you call it? °°° homeland. (BI D)

The process of identity formation is shown by more than just the search for the emotionally adequate Hungarian term in this quote. At first glance it may seem surprising that this very term should not occur to our interviewee. It is, however, logical for the sentence to turn out this way, as D. left Transylvania, which to that point was his homeland, his birthplace, with his parents as a young adolescent. This is why the term Heimat is used (whose primary meaning is “the place where one is at home,” or birthplace, place of residence, place of origin), before the Hungarian equivalent haza (the term translates as “homeland”, “motherland”, and in German more as Vaterland) is substituted for it. The “translation” perfectly illustrates the emotional similarity of the two terms: the more formal Vaterland or Geburtsort is rejected for Heimat (note that homesickness is Heimweh in German), and in this way the place of birth, or the more limited land of origin, in retrospect becomes homeland [haza], a larger national framework, which has been lost.

Ethnic difference in the narratives, when speaking of the “host” nation and society, is of similar weight across all sub-samples. In the cases of the given sub-types there are some noticeable differences: while the minority or ethnocentric attitudes are found almost exclusively in the Transylvanian migrants’ texts, the self-presentation of integration and assimilation is found mainly among the migrants from Hungary. It appears then that the expression of ethnic identity related to migration is a larger burden for Magyars leaving Romania, whether their destination is Budapest or Vienna, than it is for those leaving Hungary for Austria. Two hypotheses can be formulated to explain this phenomenon. First, leaving Romania forces one to reflect on minority Magyar identity, as
it is primarily as a member of such group, and as one who is thus oppressed, discriminated against, or persecuted, that one arrives in Hungary or Austria. The “host” society and its political discourse, in better cases, lumps all such migrants (despite the plurality of their backgrounds) into the “Transylvanian Magyar” category (if they are not in fact be branded as “Romanians”). This is a way of pigeonholing them as “minority Magyar.” Further, the narratives suggest that the “homeland” will not, or will not easily, let go of the Transylvanian migrants: to leave Transylvania is shameful, it is cowardly, it is a sin. To decrease or dilute the feeling of shame or guilt, one might keep or consciously bear his/her minority Magyar, Transylvanian identity.

The massive survival to this day of exclusive minority ethnic identity in Central Europe is shown by the fact that we found only one interview subject whose self-presentation was multicultural or based on human rights, and even this was apparent not at the narrative but at the biographical level. This is all the more interesting as due to the specificity of the sample – a lot of children following parents, a lot of welfare migrants – more such narratives could be expected.

At the beginning of this section we mentioned that our sample contains more instances of the type based on patterns of integration and assimilation than those of the ethnocentric or minority Magyar self-presentations, and that the former approach is characteristic mostly of those who migrated from Hungary to Austria. From the perspective of Hungary the numbers are shocking: they show that regardless of the dominant Hungarian political propaganda and discourses integration into the host “mother country” is more difficult than it is for Hungarian migrants to integrate into the more openly xenophobic Austrian society. It is also to be noted that integration into Austria is as difficult for the Transylvanian migrants as it is for those from Hungary. The reason for this presumably lies in the cultural differences formulated in the commonly used East-West dichotomy. In our interpretation, from the Romanian, Transylvanian perspective – as was expressed in several interviews – Hungary is part of the “West”, and Austria is even more clearly so. The social and cultural differences are larger than the possible linguistic similarities; all that the sameness of language tends to do is to hide real differences, making them more difficult to interpret and digest, as shown in the following example:

…but I really didn’t feel too much like a foreigner, I speak pretty good Hungarian and well, there are some situations where you can feel really big differences. (BA 6)

1.3 Interpreter Narratives

This type of text is uniquely characterised by the presentation of the subject’s life or migration as a story of moving between different cultures. In these narratives, most often after the establishment of democratic political regimes, the migrants re-establish contacts with the country or settlement of origin via the help of international organisations (multi-national corporations, internationally organised cultural institutions, religious groups, etc.), private business, educational strategies, or professional careers. The interpreter narratives are usually heavily reflective: the recollection of experiences follows the logic of the “path”
taken and often weave through argumentation and retrospective judgement. Interpreters are not passive. People do not just become interpreters, they must be actively fashioned, even when the subjects attribute special significance to accidental events. This type of text suggests the ethos of the “self-made-man”, even when institutions of various sizes “move” the migrant from one place to the other.

Interpreter narratives are not always backed up by successful globalization careers. In this self-presentation emphasis is put on the fact that migration has given the migrant cultural capital (language, knowledge, skills, connections, and sometimes even access to financial capital) which can be made use of or mobilised from the moment of the country’s political transformation. The role of this transformation in the texts is not to be overlooked, as it is often the “moment of globalization” for the migrants, or it is the moment they realise they are interpreters, even if they had been in this position previously. Activity in a multinational company or organisation does not in itself lead to such a narrative, especially not if the migrant does not “return” to the politically transformed one-time homeland, or does not begin mediating between cultures.

The interpreter pattern is not characteristic of those who left Hungary, and it is used almost exclusively by interviewees from Romania – and even among this group, mainly by those who moved to Austria from Transylvania. In the case of Hungarian migrants, we might explain this by saying that Austria is “too close” and “resembles” Hungary too much to make for an interpreter career: those with such ambitions and attitudes tend to go farther away, or return from a greater distance. Hungarian “global-types” are likely to be found in Germany, the United Kingdom, or the USA. From the perspective of Romania or Transylvania, Austria is symbolically not one, but two steps away: both physically and culturally it is a “distant” country, especially compared to the other alternative, Hungary. The migrants and emigrants leaving Transylvania for Austria lose two of their basic identities, or at least arrive at a confrontational situation regarding them: on the one hand they leave behind the collective Transylvanian minority identity, and on the other hand they also have to lose their Magyar identity on the way.

The interpreter narratives in this respect exhibit a unique emancipatory process: the Transylvanians, once in Austria, become equals with those from Hungary, as from the Austrian perspective, the common language of the two groups supersedes local cultural differences and hierarchies. In cases where the social patterns carried along do not help in the integration into the host society or in the identification with the traditional role as “citizen-of-the-world”, one consequence of giving up the earlier collective identity can be the appearance of an interpreter identity.

1.4 Political Refugee Narratives

The political refugee narrative is a type which is supported not only by cultural norms but also international legal conventions. It is the only self-presentation that must be “officially” examined by all potential host countries – thus for our interviewees it might be an extra source of legitimacy. Furthermore, these narratives should be the most active migration narratives, given that those migrating for political reasons are doing so consciously. In our analysis we did not, of course, use legal norms: instead those self-
presentations are put into this category which linked migration to political persecution or lack of freedom.

Ironically, among the interviews only a few could be characterised as political refugee narratives. Thus, strong legitimacy did not translate into a large frequency. Mainly migrants from Transylvania to Hungary use this self-representation. It is surprising that those migrating from Transylvania to Austria do not appear as political refugees in the texts.

There can be several explanations for this. First, as was described in the case of ethnic and interpreter self-presentations, migrants from Transylvania to Austria perceive a very large cultural divide, and this great leap diminishes experiences of political vicissitudes. In other words, leaving the ethnic community “hurts” to a degree which cannot be compensated for by gaining greater freedom. The same relationship can also be formulated by the argument that the ethnic narrative incorporates political persecution, as this oppression was directed at ethnic otherness. The stress on discrimination against minorities loses its political meaning outside the national community, and it is replaced by non-political ethnic identification. Nonetheless, among Transylvanians in Hungary these two narratives coexisted harmoniously (of six cases, the two structures were intertwined in three), and they are meaningful only in this way: “I have left my predetermined ‘homeland’ because I was forced to do so by the ruling majority ethnic group.” The political-refugee narrative thus can explain the disobedience to the “stay-at-home” command.

As seen above, ethnic Hungarians migrating to Hungary from Transylvania because of being discriminated against on the basis of their ethnicity constitute the “prototype” of the political refugee in the sample analysed. In their case the connecting of ethnic identity and political refugee “status” is a real strategy although the link to “anxiety” narratives indicates that the minority refugee self-presentation is not unproblematic in Hungary, and we might even say that it is not successful. For instance, from the present perspective one of our interviewees gives a detailed description of wrongs suffered from the hands of “intolerant” Hungarian diplomats and the “absolute feeling of insecurity” in Hungary which only “has lost its intensity,” but has not disappeared. This shows that those with an ethnic minority identity feel a vacuum around them in today’s Budapest. In other words their life experience as Hungarian in minority is considered to be useless from the present perspective.

1.5 Supernarratives

Analysing the interviews we discovered textual structures which in many cases showed a large degree of similarity to one another, and which were closely connected to various stories, literary forms, or the motif of certain objects (namely papers/documents) stored in collective memory. We called these texts “supernarratives” because as opposed to the more “individually” constructed narrative types focusing on the actual migration they can be viewed as parts of general knowledge. Thus anyone could “access” them – their utilisation has no inherent limits, and whether they are used for self-presentation, the formation of narrative identity, or connected to other patterns, depends solely on the life history of the given subject. The supernarratives – given their formal characteristics we could even call them mythologies – generally offer ready-made identities (sets of
identity) and could give concrete outlines to the subject’s role in the “story”. They often contain rich symbolic devices which allow all of life to be explained as an emblematic history: certain words, turns, or stylistic markers in series can outline the basic experiences of migration and the present reflections on them. In other cases it is the method of tale-weaving that prescribes the rules of narration: the full set of appropriately selected and described stories makes up the supernarrative and constructs the self-presentation.

1.5.1 The Shoah supernarrative is divided into two sub-types according to the interviewee being either a Shoah survivor or the descendant of one. In the first instance we heard narratives – well-known from other research projects – beginning with the so-called “Jewish laws” (the *numerus clausus* of 1920, the first to fourth anti-Jewish laws between 1938 and 1944) and moving on to hiding in 1944, escapes, liberation in 1945, emigration, refugee camps, etc. Post-1945 migration is put in the same context as escape and Shoah survival. In these histories migration is a result of the Shoah, and the two events are in a cause and effect relationship. The survival of the Shoah is a dual “command”: the country where these atrocities occurred must be left, and one must live on if given the chance. The actual trauma is often not mentioned by the narrator – hence this is a supernarrative as the trauma is presented in a coded manner, with the help of calling signals – and these texts are not cathartic. In fact, they are strongly rationalised (this is not surprising if we use the approach of Barthes or Levi-Strauss to mythology) and keep direct feelings and experiences at a distance. In addition, the supernarrative has a therapeutic effect: narrative identity gained in this way does not force one always to recall the tragedies experienced.

The case is quite different for the children of Shoah survivors. The trauma can be passed on to the second and even third generation, and while the first generation is still aware of the trauma-evoking story and survival experience, for the children the Shoah and the one-time suffering of the parents can become formless anxieties. This was reinforced by the decades of silence on the topic in Hungary.

For later generations migration becomes the means of distancing from their (and their parents’) anxieties or more precisely the migration story is the rationalisation of these “secrets”. One of our interviewees (BE D) for instance puts the decision on migration into the framework of open conflicts between the parents expressing different approaches to their Jewish origin and the traumas involved. In this open deliberation between the “Luxusbiene” (luxury bird) mother and the “modest” father not only the whole story of migration is told but in the end the female interviewee clearly chooses the father who did not want to migrate to Vienna.

It is a unique characteristic of movement in Central Europe (it is not characteristic of Jewish migration to Israel or the USA) that in those cases where the migrants are intellectuals (for instance BE R), the post-Shoah narrative is intertwined with the on-the-

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83 See the film of Claude Lanzmann (*Shoah*, 1986), and the oral history collections and the first film (*Last Days*, 1999) of Steven Spielberg for East Central Europe.

84 See the handbook containing approximately 40 studies dealing with this subject: Yael Danieli (1998). See also Inowlocki (1993); Kestenberg (1991).
road supernarrative. This on the one hand expresses the “wandering Jew” archetype (or reference to religious terms), and on the other expresses Central European culture in which the state of “unterwegs” (on-the-road) is in reality a positive pattern of self-presentation. In this sense it is an attempt to ease the stress of insecurity and identity crises.

1.5.2 The second most common supernarrative concerns official papers. While in the previous case we emphasised the causal relationship between the Shoah and migration, in these narratives “papers” symbolise something. In our interviews with Transylvanians we noticed that many of them presented their migration stories as the process of obtaining and keeping the necessary papers. In these dialogues the interviewees uniquely selected their past experiences in the framework of obtaining marriage licenses, emigration permits, customs papers, or other personal documents. This means that the personal experiences around the migration days did not come up in the narrative at all or the story focused on the paperwork. A unique characteristic of these stories is the dependence upon the papers. On the one hand this reduction represents the gradual losing or stripping away of the completeness and the personal character of the self. On the other hand, in the case of Transylvanian migrants these simplified stories subsume all the horrors of the Ceaușescu regime.

In several interviews subjects mentioned that Ceaușescu’s own signature was put on their marriage documents: the tyrant controlled and regulated relationships in the most intimate of spheres, or at least our interviewees felt such pressures. Further, the paper narratives also relayed the thought that in pre-1989 Romania the authorities could only be spoken to through “picture speak (symbolic speech)”: the hated papers and the aggressive and always negatively viewed bureaucracy embodied the regime which was left behind. Romania described in this way had to be escaped at any cost, as one could never know when the “papers” would expire and whether new papers could be obtained. The paper narratives thus legitimated migration and eased the surrounding feeling of guilt.

1.5.3. The 1956 supernarratives are again different. Being as strong as the Shoah and referring to the common experience of the revolution and the consequent exodus, this collective narrative becomes supernarrative through over-writing individual experiences. The fact that 1956 migrants have repeatedly told their stories could enhance the establishment of common themes and motifs, the creation of a 1956-er identity.

These common themes and motifs include the open border between Austria and Hungary and its closing in late November, the use of trucks and other vehicles in order to get close to the border, the crossing of the border in groups and mainly during the night, the lights of rockets, the motif of streams and rivers, the discovery by an Austrian border guard, the

85 See for instance Kundera (1986); Roth (2000); Singer (1972); Busek–Wilflinger (1986); etc.
86 See Ember, J. Menedékgov: A Nagy Imre csoport elrablása 1956 [Political Asylum, 1956: The Kidnapping of the Nagy Imre Group]. Budapest, 1990, which book shows several instances where the similarity of histories indicates collective and post-facto construction, or the establishment of “legends” or “stories” based on common experiences.
hospitality of Austrian citizens, the refugee camps and the waiting for asylum or visa papers, the richness of the host country, the view of such unseen “luxuries” as bananas. 

1.5.4 Archetypical or religious supernarratives are texts that contain traces of universal structures arising from the collective sub-conscious, such as those found in myths, legends, and fairy tales. Migration stories based on the Oedipal conflict are a good example, where the migration is described as a squaring-off with one’s father or mother. Other narratives use texts similar to ancient migration stories (e.g., Odysseus’ adventures and homecoming, or the endless wandering of the “Flying Dutchman”), but religious frameworks which are not directly related to physical wandering but add meaning to history also occur (salvation-, rebirth-, conversion- and adversity-stories, the Last Supper, etc.). Their common characteristic is the presentation of migration as a ritualised act of change and movement in space or spiritual/biographical stages.

1.5.5 The migration narrative pattern charged with the lowest level of emotional burden is the Buddy or Švejk supernarrative, although only few are capable of employing it. Its main structural element is the intertwining of happy or comical stories with many dialogues and compact stories. Migration itself is a compact story which serves to present past experiences as a “fantastic tale” – and which, paradoxically, distances the storyteller from the story. The first sub-type is characterised by “teamwork”, where the group shows camaraderie or coerced unity against the mighty, or when faced with danger, and where the group takes on toughness as an attitude. A second type is that of “Švejk” who as a single individual gets into strange, absurd situations and finds a way out through using “common sense.” The buddy supernarrative allows fear to be discussed, while the Švejk approach hides that fear.

1.5.6 The “unterwegs” (on-the-road) supernarrative differs from the one above, even though it is also based on literary, political and academic narratives. These patterns – although some reach back to the time of the Austro-Hungarian Monarchy – are mainly from the 1970s and are strongly connected to the period prior to the political transformations in Eastern Central Europe. The type is mainly formulated on a collective level (countries, regions), but it has also been formulated with reference to individuals. The state of being on-the-road is a transitional one, characterised by shuttling between the Eastern and Western blocks, which is often symbolised by a ferry. In such social, political and historical narratives the West is idealised and put on a normative basis while the East (in this case mainly Eastern Europe) is portrayed as an inferior, backward and morally corrupt counterpart.

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87 See also the version of the 1956 supernarratives told by Hungarian-Americans: Melegh, ibid.
89 See footnote 15.
90 See Bojtár–Melegh (1989); Kovács–Melegh (1997), ibid.
One of its individual archetypes is the “wandering Jew,” which is generally used by subjects of Jewish descent as part of Shoah narratives when telling stories of the consequences of escape (migration). By introducing the pattern of “on-the-road” the chain of cause and effect is continued as Shoah/migration/on-the-road status. This kind of reasoning, like the ferry narrative, has also become a norm, or an archetypical world view.

1.5.7. The aristocratic supernarrative is in line with classical novels, which tell the story of aristocrats who get into some kind of social and political cataclysm and escape.\textsuperscript{91} Its most salient characteristic is that the migration is described as a collective movement based on a well-organized, cross-border and cross-regional aristocratic network, and motivated by the fear of persecution. This narrative is “driven” by patriarchal patterns: the family elder, or the highest ranking man (husband, father) makes the decision, and the rest, in accordance with tradition, follow. The language in which such narratives are told is characterised by the predominant use of the first person plural to the point of absurdity (female subjects were found to do this). Intentions are portrayed as collective ones (“we wanted,” “we thought,” etc.) and personal experiences never, or only very rarely, appear in the stories. Even then they are subordinate to common activities – tradition seems to work perfectly in all scenarios.

**CORRELATION BETWEEN NARRATIVE TYPES**

In the following section the relationship between types of migration narratives are analysed. This has been made possible by the tabular cross-referencing of all interviews and the types of narratives appearing in them. Thus in the analysis “factors” could be set up mechanically out of the different types and additionally factors could be reconnected to the different interviews. This table is presented in the Appendix. It is to be noted that in the analysis the categories of Chapter One are divided into subtypes. Among the links only the most significant ones are analysed.

**Change in the quality of life**

Texts centring on the change in the quality of life often incorporate narrative types of integration and assimilation. The inclusion of integration narratives here shows that passivity characterises not only the change-in-the-quality-of-life migration presented as following somebody else but also the process of settling down. Thus these migrants “internalised” the culture of the receiving country, or, in other words, drifting prepared the way for “assimilation” behaviour in the sociological sense of the term.

The intertwining of the change-in-the-quality-of-life texts with ethnocentric self-presentation is also significant. It appears then that passive self-presentation, or the normative weakness of personal and family reasons, can lead to the rediscovery of the “lost” Magyar identity.

\textsuperscript{91} Classical novels can be recalled like Tolstoi’s *War and Peace* or Margaret Mitchell’s *Gone with the Wind*.
The “normative” insecurity of the change-in-the-quality-of-life narratives is also shown by the fact that the emotional narrative of guilt is frequent in these texts. The relation is strengthened by the fact that guilt is witnessed only among those emigrating from Transylvania. In the cases of “guilt” regarding private or family life, leaving the parents’ home causes most of the break-up fears, feelings of guilt, and unresolved conflicts. These anxieties are often narrative frames in the stories about the day of migration:

[Start] Well, it was very difficult. Especially telling my parents, well now, it’ll be not just for a week, or two weeks, but, but forever. Well, I think that they, especially my mother, have still not accepted it. Even though I’ve been here for five years since the summer of ‘95. And really it wasn’t even me that told them, it was my husband, that we’d decided, and that we’re staying together, and that there was no other solution, even though it had come up before, that if there was an opportunity like this, where we could establish a company, or something, so if we could ensure good financial opportunities for the family, then we’d go back, and there’s still a chance of that happening.

[Close] Then my husband came, we went home together, and that’s how we came back, by car, the whole way. Of course there was a lot of crying, and I cried later too, so it wasn’t just over one day that I couldn’t decide, here or there. But he tied me here. It was for him that I accepted that I would break with my former life (SB7)

Many times the guilt-ridden story within the framework of the change in the quality of life is not just post-facto moralising – the text often reflects real betrayal. The intellectual migrant below was a casual migrant, who seized the opportunity and stayed in Vienna. He had not told his family, and they only joined him four years after the political transition. His response to the first question asking him to describe the day of migration was, “Disgusting”.

No, there’s really no more to it: it was disgusting. You run back and forth, you don’t understand the language, you don’t know where to go or what to do. The moral responsibility and the weight of the decision are depressing, you call people at home and tell them on the phone and they nearly faint. It’s hell (KZS GY)

The analysis above does not suggest that migrations presented in family or personal frameworks hide “private sins,” but claims instead that narratives presented in this fashion incessantly keep conflicts and difficulties of private life, as well as their management and related anxieties, on the surface. The self-presentation of guilt often seems, however, to be constituted from outside. One of our interviewees for instance – via the story of an accusation of smuggling a painting of the dead parents – links guilt, private decisions and the disapproval of authorities (SB 6). Thus it is probable that migration is branded a “crime” by authorities and by the minority cultural discourse at home and this stigma transfers to the stories of migrants.

The importance of normative insecurity and passivity as a structural element is also shown by the link to the emotional narrative of over-compensation (within traumatised narratives), as all such self-presentations are constructed within narratives focusing on
change in the quality of life. It appears that identity constructed on passivity, or the leaving of the country justified within the framework of private life, is a kind of “identity disadvantage” when compared to the case of conscious and active migrants (1956 self-presentation, interpreters, etc.). This disadvantage is compensated for with narratives of compulsive assimilation. It is also to be mentioned that despite the links to guilt and overcompensation the framework of the family or personal motivation can save one from formless, all-encompassing anxiety and the narrative of persecution complex.

The category of change in the quality of life and self-presentation as a political refugee are somewhat difficult to combine due to the “active” element in the latter one. There are only two cases of migrant texts concerning marrying out which are based on active self-presentation and which were linked to political refugee narratives. On the basis of these interviews it appears that traditional family models are the available bridges between the two dominant but conflicting modes of self-presentation.

Interpreter and “on-the-road” narratives can be linked to stories of change in the quality of life only via welfare motivations, although passivity characterising the whole category can fit the feeling of being always “on the road.” Shoah narratives – on the other hand – rather naturally accompany the change-in-the-quality-of-life texts. This link is sometimes the key in completing the escape from past traumas as interviewees not only left their country of origin, but also carried out a hopeless search for a stable identity via following spouse after spouse. Such a story was given by D., who starts her identity saga by speaking about her parents (her mother was the only Shoah survivor in the family) who were fighting when she was accompanying them on their way to Vienna.

…when I was 12 years old, a very big argument began at home, because my Father had a cousin in Vienna who was a big Macher [a big shot] in the socialist party, and he sent us an Austrian visa, so for two years my parents argued, because Mother wanted to emigrate, and my Father didn’t, and Mother always threatened Father, Father really loved Mother, who always threatened that if we don’t go **, if we don’t emigrate **, then I will leave you and I’ll take the children and blah blah blah and that scared me **** in any case my Mother was always braver than my Father, and she badgered him until he submitted the papers and after half a year we got a passport and emigration papers, and that’s how we emigrated to Austria. (BE D)

One of the methods of wriggling out of the passivity and guilt which comes with the change-of-the-quality-of-life texts is to employ wry humor, which does not cleanse one morally, but does help one to “survive” unwelcome conflicts, and to describe them without anxiety. Some of our interviewees “forced” to follow family members keep returning to stories of making a fool of or dealing with ticket controllers, customs officers, policemen and of course “disloyal” parents. The humorous sadness in playing with authorities and parents can be a response to the unwanted anxieties.

Narratives of ethnicity
Minority Magyar self-representation is never an exclusive structural element of migration stories, and it does not incorporate typically singular story-telling modes – this narrative identity can be developed through almost any story. There are, however, exceptions, where this type does not appear. Such are life and migration narratives employing traditional social patterns or the collective memory of the 1956 exodus, as well as the Buddy and Švejk narratives. In the first case we may conclude that the minority Magyar identity – at least in its narrative form – is an external and modern construction, which “does not require” self-presentation when other, traditional “skills” are at hand. As a provocative statement it can be argued that the minority Magyar self-identity was not rooted in tradition, but instead it was a replacement for, or opposition to, tradition.

Similarly, the mutual exclusiveness of 1956 and ethnocentric minority Magyar narratives was also an unexpected phenomenon. The latter pattern of text structure was used as a kind of “supernarrative” by some subjects in order that they might present themselves as 56-ers (we will describe this type in more detail below). In this way such texts were “covering texts” which served to disguise welfare decisions. It is no wonder then that the formation of minority Magyar identity does not occur, as the goal is integration and happiness.

Finally, it is obvious that neither the Buddy nor the Švejk self-presentations are inspired by ethnic identity: adventure, a blasé attitude, and the intention to outsmart others are patterns that serve to form a full and anxiety-free life history.

The minority Magyar and ethnocentric Magyar self-presentations are most common among compulsion migrants, welfare migrants, and political refugees, and to a lesser degree among the narratives of interpreters and paper chasers.

In the first case representations are formed by the hidden or visible rebellion against the parents among those subjects who migrated as children (due to the decision of the parents). In these cases many times the unwanted break in their lives is compensated for by the symbolic return in the form of an ethnic Hungarian identity (e.g. BI A).

Self-presentations referring to both welfare decisions and ethnocentric Magyar identity are sharply differentiated between Transylvanians and Hungarian migrants. In the texts of the Transylvanians well-known ethnocentric topics come up: the identification of the Romanian state with Romanians, the stereotypes of the “good Romanian” and “our Romanian,” and the numerous variations on these (e.g., the “good” Magyar and “bad” Romanian customs officers, the civilised Hungarian authorities versus the barbaric Romanian officers, the Romanian neighbour or colleague who is sure to be an informer, etc.). The basic motif of the migration stories – which is of course found in other narratives – is that there was always some kind of conflict or anxiety with reference to Romanian bureaucrats, while this was not the case with their Hungarian counterparts. The paradox of migration between Transylvania and Hungary is that only very few make any reference (or are able to make one) to the abuse of power by Hungarian authorities, given that in some way these migrants are coming “home” and they are especially loyal to their “hosts”. Although the Ceaușescu era was indeed harsher than any abuse of power by Hungarian authorities, the emotional nature and discursive “burdens” of migration make such reflections difficult to express.
The situation is quite different concerning migrants from Hungary. Magyar identity is not primarily elicited by the otherness of Austrians. In narratives which described welfare and career-advancement reasons for migration we find that ethnocentric Magyar views are in all cases opposed by professional achievements and positive lifestyle changes in the “host country,” and ethnocentric positions decrease the meaning of the latter within the life histories. The main message of such self-presentations is that cultural identity is not to be taken for granted, and the new environment offering welfare does not necessarily entail a culture or mentality that can or must bring a sense of relation or identification. These identity representations are often not organised by the symbols of political nation or the homeland: such interviewees could not be found among the members of minority organisations. Their identification was purely individualist in nature. “I feel loyalty to culture, but this is not a question of signing out or signing in” claimed the sole interviewee who moved from Hungary to Austria, and whose clinging to an ethnocentric Magyar identity was one of the structural elements of his narrative.

In several cases ethnocentric Magyar self-presentation was attached to the narrative of being a political refugee in the Transylvania–Hungary subsample. The two extremes were first represented by an integrating, accepting, and loyal attitude, and second by the narrative of failure and the wish to go home, which pushes the interviewee back to the minority Magyar identity. In the former, embodiment occurs through emancipation struggles to join the Magyar nation, while in the latter the failure of this emancipation is visible.

Turning to the integration and assimilation pattern it can be seen that this narrative is capable of structuring the conversation in itself. We obtained this narrative from a 1956 emigrant. A.’s migration story did not use the 1956 supernarrative at all, and he did not introduce himself as a revolutionary or as a victim of communism. From the perspective of the present, being a 56-er has no meaning for him, and after successful adaptation he has no need to “support” his life history with such a narrative.

The integration and assimilation narrative rarely comes together with the migration-as-life-strategy, welfare, private-life migrant, interpreter and Shoah structures, or the guilt-ridden self-presentations. In the first three instances the conflict with the integration and assimilation pattern is obvious as integration is assumed at the moment of choosing migration: for those who want to begin life again, who choose a “better life” abroad, or move with a spouse to another country integration is seen as something natural, as a part of life and welfare, and not as a separate task to be confronted after migration.

There is something else at play in the case of the interpreter and Shoah narratives. In the first case, the interpreter’s lifestyle or self-presentation does not allow for integration into any “host” society, as one can only be a connecting element if he/she keeps a certain distance from the cultures to be transmitted. In the case of Shoah narratives the inability to handle holocaust traumas may explain why they are not prone to speak of integration: escape from the past or from the place of origin does not ease the trauma, the feeling of “otherness” does not decrease in the new environment, and the new place does not become home. It is to be stressed that all this does not mean that the case of every post-Shoah migrant with a Jewish background is of this type. Here we are speaking of a situation where the subject constructs the story as a post-Shoah migration and presents him/herself
as a survivor or descendant of a survivor, where – in the cases analysed – one becomes a “wandering Jew” – migration is not suited to curing earlier trauma.

The integration and assimilation patterns often work in narratives which speak of success and problem-free careers. Therefore we should not be surprised that in such cases there is no talk of guilt arising from migration. While the existence of guilt is sporadically present among minority Magyar types, showing the struggle to ease the guilt (the ethnic minority identity arises from “suffering”), in this case, should guilt exist at all, it remains hidden.

The strongest relation is between integration discourses and the 1956 supernarrative. These are the interviews in which the one-time 56-ers speak of successful adaptation, forty years after the event. They “immediately” found jobs, overcame language difficulties and could satisfy social expectations they were presented with.

Another strong relation is between ethnic narratives and the ones of compulsion and career type. These narratives form a real cluster, as they regularly appear together in the interviews. These texts present the image of a successful diaspora, wherein migrants have adapted to the host country’s society and have successful careers, while clinging to their minority Magyar identities at the same time. This duality appears in the biographies, where the integration path is paralleled by taking on minority activist roles. On the basis of the interviews nonetheless it cannot be tested whether via successful diaspora life the two “worlds”, i.e., the series of majority and minority cultural and social practices can be united or not. We cannot exclude the possibility that the activist life is “behind” the world of social contacts with the majority, and that the spheres only meet on the level of the biography.

Narratives of the Interpreter

This narrative type does not stand on its own: there is no “pure” interpreter’s life history. It is not used with the welfare migrant, political refugee, and “over-compensation” narratives – i.e., with narratives where passivity or compulsion/coercion is a determining factor. One-third of life and migration stories constructed by guilt (possibly by other motifs as well) are interpreter narratives at the same time. Return, the development of the bridge role, and self-presentation as interpreter often spring from feelings of guilt which were once caused by migration. Guilt can arise not only from leaving the family or the immediate environment (primary, unintended pains with regard to those being close to us), but can also be superimposed by certain social discourses: namely discursive rules that forbid or stigmatise integration, success, mobility, individualisation, etc. (behaviours that can arise from migration). This situation can be particularly extreme in the case of interpreter roles, as these imply knowing more and having more than those at home. Hence, this narrative does not allow for melting into the culture or communities of either the current or the former home: the former migrant confronts otherness and strangeness in both places.

From the above it follows that interpreter narratives more often accompany texts of the migration-as-life-strategy, career, ethnocentric Magyar, traditionalist world-citizen, 1956-er, or sacral types. In the first three cases the dilemmas of individualisation appear, while in the case of the latter three types “supernarratives” are found which offer collective
schemes for solving these dilemmas. The greatest harmony is between interpreter narratives and career discourses: in this case guilt does not play a part in the migration story. In the other cases guilt is a structuring emotional factor and occurs frequently – this is evidenced by broken narratives.

Summary: The “Hierarchy” of Narrative types

At the end of this section, hierarchies and clusters among the main types are described (see Figure 1). By clusters we do not mean the results of mathematical-statistical factor or cluster analysis, but instead those structural elements from the texts which could not have arisen by chance.

Change in the quality of life, as the “dominant” structural type, subordinates several other modes of self-presentation and conflicts with others. These latter narratives may, in turn, subordinate other types. Sometimes dual or multiple subordination patterns can be observed, i.e., there are even lower structural elements in the hierarchy which establish connections among divergent types.

The political refugee and interpreter types are at an equal level with the change in the quality of life. Among supernarratives the 1956-er, and to a lesser degree the ethnic narrative, are also at an equal level with the category of change in the quality of life. The basis of divergence is the personal attitude to migration, particularly the question whether the subject was a passive or active participant in leaving the country.

The quality-of-life type subordinates the over-compensation, on-the-road, and ethnocentric Magyar narratives, as well as those based on traditional patterns and Švejk-buddy motifs.

On a lower level of the hierarchy, the traditionalist and integration patterns mediate between the quality-of-life and political-refugee categories, while the ethnocentric Magyar narrative is the link between quality-of-life and the interpreter types.

Within the overall quality-of-life category, the subtype of the welfare migrant is connected to the career and interpreter narratives. We can also observe that the “sinful” quality of life narratives and the “guilt” self-presentation establish a possible connection with the interpreter category.

Self-presentations operating with ethnicity are partially subordinated to the quality-of-life category. Those not subordinated act as an independent cluster typically subordinating other categories. This is the case with the sub-types of the integration and assimilation categories, which establish two smaller clusters with the 1956-er, welfare, and career categories, and which contain the ethnocentric Magyar type as well.

The self-presentation of the interpreter is an alternative to the main narrative types, but does not stand on its own or subordinate other types. Its “weakness” is illustrated by the fact that its only unambiguous connection is with the guilt category. It is as if the subjects felt pangs of conscience for identities which were “between cultures” or above and beyond nation states.

The self-presentation as political refugee is the last significant alternative among migration narrative types. It does not stand on its own, but characteristically subordinates certain emotional narratives (overcompensation, anxiety). It is to be added that this cluster shows
the “unsuccessful” struggle (from the present perspective of Transylvanian migrants) to establish a complete cultural pattern and collective identity for interpreting Magyar–Magyar migration.

While in the chapter on narrative types the basic structure of the self-presentations were discussed, here the narrative techniques employed are analysed. Concerning the biographies our hypotheses were that pre- and post-migration series of biographical events would be separated from each other and the pre-migration or the post-migration biographical part or both would disappear and only a traumatised story of the movement would remain.92 Such sharp breaks in the biographies could not be observed and in two thirds of the interviews they were balanced and both the pre- and the post-migration life story had the same coverage. Such balance is particularly characteristic of migrants coming from Transylvania, who, probably due to the observable lack of integration and assimilation patterns, do not give up the links to their homeland and keep a balance in their biographies.

In one third of the interviews there are imbalances. Generally these interviews “over-emphasise” the part preceding the migration, which shows that from the present perspective the main question is “Why did I start migration?” and not “How do I live as an immigrant?” It is surprising that migrants adhering to their home mainly come from Hungary and Transylvania. This might show that the border between Hungary and Austria could be crossed easily and the interviewees were able to keep the relevance of their earlier life story. In addition it seems that (although the interviewed migrants coming from Hungary

92 See Melegh (1999), ibid.
are of young age) Austria is not a particularly desirable target in the eyes of migrants coming from Hungary, thus it is not “worth” forgetting about pre-migration events.

In sum migration is not always a breaking point in the biographies. It seems that the break is not in the biographies but in the stories of migration. It is frequent that young migrants following their parents cannot recall the experiences of moving at all. Others repeatedly use the metaphors of dream or unconscious periods and refer to the feeling of getting lost. Migration-related traumas are also told via metaphors of being smelly, the need of having a bath or stripping.

The break is also emphasised by the use of binary oppositions.

THE WORLD OF MIRRORS:
BINARY OPPOSITIONS IN THE NARRATIVES

We found a surprisingly high number of binary oppositions in the narratives. Of all the interviews (63), only 12 did not build any binary opposition into the migration story. Most interviews were constructed along three sets of oppositions on average. This strengthens our hypothesis that migration stories help define the self, i.e., narratives are fields where identity is formed.

There can be alternative explanations for the use of binary oppositions. By employing such oppositions our subjects express family losses and cultural changes arising from migration.93 The use of oppositions can also be provoked by the rejection of the migration by

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93 Concerning dual identities see also Hickey (1996).
Table 2

Binary oppositions in the migration narratives

<table>
<thead>
<tr>
<th>Binary Oppositions</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>East–West, illusions–reality</td>
<td>16</td>
</tr>
<tr>
<td>Conflict between husband/wife and parents</td>
<td>13</td>
</tr>
<tr>
<td>Dictatorship–freedom</td>
<td>13</td>
</tr>
<tr>
<td>Collective–individual</td>
<td>10</td>
</tr>
<tr>
<td>Migrant–native, migrating–staying home</td>
<td>10</td>
</tr>
<tr>
<td>Parent–child</td>
<td>9</td>
</tr>
<tr>
<td>Austrian–Magyar, Magyar–Romanian, Transylvanian–Magyar</td>
<td>8</td>
</tr>
<tr>
<td>Loyal–disloyal</td>
<td>8</td>
</tr>
<tr>
<td>Temporary migration–permanent settlement</td>
<td>8</td>
</tr>
<tr>
<td>Home–foreign, known–unknown</td>
<td>7</td>
</tr>
<tr>
<td>Welfare society–communism</td>
<td>5</td>
</tr>
<tr>
<td>Isolation–integration</td>
<td>5</td>
</tr>
<tr>
<td>Conscious–unconscious</td>
<td>4</td>
</tr>
<tr>
<td>City–countryside, traditional–modern</td>
<td>4</td>
</tr>
<tr>
<td>First and second migration</td>
<td>3</td>
</tr>
<tr>
<td>Advantage–disadvantage, success–failure</td>
<td>3</td>
</tr>
<tr>
<td>Patriot–cosmopolitan</td>
<td>2</td>
</tr>
<tr>
<td>Me–my sibling</td>
<td>2</td>
</tr>
<tr>
<td>Profession–politics</td>
<td>2</td>
</tr>
<tr>
<td>Moral–amoral</td>
<td>2</td>
</tr>
<tr>
<td>Climatic conditions</td>
<td>2</td>
</tr>
<tr>
<td>Conformity – escape</td>
<td>2</td>
</tr>
<tr>
<td>Language community–national community</td>
<td>1</td>
</tr>
<tr>
<td>Elite–mediocrity</td>
<td>1</td>
</tr>
<tr>
<td>Me–interviewer</td>
<td>1</td>
</tr>
<tr>
<td>Összesen</td>
<td>141</td>
</tr>
</tbody>
</table>

the family or by the political and cultural “criminalization” of this act. The migrant is forced to present him/herself as “normal”, and to support the past decision with strong arguments. Certain types of such arguments can be found in social conventions, e.g., in the binary oppositions of dictatorship–freedom, welfare–communism, loyalty–disloyalty.

Further, the use of oppositions can help deal with the trauma arising from migration by helping to distance the community, person, or place which was left behind (rejecting Romania for instance). Transylvanian interviewees often oppose totalitarian political control in Romania to freedom and welfare in Hungary (e.g., wiretapping in Romania versus the consumer paradise in Budapest in the eighties, see BA 8). In the case of children who migrated with their parents the portrayal of family conflicts over migration
can distance the person who organised and brought about the migration from the interviewee.

Some of the binary oppositions are archetypical as similarly to supernarratives they are constituted by the wider surrounding cultural, political community. These in themselves might be strong enough to push people across the borders. In the case of such “strong” oppositions interviewees only “borrow” and employ these patterns for the construction of their life story. Some of these migration-related binary oppositions even have mythological origins (Cain and Abel, the Jewish exodus from Egypt to Kanaan etc.) which again and again structure narratives in a subtle way.

On the level of archetypes the asymmetrical opposition of East and West is the most accessible and the strongest. Almost all the subjects speak of migration as moving “Westward”, or of the “West” as the object of desire. This binary opposition helps in setting up distances from the lost lands, as it defines the geographical place towards which it is worth struggling. Disappointment or fulfilment in this regard can be the motor of such texts.

Another universal set of oppositions evoke rites of passage. Such narratives linguistically present a movement from one stage of life to another and borrow family or life-cycle types of binary oppositions. One of our interviewees for instance constantly plays a role game with regard to migration and the listener is lost between the me and my father, me and my sibling kinds of oppositions not knowing who takes whose role (BA 9). This narrative technique links migration to the difficult transition to adulthood.

Finally, binary oppositions can be regarded as general characteristics of European thinking, which tries to understand the world through employing binary oppositions, such as good and bad, and accepts more complex structures only with great difficulty. Migration stories can be interpreted as adjustment to cultural expectations, where in the meantime the process of identity construction entails the simultaneous harmonisation of numerous dichotomies. This European way of thinking provides the migration story with its dynamics, stresses, and complexities. In this the narrative rises above a simplified view of the world and the prescribed discourses.

For Transylvanian subjects, minority status was a “testing field” for such complexities, supplying a wide variety of narrative devices in presenting migration stories. Those who migrated from Hungary to Austria had no need to place themselves in more complicated structures because – as it can be seen in our title – Austria did not present as strong a cultural attraction or assimilation challenge as did the United States. This is evidenced by the fact that the “mirroring” method was characteristic mostly of the Transylvanian narratives (it was missing in only 2-2 cases), while those migrating from Hungary to Austria often declined to construct their migration stories based on binary oppositions (of 23 cases, this element was not used in 8).

A closer look at the oppositions and their relations to one another reveals that the East–West and illusion–reality couples take precedence over almost all the other oppositions. Their alternatives can be the dictatorship–freedom, collective–individual, Austrian–Hungarian, and parent–child dichotomies, and to a lesser degree the temporary–permanent

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94 See the debate between Milan Kundera and Joseph Brodsky. Cross Currents, No 5; and Kundera (1984).
and isolation–integration binary oppositions. The East–West opposition is often accompanied by the opposition of conformity–escape, home–foreign, and known–unknown.

Dictatorship–freedom is an alternative to the East–West dichotomy, but it has less weight, as it does not subordinate other binary oppositions. In these cases migration is presented
Table 3
Binary Oppositions According to Sub-Samples

<table>
<thead>
<tr>
<th>Oppositions</th>
<th>Transylvania–Hungary</th>
<th>Transylvania–Austria</th>
<th>Hungary–Austria</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>ONLY Transylvania–Hungary</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Me–interviewer</td>
<td>1</td>
<td>–</td>
<td>–</td>
<td>1</td>
</tr>
<tr>
<td>City–countryside, traditional–modern</td>
<td>4</td>
<td>–</td>
<td>–</td>
<td>4</td>
</tr>
<tr>
<td>Language community–national community</td>
<td>1</td>
<td>–</td>
<td>–</td>
<td>1</td>
</tr>
<tr>
<td>ONLY among Transylvanians</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Climatic conditions</td>
<td>1</td>
<td>1</td>
<td>–</td>
<td>2</td>
</tr>
<tr>
<td>Collective–individual</td>
<td>6</td>
<td>4</td>
<td>–</td>
<td>10</td>
</tr>
<tr>
<td>Dictatorship–freedom</td>
<td>8</td>
<td>5</td>
<td>–</td>
<td>13</td>
</tr>
<tr>
<td>Loyalty–disloyalty</td>
<td>5</td>
<td>3</td>
<td>–</td>
<td>8</td>
</tr>
<tr>
<td>Moral–amoral</td>
<td>1</td>
<td>1</td>
<td>–</td>
<td>2</td>
</tr>
<tr>
<td>ONLY Transylvania–Austria</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>First and second migrations</td>
<td>–</td>
<td>3</td>
<td>–</td>
<td>3</td>
</tr>
<tr>
<td>Patriot–cosmopolitan</td>
<td>–</td>
<td>2</td>
<td>–</td>
<td>2</td>
</tr>
<tr>
<td>Isolation–integration</td>
<td>–</td>
<td>5</td>
<td>–</td>
<td>5</td>
</tr>
<tr>
<td>ONLY those migrating to Austria</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advantage–disadvantage, success–failure</td>
<td>–</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Transylvania–Hungary, Hungary–Austria</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parent–child</td>
<td>5</td>
<td>–</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>Austrian–Magyar, Magyar–Romanian, Transylvanian–Magyar</td>
<td>4</td>
<td>–</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>Welfare society–communism</td>
<td>1</td>
<td>–</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>ONLY Hungary–Austria</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Me–my sibling</td>
<td>–</td>
<td>–</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Elite–mediocre</td>
<td>–</td>
<td>–</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Adequacy–escape</td>
<td>–</td>
<td>–</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Profession–politics</td>
<td>–</td>
<td>–</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>ALL THREE subsamples</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conflict between husband/wife and parents</td>
<td>2</td>
<td>8</td>
<td>3</td>
<td>13</td>
</tr>
<tr>
<td>Temporary migration–permanent settlement</td>
<td>5</td>
<td>1</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>Migrant–native, migrating–staying home</td>
<td>2</td>
<td>7</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>Conscious–unconscious</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>Home–foreign</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>East–West, illusions–reality</td>
<td>3</td>
<td>6</td>
<td>7</td>
<td>16</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>53</strong></td>
<td><strong>51</strong></td>
<td><strong>37</strong></td>
<td><strong>141</strong></td>
</tr>
</tbody>
</table>

as a citizen’s choice unrelated to the private sphere and not involving other identity elements apart from the basic binary opposition of migration versus staying at home.
The collective–individual binary opposition also reveals a political decision: it frequently accompanies migration–staying at home and dictatorship–freedom oppositions, and is rarely connected to private-life dichotomies. Here questions of loyalty (patriotism) and morality do not arise, although self-presentations struggling with the question of “Should I stay or go?” put in the context of family conflicts and subordinated by the collectivist–individualist binary opposition are an exception.

Migration narratives that describe conflicts in the private sphere as binary oppositions (parent–child, husband–wife, conflict between parents, me and my sibling) stand on their own. When they are accompanied by other binary oppositions, it is most often the loyalty–disloyalty dichotomy.

The distribution of binary oppositions among sub-samples is not random (see Table 3). There are, however, some universally applied oppositions that do not depend on the country of origin or destination. Such are the East–West binary opposition, conflicts within the private sphere, migrating–staying, temporary or permanent settlement, and known–unknown binary oppositions. These are general cultural patterns used in any narrative interpretation of migration.

Those who migrated from Hungary to Romania are the ones most frequently using the city–country, traditional–modern binary oppositions. Although they make Transylvania distinguishable from Hungary, these binary oppositions do not draw sharp lines between “alien” cultures.

Transylvanian migrants structure migration politically and morally with regard to Austria and Hungary, suggesting that they are accustomed to using conventionally extreme oppositions. Meanwhile, migration is full of moral dilemmas, meaning that the Transylvanian migrants, from the perspective of the present, feel morally responsible for their past decision. Further, this may indicate that in Transylvania, normative rules labelling emigration as a “crime” remain strong. It can also be suggested that the dichotomies described above are “prescribed” by dominant discourses in the host countries, meaning that a Transylvanian can only be rural, must adhere to traditions, and from the point of view of authorities (immigration offices, refugee camps, etc.) must be in the grey zone between the legal and the illegal. These conventions on the part of the “host country” suggest to the migrant that he/she is better off presenting him/herself in this way: one can become an equal citizen by following the strategy of “breaking away and distancing.” In this way our subjects “voluntarily” dressed in the “clothing” offered.

Transylvanians migrating to Austria – almost all of them stop over in Hungary – interpret Austria as “the big world.” Arrival in the big world is the result of a multi-step process, and this might constitute the reason why interviewees compare their migrations. It appears that arrival in Austria brings about the birth of a diaspora vs. integration dilemma. One must make it to Austria “to emancipate” into the Magyar group, or to be freed from the minority Magyar label.

A unique dichotomy characterises the “one-step” migration stories. Here great significance is attributed to the differences in the political systems of the countries or peoples. Only migrants from Hungary to Austria characteristically present migration as upward social mobility in comparison with their previous lives.

95 See also Parati (1997).
CONCLUSION: THE DRAMA OF MIGRATION NARRATIVES, AND MIGRATION AS A SIN

The reading and analysis of migration stories revealed several seemingly uncrossable boundaries. The stories showed a dramatic tension whereby regardless of the fact that one has been living away from the homeland for several years or decades, cannot forget the experiences of borders and the shock of migration to this day, and these borders are recreated internally over and over again.

Losses and anxieties are often of literary value, and the strength of their presentation shocked us. Even under the most civilised circumstances behind migration are frightened children, spilled cocoa, lost papers, lost people, outstretched hands, railway stations, and railway cars stuck in stations. The hazy mirrors of identity ... disgust, anxiety, unconscious drifting, dreaming, secrets – and sins.

Migrants not only struggle with the construction of narrative identity. They also reveal the experience and interpretation of migration within the framework of European culture. These narratives show that migration, no matter how we look at it, is to this day a crime and an illegitimate activity – at least on the level of self-presentation. In other words, we have no access to identity patterns of narrative which would help tell life histories regarding migration in a way which is not reminiscent of a saga of prohibition, crimes, and secrets.

It is obvious to us that for this reason migration is not solely responsible for the structuring of one’s life story, but it is certainly a suitable context to bring to the surface anxieties, cultural and authority-related prohibitions, and isolating Berlin Walls which form our lives both inside and outside. And this is not surprising. The level of social and political discourse is full of authoritative and limiting texts that forbid migration. On the one hand they are based on the concept of exclusion (foreigners are suspect) and on the other hand emphasise loyalty to the homeland. Further, it is clear that most of us would like to narrate migration on the level of personal advancement that receives little legitimacy in the environment of the limitations outlined above. In the time of the Socialist Bloc (thus in the “cursed” period) the sending country tried to block emigration, while today the host state is suspicious of “barbarians”. (Consider the position of the EU as a whole, where the goal is to keep non – EU citizens in their home countries and reception is based on nation states.)

From this point of view, despite globalisation, there is confusion around those identities which fall between cultures. As seen in the interviews we ourselves are confused, when we cannot present an unambiguous and consistent picture of ourselves. Furthermore, the host state also becomes confused when, once it has accepted someone, it expects adaptation, in which process ambiguity, multiple loyalties, and divergent identities are not welcome.

Translated by Attila Melegh and Ferenc Zsigó
REFERENCES


APPENDIX

ONE OF THE CROSS TABLES USED FOR THE ANALYSIS OF RELATIONSHIPS BETWEEN NARRATIVE TYPES

The analysis is demonstrated on the case of the interpreter. Look for the outlined cells.

<table>
<thead>
<tr>
<th>Narrative types</th>
<th>The occurrence of narrative types by subsamples</th>
<th>Total (and total by subsamples)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>From Transylvania to Austria: +; from Transylvania to Hungary: O; from Hungary to Austria: *</td>
<td></td>
</tr>
<tr>
<td>The serial no. of interviews within the subsample</td>
<td></td>
<td></td>
</tr>
<tr>
<td>+</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>O</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>*</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Welfare compulsion</td>
<td>*</td>
<td>+</td>
</tr>
<tr>
<td>Compulsion migrant</td>
<td>+</td>
<td>O</td>
</tr>
<tr>
<td>Private-Life migrant</td>
<td>+</td>
<td>O</td>
</tr>
<tr>
<td>Migration as life strategy</td>
<td>+</td>
<td>O</td>
</tr>
<tr>
<td>Welfare migrant</td>
<td>O</td>
<td>*</td>
</tr>
<tr>
<td>Career migrant</td>
<td>+</td>
<td>O</td>
</tr>
<tr>
<td>Ethnocentric</td>
<td>O</td>
<td>+</td>
</tr>
<tr>
<td>Integration, assimilation</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>Multicultural</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td></td>
<td>O</td>
<td>O</td>
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<tr>
<td>----------------------</td>
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</tr>
<tr>
<td><strong>Guilt</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Traditional social</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>pattern</td>
<td></td>
<td></td>
</tr>
<tr>
<td>World citizen</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aristocratic</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Over – compensation,</td>
<td>*</td>
<td>+</td>
</tr>
<tr>
<td>conformity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paranoia, anxiety</td>
<td>O</td>
<td>+</td>
</tr>
<tr>
<td>Interpreter</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>Political refugee</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>Shoah, post-Shoah</td>
<td>O</td>
<td>+</td>
</tr>
<tr>
<td>supernarrative</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paper</td>
<td>O</td>
<td>+</td>
</tr>
<tr>
<td>supernarrative</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1956</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>supernarrative</td>
<td></td>
<td></td>
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<tr>
<td>On the road</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>supernarrative</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Archetypical, sacral</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>supernarrative</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Homesickness</td>
<td></td>
<td></td>
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<tr>
<td>Buddy, Švejk</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>supernarrative</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shoah, post-Shoah</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>supernarrative</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Part II
Conflicts between the European integration and the international human rights obligations in the shaping of asylum policies in Central and Eastern Europe (Country reports)
Introduction

In early 2000 a team of independent experts from the Central European region prepared a joint research on the asylum policies of five countries, namely the Czech Republic, Estonia, Hungary, Slovenia, and Poland under the supervision of Alberto Costi professor of the legal Department of the Central European University. The Faculty Research Grant of CEU provided the financial basis for the regional work. The resulting structured and edited papers would contribute to the description of public administration, legal rules, statistics and practice as elements of the current asylum policy in each country between 1990 and 1999.

The regional research were intended to consider the major conflicts between the new undertakings of human rights as defined in universal as well as regional legal instruments and the upgraded accession efforts to achieve European integration. The country reports describe how the double external influences on migration and the asylum policies of receiving (transit) countries are endangering the humanitarian commitments and social acceptance of migrants.

The authors applied the available official statistical sources issued by each competent national authority, publications of the ECRE and the European Commission’s Regular Reports on the given country’s progress toward accession since 1997. Moreover, they made interviews with public administrators. Further sources are indicated in proper places of the text or in the list of “Sources”. Although the data and information on asylum seekers, refugees, illegal migrants, legal cases of asylum law and practice refer to 1999 and prior years, and the depth of analyses varies, they may illustrate the major trends as well as controversies in current and recent asylum policies applied in the countries reviewed.

Editor

96 Members of the expert team:
- Czech Republic: Pavel Tychtl, director of the Organisation for Aid to Refugees
- Estonia: Anu Potisepp, UNHCR Liaison Officer in Estonia and Anne Adamson, LL.M. student at the Helsinki University
- Hungary: Zoltán Aszalós, MPhil student, Legal Department, Central European University, co-ordinator of the project
- Slovenia: Maja Tratar, GEA 2000, co-ordinator of ALN – Asylum Lawyers Network
- Poland: Pawel Kaczmarczyk Department of Economics and Institute for Social Studies (Centre of Migration Research) University of Warsaw
COUNTRY REPORT

Pavel Tychtl

Czech Republic

FACTS ON MIGRATORY MOVEMENTS

Since the late 1930s the countries of Central Europe were major producers of asylum seekers themselves. First Nazism and later Communism made many Central Europeans flee their countries and seek refuge in West-Europe, North America and Australia. However, this, to a very large extent politically motivated, migration was not the first massive wave of emigration from Central and Eastern Europe westwards. This trend continues even today in part.

Nowadays Central European states need to create adequate reception conditions and administrative procedures that make it possible to receive asylum seekers. On the other hand, they have to face the fact that many asylum-seekers use this region for transit. These states are pressured by their EU counterparts to control migration and implement the very same restrictive measures that have been applied in Western Europe. This development is already taking place, as the “safe country of origin” and “third safe country” principles are being introduced into newly drafted asylum laws in CEE countries. The German government provided DM 60 million to the Czech Police to improve border control. It is clear that strict immigration control will be among the most important criteria for the membership of Central European states in the EU.

At the beginning of the 1990’s most asylum seekers came to the Czech Republic from the Balkan countries (Romania, Bulgaria). In 1991, 325 Romanians were granted asylum out of a total of 474 recognised Romanian refugees in last ten years. The same applies to Bulgarians: 54 were given asylum in 1991 and 1992 out of total 69 by February 2000. They enjoyed relatively generous welcome and many of them were granted refugee status on humanitarian grounds. This explains a high percentage of recognised refugees from Romania. Over the past ten years their number dropped considerably in the late nineties. Currently the geographical background of asylum seekers changed considerably with the majority of them coming from Asian countries such as Afghanistan, Sri Lanka and Pakistan.

During the 1990s the Czech Republic was a transit country through which the majority of asylum seekers (up to 90 per cent by unofficial estimates) transited on their way towards the EU. Some of them stayed for a limited period of time, so that they could contact their relatives or friends in the countries they transited to. Today this trend is slowly changing. Still the estimates are that up to 50 per cent of asylum seekers leave the Czech Republic on their way further West. Certain nationalities have a greater tendency to settle down in the Czech Republic compared to others. For example Armenian
refugees tend to settle in the territory of the Czech Republic and newly arriving Armenian asylum seekers thus have a community network to rely on. The same will most probably happen in the case of Afghan refugees as some of them were already given refugee status in the Czech Republic increasing chances for the new asylum seekers to stay and settle down. The fact that asylum seekers of certain national background are given asylum serves as an impetus for other members of the same group to stay in the territory and not to transit further West as they can expect to have some kind of future here.

Table 1

<table>
<thead>
<tr>
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<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of asylum seekers</td>
<td>1601</td>
<td>2227</td>
<td>841</td>
<td>2207</td>
<td>1187</td>
<td>1417</td>
<td>2211</td>
<td>2109</td>
<td>4086</td>
<td>7219</td>
</tr>
<tr>
<td>Recognised refugees</td>
<td>30</td>
<td>776</td>
<td>251</td>
<td>251</td>
<td>116</td>
<td>59</td>
<td>162</td>
<td>96</td>
<td>78</td>
<td>80</td>
</tr>
</tbody>
</table>

Source: Ministry of Interior of the Czech Republic (www.mvcr.cz).

During the last ten years several changes in the refugee flow could be seen. Firstly there was a profound change in the national background of the asylum seekers reaching the Czech Republic. Romanians who were the most dominant group at the beginning of the 1990s (1,080 Romanians out of 1,601 asylum seekers in 1990 as 67 per cent of all asylum seekers) became much less significant at the end of the decade. Secondly the number of asylum seekers in the Czech Republic is constantly growing and it can be expected that this will continue in the future. It is however very clear that many asylum seekers do not consider the Czech Republic as their “first choice.” The majority of those apprehended when crossing the border illegally applies for asylum.

Table 2

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Illegal entry to the country</td>
<td>1,975</td>
<td>3,450</td>
<td>3,798</td>
<td>5,025</td>
<td>7,328</td>
<td>7,350</td>
<td>5,374</td>
</tr>
<tr>
<td>Illegal exit from the country</td>
<td>41,327</td>
<td>17,030</td>
<td>15,374</td>
<td>18,680</td>
<td>22,011</td>
<td>37,142</td>
<td>26,951</td>
</tr>
</tbody>
</table>

Source: Department of Immigration and Protection of State Borders of the Ministry of the Interior.

In parallel, the growth of other nationalities among asylum seekers can be explained by the opening of the country in the early nineties. As it was virtually impossible to transit through the former Czechoslovakia before 1989 there was no interest on the side of the traffickers in this territory. After the opening of the borders it took several years for them to map out the situation and to establish transit routes. It is quite clear nowadays that as long as the number of illegal migrants transiting through the territory of the Czech
Republic will be increasing there will also be a growing number of asylum applications as some of the apprehended migrants use asylum as an exit strategy. The question persists what will be the reaction of the state authorities and how to find a balance between international human rights obligations on the one hand and domestic as well outside pressures to make the country’s immigration policy stricter on the other.

Transit for travellers is explained by the extended visa-free possibilities as Table 3 indicates.

Table 3

<table>
<thead>
<tr>
<th>Citizen of</th>
<th>Remark</th>
</tr>
</thead>
<tbody>
<tr>
<td>Romania, Singapore, USA</td>
<td>up to 30 days</td>
</tr>
<tr>
<td>Russian Federation</td>
<td>up to 30 days but visa will be introduced with Russian Federation on May 29, 2000</td>
</tr>
<tr>
<td>Austria, Canada, Chile, Croatia, Cuba, Cyprus, France, Greece, Hungary, Iceland, Ireland, Israel, Japan, Latvia, Liechtenstein, Lithuania, Malaysia, Malta, Mexico, Monaco, New Zealand, Norway, Poland, Portugal, San Marino, Slovenia, South Korea, Spain, Sweden, Switzerland, Uruguay, Vatican</td>
<td>up to 90 days</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>up to 180 days (only those UK passport holders proving to be “British Citizen” or have the right to legally reside on the UK territory or to be admitted to UK, not including passport holders of British dependant territories</td>
</tr>
<tr>
<td>Kazakhstan, Kyrgyzstan, Moldova, Turkmenistan</td>
<td>Visa regime was suspended by Czech Government (22 May 2000), so they need voucher or letter of invitation</td>
</tr>
<tr>
<td>Slovakia</td>
<td>no specific time limit</td>
</tr>
<tr>
<td>Ukraine</td>
<td>voucher or letter of invitation is required</td>
</tr>
</tbody>
</table>

Although visa-free travel is provided to citizens of a wide circle of countries, and obtaining visa is not necessarily the main obstacle for foreigners to enter Czech Republic as Table 4 demonstrates.

Table 4

<table>
<thead>
<tr>
<th>Number of visas issued (1993–1999)</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of issued visas</td>
</tr>
</tbody>
</table>

Source: Consular Section of the Ministry of Foreign Affairs.

The public climate in relation to immigrants is deteriorating. Refugees are not the priority target of public hatred as they still constitute only a relatively small minority
among other immigrants and it is the Czech Roma who are the primary target of xenophobia. It is however clear that their situation will be influenced by the existing public perception of all migrants in the country. Czech human rights organisations run various activities to promote the rights and positive image of immigrants and to tackle this negative trend. They, however, face massive negative tabloid press coverage and unfavourable public opinion.

Recently the Czech government has also introduced a campaign to improve greater tolerance towards minorities and immigrants. This government sponsored campaign is the first of its kind. In 2000 the Czech government ran a “Tolerance Campaign” to promote inter-ethnic understanding and to highlight problems minorities and immigrants are facing. It also included the “Ride of Tolerance” when a group of young Roma, Vietnamese and Africans travelled around the country and visited primary and secondary schools to discuss xenophobia and racism and how to tackle them. The growth of illegal migration may also fuel anti-foreigner sentiments.

Table 5

<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Taken back</td>
<td>7,302</td>
<td>9,016</td>
<td>11,016</td>
<td>19,137</td>
<td>13,081</td>
</tr>
<tr>
<td>Returned</td>
<td>287</td>
<td>2,547</td>
<td>3,168</td>
<td>3,818</td>
<td>2,363</td>
</tr>
</tbody>
</table>

Source: Department of Immigration and Protection of the State Borders of the Ministry of the Interior.

LEGAL INSTRUMENTS ON ASYLUM AND CONNECTED ISSUES

As there were no formal institutions to deal with newly arriving refugees within the public administration nor non-governmental or charity organisations, new structures had to be developed. These legal instruments were gradually issued as follows.

• Czechoslovakia became a Contracting Party to the Geneva Convention after 1989 and developed its national legislation accordingly. Czechoslovakia adopted its Refugee Law (Law 498 of 1990), which was the first legal instrument dealing with refugees in a national context.

• It was criticised by international institutions such as the UNHCR on the grounds that it did not fully comply with international standards. Various examples of these shortcomings were given by the UNHCR as follows: “Article 4 para. 1 of the Refugee Law mistakenly presents the cessation clauses contained in the 1951 Convention which apply only to already recognised refugees (and are used to determine conditions under which a refugee ceases to be a refugee, because international protection is no longer needed or justified), as exclusion clauses and reasons for not granting refugee status. In international law, exclusion clauses are strictly defined and limited, as they set out
conditions under which persons otherwise having the characteristics of refugees are excluded from refugee status, either because they already receive United Nations protection, or they are not in need of international protection, or they are not considered deserving international protection. The same article under Para. 2b, is vague and broadly worded, allowing for the exclusion from refugee status in a much larger number of cases than the 1951 Convention. Further UNHCR criticism was focused on article 5, which according to its view set “severe requirements whereby asylum-seekers must report in writing their intention to apply for refugee status when crossing the border and must file an application for that purpose 24 hours after arrival in the refugee camp.” Yet another criticism was directed towards article 12 of the Refugee Law related to the status determination procedure on the grounds that “the automatic termination of the procedure for lack of co-operation or for repeated violations of the refugee act (without further specification) by the asylum seeker constitutes a disproportionate sanction which can lead to inequitable results.”

- The Refugee Law 498/90 was later amended several times (Act No. 317 of 1993, No. 150 of 1996).
- An “assisted housing program” started in 1994 was based on a Czech government Resolution (No. 643 of 1993). In the framework of this program a municipality or an individual is given 150,000 CZK per head of the family to renovate the flat as most often these flats are in a decrepit state and an additional 50,000 CZK for other family members. On the top of that the municipality is given 100,000 CZK per head of the family for the infrastructure and additional 10,000 per other family members. In exchange for the funding municipality or individual has to enter ten year long contract with the refugee which also regulates the rent. If a refugee leaves the flat before the contract expires, the owner has to notify the Ministry and accommodate another refugee up to the period of ten years. In 1994–1996 the program provided accommodation to 289 recognised refugees in 96 flats and the state contribution to this program was 26 million CZK. Based on a Czech government resolution (No. 847 of 1998) the integration program has been continued until today. Funds of 21,200,000 CZK were released to find housing for up to 180 recognised refugees. There have been several shortcomings related to the program. First of all only those refugees who received asylum before 1994 were excluded. However this obstacle was later removed. Secondly recognised refugees were offered “the integration flat” only once and if they turned the offer down they were not considered anymore. It did not take into account the size of the family, their professions, the situation on the local labour market, cultural traditions, etc. For example an African refugee was offered flat in a small rural village thus making it almost impossible for him to integrate.

- Most recently an entirely new Refugee Law (Act No. 325 of 1999) entered into force on 1 January 2000. It introduced the safe country principle. It also introduced a new residence status the so called “Tolerated Status” for asylum-seekers who were unsuccessful during the two instances of the procedure and appealed to the High Court of Justice.

- The Czech Republic is the target country for labour migration especially from Ukraine, which is why arguments are made by the public administration that tighter immigration control is needed for the Czech republic as a EU candidate country. This was manifested in the newly adopted Foreigners Law on Residence of Aliens in the
The amendment entered into force on January 2000. It has been since criticised by various human rights organisations as well as the Human Rights Committee (Office of the Czech Government) as discriminatory. One of the aims of the newly adopted law was to “safeguard the Czech labour market” as well as “reduce security risks and criminal activities related to illegal migration.” It also introduces carrier sanctions set at the level of 25 times of the minimum subsistence and 50 times in the case of repeated attempt to traffic in illegal migrants.

- This new Foreigners Law came into force at the same time as the Asylum Law (Act No. 325 of 1999) Amendment to Act on the Police of the Czech Republic (No. 283 of 1991).

**INSTITUTIONAL ACTORS**

Today there are two major institutions dealing with asylum seekers within the public administration both falling under the jurisdiction of the Ministry of the Interior of the Czech Republic. These are as follows.

- The Department of Refugees and Integration of Foreigners is responsible for the asylum procedure in the first instance and also for programs related to the integration of recognised refugees. Furthermore, it has an International Unit gathering information on the countries of origin from the Czech embassies, Czech News Agency (CTK), major NGOs and inter-governmental organisations such as the UNHCR. There is another unit that runs a housing program enabling a certain number of recognised refugees to obtain flats. Moreover, the Department also deals with the repatriation and reintegation of Czechs living abroad. (In 1991–1992 it organised the repatriation of Czechs from Ukraine and in 1998 Czechs from Kazakhstan who settled there in the 19th century.) The statistical unit provides up to date statistics on refugees.

- The Department of Refugee Facilities Management is another institution within the Ministry of the Interior responsible for the accommodation of asylum seekers. It runs the refugee centres around the country.

- At the beginning of the 1990s shelters for asylum seekers had to be established. The majority of them was opened in the northern part of the country. The first was set up as a “transit” centre in Decin (1990–1991), and several other camps were opened for a short period. Refugee centres were established in the former Soviet Army barracks, which was often met by the protests of the local community. There are currently four residential refugee centres (Zastavka u Brna opened in 1990, Bela Jezova opened in November 1991, Cerveny Ujezd opened in 1991, Havirov opened in). Moreover, two reception centres were set up (Vysni Lhony opened in 1994 and Cerveny Ujezd serving as residential and reception for asylum seekers returned from the German border). A new refugee centre in Seč opened in the beginning of May of 2000 and yet another centre is suppose to open in Straz pod Ralskem (where there already was a humanitarian centre for Bosnians under temporary protection and later Kosovars) in the near future. All are run by the Refugee Facilities Management Department, which was re-shaped several times, a fact representing the ambivalence toward refugees. It is entirely responsible for the running of the camps.
including provision of essential health care, voluntary repatriation of rejected asylum seekers or those who terminate their asylum procedure in order to return to their country of origin.

There are several NGOs dealing with refugees in the country. For instance
- The Organization for Aid to Refugees (OPU),
- The Society of Citizens Assisting Migrants (SOZE),
- The Centre of Integration and Refugee Counselling Centre of the Czech Helsinki Committee.
- Some larger charity organisations such as Caritas also have refugee projects of various scope. Refugee projects at charity organisations are almost funded through foreign grants and foundations with the UNHCR leading the way.
- The Ministry of the Interior funds one housing project run through Counselling Centre for Integration (Poradna pro integraci). The funding of refugee organisations and/or projects still remains a problem as public funding is almost non-existent and organisations have to rely on sources from abroad. Unlike in other countries there still is a very limited number of community based organisations even though the Centre of Integration tries to facilitate their establishment and development. The assisted flat program is run by the Ministry of the Interior in co-operation with the Centre that devotes a great deal of time to establish good practice of integration vis-a-vis the Ministry of the Interior and promotes a holistic approach towards integration.

MECHANISMS OF ASYLUM MANAGEMENT

At the beginning of the 1990s there were two institutions in charge of the asylum procedure: (1) the Department of Refugees and Integration of Foreigners and (2) the Directorate of Alien and Border Police. Asylum procedure had two instances. The Alien Police was responsible for examining the asylum claims in the first instance and appeals were justified by the Department of Refugees and Integration of Foreigners. Rejected applicants had the right to submit their cases for judicial review at the High Court of Justice. However, they had to legalise their stay in the Czech Republic covering subsistence from their own means. Thus they usually applied for a long-term residence permit. They did not receive any social benefits or other forms of support from the state. In the cases that the UNHCR considered to be well-founded “strong cases,” limited financial assistance through the Refugee Counselling Centre of the Helsinki Committee was provided. Asylum seekers who were paid had to stay in one of the refugee centres until a final decision was passed by the High Court of Justice. If the Court annulled the administrative decision for a legal mistake, the asylum procedure started again. This system changed in October 1998 when the Alien Police was replaced by the Department of Refugees and Integration of Foreigners in the first instance.

Following the change in 1998 it is possible to apply for asylum only at the Reception Centre of Vyšní Lhoty in the eastern part of the Czech Republic near the Slovak border. After filling in the asylum application the applicant is obliged to hand over his or her
own travel documents. This, however, does not apply in the case the asylum seeker is in possession of a visa or residence permit.

The asylum procedure has two instances. Crossing the border the foreigner has to manifest a wish to apply for asylum in writing to the Alien and Border Police that are to report this at the Reception Centre (Vyšní Lhoty). It is at the discretion of the Police to provide transportation from the border to the Reception Centre. Here the first interview is conducted including the applicant's identity (his name, citizenship, country of origin, ethnic origin, religion, education, professional skills, marital status, etc.). Questions are also asked to give a list of addresses where the asylum seeker stayed in the last three years, through which countries he/she arrived to the Czech Republic including the length of the stay and to describe his/her financial situation. During the interview asylum seekers are also given information about their right to seek assistance and appeal to the Office of the United Nations High Commissioner for Refugees and also to contact other organisations involved in the protection of refugees.

After the first interview the asylum seeker is given a “Certificate of participation in asylum proceedings” that includes a photograph, personal data and the address of the refugee camp in which he resides.

According to the new Asylum Law (1999) the first instance decision should be made by the Ministry within 90 days of the day of the commencement of the proceedings. If a decision cannot be made within this period due to the nature of the matter, the Ministry may extend this period accordingly. It shall notify the participant of the extension of the period in writing without delay.

An appeal against the decision can be made within 15 days of the delivery of the decision. If the asylum claim is found manifestly unfounded an appeal can be lodged within seven days of the delivery of the decision. In the second instance the decision can be made by the Minister of the Interior who shall decide on the basis of a proposal of an Appeal Committee established by himself and national representatives of state authorities and NGOs, in the ratio 3:4. There is a representative of the Helsinki Committee on the Appeal Committee as well as independent lawyers.

A complaint against the decision of the Ministry can be submitted within 30 days of the delivery to the High Court of Justice. The claim on judicial review of the decision of the Ministry has a pending effect.

The Ministry or other administration bodies shall allow an authorised representative of the UNHCR to make contact with applicants in any stage of the proceedings. It means a right to inspect the file, to be present at an interview and oral hearing. Further, the applicant should be entitled during the entire proceedings to be in contact with the UNHCR and with legal entities involved in the protection of his/her interests.

Asylum seekers spend three weeks in the reception centre in quarantine during which they undergo a medical check-up, various medical tests to detect any infectious diseases and have the first in-depth interview with the staff of the Department of Refugees and Integration of Foreigners. After three weeks in the reception centre the authorities can either move the applicants into the residential refugee centre or allow them to seek their own accommodation. During this stage of the asylum procedure asylum seekers are provided
with medical care free of charge, food and shelter as well as symbolic pocket money (approx. 10 USD/adult and 160 USD/child).

Rejected asylum seekers may apply to the Head of the Refugee Facilities Management Department to be provided for voluntary return. They can apply only once and the final decision is left at the discretion of the Head of the Department. Those who are granted assistance for voluntary return are accompanied by the staff of the Refugee Centre to the railway station where he/she is given ticket.

Rejected applicants without valid travel documents receive Temporary Travel Documents by the Aliens Police to leave the country. In some cases the International Organization for Migration also assists with this process.

Refused applicants who do not apply for voluntary return nor apply for tolerated status fall under the Aliens regime and have to legalise their stay at the territory of the Czech Republic.

**RESTRICTIONS ON THE ENTRY OF POTENTIAL ASYLUM SEEKERS AND ACCESSION TO PROCEDURE**

**Visa requirements**

The list of countries whose nationals need visas to enter the territory of the Czech Republic is continuously reassessed and updated. In late 1998 a draft concept of the visa policy was completed by the Ministry of the Interior and the Ministry of Foreign Affairs. It was submitted for approval to the Government. On the basis of this concept the Government decided to introduce visa for Belarus and Russian citizens on 29 May, 2000 and for Ukraine citizens one month later. This restriction was subjected to trade and travelling consequences or difficulties, the Ministry of Trade supposed certain conflicts in tourism and businesses. The mayor of the spa town of Karlovy Vary as a favourite destination of Russian tourists and the venue of considerable investments from Russia into the tourist industry made an appeal to liberalise the newly adopted Alien Law such as a possibility to apply for visa at the border or through third persons.

On 29 October, 1997 the Czech government adopted the resolution No. 673 on “Updated Concept of Fight against Organized Crime.” One of the aims of the Resolution was to develop and implement a pilot project called “Modernization of the Visa Issuing Process.” This pilot project started on 1 April, 1998 first at the Czech Embassy in Warsaw, Paris and Vienna, the Prague Ruzyne international airport and at the checkpoint in Dolni Dvoriste at the Czech/Austrian border. After these beginnings the whole visa modernising process took place in the summer 1998. This modernisation of visa issuing process was based on the following. The visa issuing authority such as embassy, border crossing point or alien police consults the central body (“regime workplace” of the Alien and Border Police Directorate). It helps in examination all visa applications passed by the Czech embassies, and it transfers data to other relevant institutions in co-operation with other public authorities and consular network in compliance with EU states and the Schengen countries practice. The modernised visa issuing process was introduced and approved by a Government Resolution (No. 748/1998.)

According to the new Alien Law (1999) foreigners can apply for visa only at Czech embassies abroad. Transit visa application is the only exception: its application in con-
nection with air transport may be submitted at the border crossing if the flight is deleted or there is some other extraordinary traffic problem. In such a case, the visa is issued and put in the travel document by the Police.

On May 2000 an Instruction of the Minister of Interior entered into force. It introduces a list of countries whose nationals need airport transit visa for staying at the transit zone of the international airport unless they were granted:

- valid visa or other valid proof of leave to remain on the territory of EU member states or Norway, Iceland, Swiss Confederation, United States and Canada or
- is on the way from the state mentioned in a) and has been granted leave to remain there.

Airport transit visa is required from citizens of Bangladesh, Ethiopia, Ghana, Iraq, Iran, Afghanistan, Democratic Republic of Congo, Nigeria, Pakistan, Sri-Lanka, Eritrea and Syrian Arabic Republic. Recognised refugees are considered nationals of the state where they were granted asylum and whose travel document they hold.

**Carriers’ sanctions**

The Alien Law (1999) stipulates that “A minor offence is committed by a) a Carrier who shall transport into the state territory an alien without documents entitling the alien to be granted leave to enter: b) a provider of accommodation who failed to meet his obligation pursuant to this Act” (Art. 156).

There are sanctions included in this Act in the same Section as follows: “With respect to an offence set out in a), the Police shall impose a penalty in the amount of 25 times the Subsistence Minimum for Personal Needs and a penalty in the amount of 50 times the Subsistence Minimum for Personal Needs shall be imposed for a repeated breach of this obligation. With respect to an offence set out in b), the Police shall impose a penalty up to 12 times the Subsistence Minimum and a penalty of up to 25 times the Subsistence Minimum for Personal Needs for a repeated breach of this obligation.”

The Law further stipulates that “A penalty may be imposed within 1 year of the day when the Police learned of an act; however, no later than 3 years from the occurrence of such event. Penalty shall be payable within 30 days of the day when the decision on the basis of which the penalty was imposed has come into effect. A penalty shall be collected by the Police and exacted by the relevant financial authority. Proceeds from the penalty shall be deemed to be part of the income of the state budget.”

As the carrier sanctions were introduced in January 2000 their applicability is not very clear yet. However, it can be expected that due to the external pressure there will be a tendency towards strict implementation of these sanctions.

**Border control**

From 1993 when Czechoslovakia split into two independent countries, approximately 181,000 aliens were apprehended when illegally entering the territory of the Czech Republic. The number of aliens crossing the border illegally is clearly growing year by year. In 1998 44,672 illegal migrants from 99 different countries (mainly from Afghanistan, Romania, Bulgaria, Macedonia) were apprehended at the border. This is an increase of
15,333 migrants (52.3%) compared to 1997. It has to be said that the situation at the border in 1998 was to a large extent influenced by the war in Kosovo and that there was a high proportion of Yugoslav nationals illegally transiting through the Czech territory. Most illegal migrants are apprehended when crossing the border out of the Czech Republic. For example in 1998 37,142 illegal migrants were apprehended when leaving the Czech Republic, while only 7,530 migrants were apprehended when entering the Czech Republic. The prevailing majority (in 1998: 75%) of those apprehended has no travel documents. Most of these migrants are detained in the detention centre of Balkova for up to 180 days where their identity is to be established and the relevant embassy contacted to issue new travel documents. The facts known about the character of illegal migration in and out of the Czech Republic prove that the Czech Republic is very much a transit territory on the way to the countries of the European Union. One third of the illegal migrants tried to leave the Czech Republic on the very first day of their entry into the territory and one quarter tried to do so within five days of crossing the border into the Czech Republic.

Migration and illegal migration especially is considered by the Czech government as a “security risk of an international dimension and closely relating to the stability of the political system.” This is the definition based on the relevant Government Resolution (No. 342 of 1998). Therefore the Government pays special attention to migration in general and illegal migration in particular. As a consequence the Government prepared and later approved the “Concept of Modernization of Checks of Persons at the State Borders” (Government Resolution No. 54 of 1999).

Yearly the “Report on Migration at the Territory of the Czech Republic” is prepared by the Ministry of the Interior in co-operation with the Ministry of Foreign Affairs, the Ministry of Labour and Social Affairs, the Ministry of Industry and Trade and the Ministry of Justice. Moreover, discussion over the Report on migration was held in the lower chamber of Parliament (7 July, 1999).

In the parliamentary debate the minister stressed that there was a growing number of aliens who did not legalise their stay. At the end of 1998 there were 51,000 aliens forbidden to stay on the territory of the Czech Republic, for instance for missing legalisation. The same trend continued through the beginning of 1999: the vast majority of aliens who did not legalise their stay on the territory did not possess any travel documents and therefore it was fairly difficult to expel them. Minister Grulich also underlined the fact that EU member states point at the increase of criminal activities including organised crime related to illegal migration. He further explained that the Czech Republic to a large extent remained a transit country and that the number of illegal crossing was steadily increasing with a growing proportion of organised trafficking of human beings. To tackle that development two major steps were taken: modernisation of issuing visa, modernisation of border control as well as harmonisation of visa policy with EU member states.

MP Josef Houzák of the Communist Party was the only one to join in the discussion on the “Report on Migration in 1998.” He criticised the Report as it failed to explain why the Czech Republic served as one of the main transit countries to EU states. As he believed this was to a large extent due to uncomplicated and easy border crossing and well organised trafficking with an international dimension. According to him traffickers had a very good overview of the efficiency of the public authorities dealing with illegal migration.
including information about the Border Police and had highly sophisticated technical equipment at their disposal. He also criticised the border control at the Czech/Slovak border and pointed at two striking statistics in 1998: 7,500 illegal migrants were apprehended at the Czech/Slovak border while 37,500 were apprehended when leaving the territory of the Republic. Thus the border control at the Czech/Slovak border is ineffective. He further claimed that in some districts of North Bohemia (Decin, Usti nad Labem, Teplice, Most a Chomutov) near the German border were used everyday by illegal migrants on their way to Germany. He also pointed at the fact that the technical equipment of the Border Police was far behind the standards of its counterpart in Germany. Unlike the Border Police the traffickers had enough fuel, good transmitters and high quality cars. He suggested that the House of Deputies adopt a resolution requesting the government to improve border control but the resolution was not adopted.

The trafficking of migrants seems to be growing in size and also becoming a more “sophisticated” organisation. However, the conditions of migrants in the hands of traffickers are very poor. Often illegal migrants are found to travel in the limited space of a truck for several days. Prices for trafficking range from hundreds to thousands of DM. Not only that the illegal migrants have to pay the traffickers, there are also cases when they have to pay a fine or to cover administrative costs when apprehended. This is a widespread practice among German Border Police; however, cases of the same procedure have been recently detected by the German research association Forschungsgessellschaft Flucht und Migration during their recent visit (April 2000) in the Czech Republic. They interviewed an Iranian family currently residing in the refugee centre in the Czech Republic with three children apprehended by the German Border Guard and made to pay 2,600 DM to cover administrative costs. After they were handed over to the Czech Foreigners Police they were required to pay another 600 DM. Copies of receipts are available through the above-mentioned association.

The safe country principle

Before 2000 there was no reference in domestic law to the safe country principle that was introduced by the recent amendment. The safe country of origin is defined as: “a) one in which the state power/authority respects human rights and is capable of ensuring compliance with human rights and legal regulations, b) one which ratified and complies with international agreements on human rights and fundamental freedoms, c) one which allows the activity of legal entities which supervise the status of compliance with human rights.” (Refugee Law, No. 325 of 1999) The compilation of a list of safe countries of origin is also part of the new legal development. This should be done by the Department of Refugees and Integration of Foreigners of the Ministry of the Interior. No parliamentary safeguard exists regarding the content of the list.

A safe third country in the new Law is also defined as: “a country other than that of the alien’s nationality or, in case of stateless persons, the country of his former habitual residence where the alien stayed prior to entry in the Territory and where the alien may return and apply for refugee status pursuant to an international agreement without being
subject to persecution, torture, inhuman or degrading treatment or punishment.” A country is not considered safe if: “the alien only transited through its territory.”

As in the case of newly introduced carrier sanctions it is yet too soon to assess the extent to which this principle will be applied and how important a role it will play in the asylum determination procedure. There were, however, some cases of asylum seekers who were returned to Slovakia from the Czech Republic on the safe third country principle.

According to an ECRE study there was a case of a Somali national and five dependent children who arrived at Brussels airport on 29 May, 1994 and applied for asylum. Upon arrival they were detained and on 5 July of the same year their application was turned down in the accelerated procedure at the airport as it was considered to be “fraudulent”. The asylum seekers were returned to Prague airport on 8 July from where, on 19 July, they were removed to Bratislava airport in Slovakia, reportedly because they had in their passport an expired genuine visa allowing transit to Slovakia. On 22 July, the UNHCR was given access to the applicants at Bratislava airport where the applicants had been given only one meal a day and had to sleep rough on the floor or on chairs and with no access to a telephone or an interpreter. UNHCR interviewed the applicants and found that the applicants belonged to the mandate of the UNHCR. This case could be considered prima facie as well-founded. Despite the UNHCR’s intervention, the Slovak authorities refused to register the applicants’ claim for asylum. During the following days, the UNHCR intervened at various levels with the immigration authorities in an attempt to prevent the anticipated deportation of the applicants to Ukraine. Subsequently, the Slovak authorities returned the family to Ukraine by train at night between 25 and 26 July. UN agencies in Kiev and Moscow were informed accordingly but to date no-one has been able to track the applicants.

Readmission agreements

Transitory routes of illegal migrants are sometimes changing as it is manifested in the case of Romanian migrants. In January 1998 out of all Romanians apprehended while crossing the border illegally 87 per cent headed for the Federal Republic of Germany while in December of the same year the majority (65%) were apprehended on the Czech/Austrian border. According to the Directorate of the Aliens and Border Police, however, not all the nationals of Bulgaria and Romania were readmitted by Germany to the Czech Republic. The majority of illegal migrants are trying to reach Germany. In the case of capture they try to cross the border repeatedly. In 1998 16.8 per cent of all migrants apprehended at the border made a repeated attempt to cross the border of the Czech Republic.

Since 1993 the Czech Republic concluded readmission agreements with all its neighbouring countries (Germany, Poland, Austria and Slovakia) and additionally with Canada, Hungary, Romania and Bulgaria. Readmission agreements were also signed but have not come into force yet with Slovenia and France. Moreover, the general commitment to readmit own nationals is part of a visa-free regime with Belgium, Holland, Hungary, Luxembourg, Belarus, Bulgaria, Denmark, Estonia, Croatia, Cyprus, Chile, Cuba, Iceland,
Israel, Lithuania, Latvia, Federal Republic of Germany, Norway, Poland, Romania, Russia, Greece, Singapore, Slovakia, Slovenia, Sweden and Switzerland.

The majority of migrants have been readmitted to the Czech Republic (19,137 migrants, mainly from Germany in 1998 while 3,818 migrants were forwarded from the Czech Republic to Austria, Slovakia, Poland and Germany in the same year). It only proves the existing migratory route from Slovakia through the Czech Republic to its north and further on to the former East Germany. Most migrants are readmitted from Germany. It is clear from the existing statistics that the number of those who were readmitted from the Czech Republic to third countries is considerably lower even though growing from 1995. Most illegal migrants readmitted from the Czech Republic are sent to Slovakia.

Detention of asylum seekers

Asylum seekers are not detained but apprehended migrants at the border or captured illegal migrants within the territory who apply for asylum are. For the period of the asylum procedure asylum seekers can stay either in the refugee centre or in private accommodation after three weeks of quarantine. Those migrants apprehended while crossing the border illegally or staying on the territory without a legal residence permit might be detained up to 180 days. Conditions under which an alien can be detained are described in Chapter XI, Art. 124 to 129 of the Alien Law. It stipulates that “The Police shall be entitled to detain an alien who was delivered a notice of commencement of proceedings concerning administrative expulsion if there is a risk that the alien could endanger the state’s security, seriously interfere with public order or frustrate or exacerbate the execution of a decision of administrative expulsion.” An alien may be detained after a written decision on his detention containing grounds leading to such decision was delivered to him or after he refused to receive notification of such a decision. An alien who has been detained shall be entitled to file a motion to commence proceedings pursuant to special legal regulations in which a court shall take a decision on the legitimacy of the detention and shall order the release of an alien in the case of the detention being illegal.

There is a major detention facility for illegal migrants in Balkova in the district of Plzen-North in the western part of the Czech Republic. This centre was opened in November 1998 with a capacity of 120 people. Later it was increased up to 204 persons but in practice up to 300. Initially Balkova was supposed to be a detention centre for illegal migrants who returned from Germany: “The detention facility of Balkova is a place designated for aliens, who are obliged to stay there until the execution of expulsion in accordance with Art. 17, Para. 1 of the Act. No 123/1992 Coll., on the Residence of Aliens as amended by subsequent legal regulations. Only aliens returned by the respective bodies of the Federal Republic of Germany on the Basis of an Agreement between the Governments of the Czech Republic and the Federal Republic of Germany on Readmission of Persons at Common State Borders from November 3, 1994 are placed in this facility.” (Information on the Migration Situation in the Territory of the Czech Republic in 1998). Until the end of 1999 migrants could be detained in Balkova for up to 30 days. This, however, changed after January 1, 2000.
At the moment approximately 65 per cent of inmates were returned from Germany coming from Afghanistan, Moldova, Sri-Lanka, China and Vietnam. About 60 per cent of detained migrants in Balkova apply for asylum and are transferred to the refugee reception and residential centre in Cerveny Ujezd. There are two regimes in Balkova. (1) The open regime means that inmates are accommodated in a room with basic furniture and are allowed to walk in the corridor and to visit others in their rooms. There are no special facilities for children apart from a gym and a TV room accessible in limited time. There is also a fenced-in area where detainees can go out for at least one hour a day unless the weather is unfavourable. There are two psychologists in Balkova who provide basic assistance when needed. The number of police is high (150) to guard the institution; however, hunger strikes or suicide attempts are not rare. Basic health care is provided and in case of emergency detainees can be transported to the local hospital in Plzen. (2) The closed regime means that migrants are kept in cells for 23 hours a day with one hour to walk outside. These cells have a very basic layout. Women and families with children are not kept in these cells.

Migrants detained in Balkova complained about bad hygienic conditions and said that even though there were adequate amenities such as fully equipped bathrooms they were not allowed to use them for more than 15 minutes once a week. Conditions in Balkova were criticised for isolation (there was no public telephone) and for limited legal and social assistance. The staff is aggressive and unfriendly and treat the inmates. Especially little children have to face psychological and physical consequential damages.

Due to increasing illegal movements at the Czech/German border the first detention centre was opened near the German border in November 1998. In May 1999 a FFM-Team paid a first visit to Balkova. A year later, on April 25, 2000, FFM, accompanied by two members of the OPU (Organisation for the Aid of Refugees) repeated this visit. The FFM-team realised that the situation of the refugees and migrants in Balkova had deteriorated drastically since the previous year. The capacity of the centre was upgraded. In April 2000 184 migrants and refugees were held in detention. 65 per cent of inmates are said to have tried to cross the border secretly and were deported by the German border patrol (BGS). According to the warden and the Czech foreign police the Czech border patrol of each district decides who of the deported refugees and migrants will be detained in Balkova. The Alien Law corresponds to the rules of the Schengen-Aquis legitimates Balkova and four other detention centres that are in the planning phase. According to the Alien Law illegal migrants are supposed to be detained until a certificate for their passport will be issued in order to deport them. These migrants have the right to apply for asylum, and they will be released and sent to the reception centre in Cerveny Ujezd. Statements of several refugees, however, maintained the contrary. They said that they had applied for asylum with the German border patrol as well as with the Czech authorities. In spite of this they had been sent to Balkova under false pretences where they had been held under detention for several weeks without any explanation. After 4-5 day hunger strikes they were sent to Cerveny Ujezd. It is not the first time that the FFM points out how refugees are robbed by the German border patrol before they are deported. In Cerveny Ujezd families and others confirmed that even the Czech authorities had started this practice. For instance, an Iranian couple with three children were held under detention for 48 hours by the German border patrol and they had to pay DM 2,600, and being deported to the Czech
Republic the local border patrol withheld another DM 600. Afterwards they were sent to Balkova.

Extending the “shield policy” of the EU countries a new detention centre will be opened near the Austrian border and several potential places were already identified; this, however, met with the protests of local inhabitants who were afraid of increasing criminality.

**SUBSIDIARY FORMS OF PROTECTION**

Before the Refugee Law (1999) rejected asylum-seekers had to legalise their status in the Czech Republic by their own means. The new “Tolerated Status” by the Law will allow them to legally reside at the territory of the country and will provide them with basic social welfare. Those who will apply for the tolerated status receive 4,500 CZK per adult and might choose either to stay in one of the facilities run by the Ministry of the Interior or to seek accommodation in one of the shelters for those on tolerated status governed by charity organisations or to find their own accommodation in private.

As far as access to the labour market is concerned the Ministry of the Interior insists that tolerated migrants are strictly forbidden to work. This, however, remains a controversial issue as some NGOs argue that there is no legal base for such a restriction in the existing legislation.

According to the Alien Law (1999) Visa exceptionally provide residence authorised by the Police “to an alien who cannot leave the territory” (Part 2, Art. 35 of the Act No. 326). This “visa to allow” may be granted “if an alien would be forced to enter or was expelled to

- a country where his life or freedom is in danger for reasons of race, religion, nationality, membership of a particular social group or political opinion or
- a country where he is in danger of torture, inhuman or degrading treatment or punishment and/or his life is in danger as a result of war or
- a state which is requesting his extradition due to a crime which carries the death penalty according to the laws of that state” (Art. 179, Obstacles to Travel, Act No. 326 of 1999).

Another condition under which an alien can be granted this visa is that his expulsion would be “contrary to the obligation ensuing from an international agreement.” This visa can be issued for a period determined by the Police, but cannot exceed 365 days. Its validity can be repeatedly extended. This status provides health care if the alien is not able to arrange for the payment for health care himself (Art. 35 of the Act No. 326 of 1999).

Another form of subsidiary protection is “visa for the purpose of temporary protection” as defined by the new Alien Law (1999). It can be issued to an alien who “flees from the country of his nationality or from a country which granted him asylum status or, in the case of stateless persons, the country of his habitual residence

- a) before an armed conflict, a civil war or permanent violence, in particular if
   - he was a prisoner of war or was held in a detention camp and cannot be protected in any other way against a danger to his life or deprivation of his personal liberty for reasons beyond his control,
he is injured or seriously ill and cannot receive medical treatment at the place where he is currently staying,
- there is or was an immediate danger to his life or danger of imprisonment and it is not possible to provide him with protection in any way at the place of his permanent residence,
- he was a victim of sexual violence and it is not possible to provide him with suitable care in safe areas which are located as close as possible to the place of his permanent residence, and/or
- he arrives directly from combat areas where fighting continues and human rights are being violated,

b) before a natural disaster
c) for reason of constant or mass violation of human rights, or
d) for reasons of constant or mass persecution for the reason of nationality or religion.

If temporarily protected persons cannot arrange for their own accommodation they shall be provided with it by the Ministry of the Interior. The Law also stipulates that “If an alien for whom accommodation has been arranged cannot cover the cost related to his entry and stay in the country, these costs shall be borne by the Ministry.” The Ministry of the Interior should, however, provide accommodation in an accommodation centre and is not supposed to pay for such in private flats.

The law therefore states that “An alien who has been granted temporary protection and whose registered address is outside an accommodation centre shall cover the cost related to his stay in the territory himself.”

However if the alien is not able to bear the expenses he can request financial support and shall be provided with a financial contribution of up to the amount of the subsistence minimum. (Subsistence minimum is defined in the Law 463 of 1991) as follows:

*Contribution to Nutrition and Other Essentials/person/month:*

<table>
<thead>
<tr>
<th>Category</th>
<th>Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child up to six years of age</td>
<td>40 USD</td>
</tr>
<tr>
<td>Child 6 to 10 years</td>
<td>44.5 USD</td>
</tr>
<tr>
<td>Child 10 to 15 years</td>
<td>52.75 USD</td>
</tr>
<tr>
<td>Youth 15–26</td>
<td>57.75 USD</td>
</tr>
<tr>
<td>Adult</td>
<td>54.75 USD</td>
</tr>
</tbody>
</table>

*Contribution to Household Expenditures/month:*

<table>
<thead>
<tr>
<th>Category</th>
<th>Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single</td>
<td>39.5 USD</td>
</tr>
<tr>
<td>Couple</td>
<td>51.5 USD</td>
</tr>
<tr>
<td>3 to 4 persons</td>
<td>66.25 USD</td>
</tr>
<tr>
<td>5 and more persons</td>
<td>71.75 USD</td>
</tr>
</tbody>
</table>

The Law further states that “For the purposes of employment and studies, an alien shall be considered an alien with a permanent residence permit during the validity of a Visa for the purposes of temporary protection” (Art. 46 of the Alien Law).

**INFLUENCE OF EU ASYLUM AND MIGRATION POLICY**
As the process of accession to the EU is becoming more intensive there is also a significant effort to conform and harmonise visa policy, immigration legislation and border protection with EU states. As it was mentioned the Czech Republic is one of the main transit countries for migrants towards Western-Europe and is therefore under strong EU pressure to improve border protection and to implement a stricter immigration policy. Czech authorities were repeatedly criticised for slow progress towards EU accession. In the last year and a half progress has been made; however, it is still lacking in comparison with other states in the region. In the field of migration the ineffective Czech/Slovak border control has been criticised and the country has been reminded of the need of training the police forces and the border guards. For this reason the Government prepared a project under the PHARE Program “Strengthening of the Border control” (CZ 9808-01). This project was financed from the 1998 budget of the European Commission with a financial support of 2.5 million ECU. The project includes improvement of technical equipment as well as institutional building in the form of training, education and becoming familiar with European standards. The draft project is based on recommendations of EU experts and is part of the National Program of the Adoption of Acquis.

In 1998 the Ministry of the Interior and the Police of the Czech Republic were closely involved in the process of legislative screening with the aim to harmonise legislation in the respective field. Representatives of the Czech Republic participated in the discussions on issues related to illegal migration during several meetings of CIREFI experts with their counterparts from Central and Eastern Europe, the Baltic countries and Cyprus. Discussions focused on illegal migration from Iraq, China and the former Yugoslavia. Another part of the discussion was devoted to the presentation of the EU Action Plan on the extension of gathering statistical data related to migration and asylum issues on a monthly basis, and also the presentation of CIREFI principles on the exchange of statistical data. These discussions were followed by VISA group expert meetings on the harmonisation of the visa policy of associated countries with that of EU member states. The conclusion drawn from these meetings was that visa regimes would be essential for the regulation of legal migration movements as well as dealing with illegal migration.

In 1998 representatives of the Czech Republic participated in several meetings on the Schengen Agreement to learn about the protection of Schengen external borders. Taking the influence of the EU into account the list of other fora working in the field of migration is necessary due to radiation of EU or member states on the ongoing work.

Representatives of the Czech Republic work on the Committee on Demography and Migration of the Council of Europe (CDMG) as well as on Ad Hoc Expert Committee on Legal Aspects of Territorial Asylum for Refugees and Stateless Persons (CAHAR).

In June 1998 a conference on measures preventing illegal migration was organised in Budapest. This conference was initiated by the Federal Republic of Germany. Measures agreed upon at the conference should be implemented in the near future by all participating countries. The main measures adopted are as follows:

- to carry strict and complete controls on railway and highway crossing points as well as at the airports and harbours. Validity of travel documents of each traveller will be checked and it will be established whether the alien is entitled to enter the territory and whether there is an order to detain him or a ban on his entry or whether he travels with items which are searched for;
• to intensify the control and protection of land and sea borders between border crossing points as well as the territory beyond the border by deployment of mobile forces to stop illegal migration and to agree with neighbouring states on position plans and measures to be undertaken;

• to pressure carriers to fulfil their obligations to carry to final destinations only those aliens with valid travel documents and to strictly apply carrier sanctions when these obligations are violated;

• to make special provisions within the Police and Justice to deal with trafficking and to train Police officers and Border Guards especially to tackle this issue and to establish a National Centre for the Collection of data in the field of trafficking which will be at the disposal of the police which will make full use of international police co-operation;

• visa will be issued only by professional consular authorities with essential knowledge and experience;

• to adhere to the principle of in person presence of the visa applicants and to make exceptions only in limited bona fide cases;

• to require from the nationals of states with high migration potential relevant documents which make it possible to assess any potential risk of their illegal entry such as a written visa application and additional proofs confirming the purpose of the journey, time of stay, covering of the costs of the stay and travel;

• authorities shall require the applicant to confirm the validity of the documents and the information he provided by his signature and confirm his return to the country of origin or to require a deposit.

The Czech Republic is on the working group with other countries of Central and Eastern Europe to deal with illegal migration throughout this region. This secretariat of the Budapest process – the International Centre for Migration Policies Development (ICMPD) assists with information and know-how provided to countries of this region in the field of migration. The Czech Republic intends to accede to ICMPD in the near future.

The Czech Republic became a member of the International Organisation for Migration (IOM) in November 1995 and signed an Agreement on Mutual Co-operation in October 1997. The priorities of the co-operation between the public authorities in the Czech Republic and IOM are illegal migration and assistance of IOM in creating a new, effective migration policy in the Czech Republic. IOM also provides assistance with returning individual migrants without permission to stay to their countries of origin. IOM assists with obtaining travel documents and visa for migrants returning to their countries of origin. IOM representatives expressed their interest in opening a regional IOM office in Prague in the future.

SOURCES

Interviews with Immigration officials and staff of the Ministry of the Interior.
ECRE documents on the third safe country “Safe Third Countries, Myths and Realities” (1998).
FACTS ON MIGRATORY MOVEMENTS

After the end of the Soviet occupation in September 1990 Estonia began to restore its border guarding. The date of 1 November 1990 when the Government decided where the permanent economic border checkpoints would be, can be considered the date of the foundation of the Estonian border guard. The length of the guarded Estonian border is 1,445 km. It includes 767.8 km of territorial sea border, 342.8 km borders with Latvia and 333.8 km of land, river and lake borders with Russia.

Shortly after the regaining of its independence in 1991, Estonia was faced with the first groups of refugees travelling to Scandinavia and Western Europe illegally transited through Estonia. Some of these people were captured by the Estonian border guards and thus ended up in the territory of Estonia. These were the first signs indicating that opening up to the world would inevitably transform a newly independent Estonia from a refugee-producing country into a refugee-receiving country. (According to the registration data of the Statistical Office of Estonia, in January 2000 the number of emigrants exceeded the number of immigrants by 34 persons. In 1998–1999 there were 41,200 immigrants in Estonia.) It was obvious that sooner or later Estonia would have to introduce an asylum institution by adopting national refugee legislation and developing the relevant institutions.

While Estonia was gradually introducing asylum legislation, it was also faced with the task of strengthening its borders and getting illegal migration under control. The first pieces of national legislation regulating this area were adopted already during the Soviet era (leaving aside the legislation of the Estonian Republic in 1918–1940).

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of asylum seekers</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>1</td>
<td>23</td>
<td>21</td>
</tr>
<tr>
<td>Recognised refugees</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Subsidiary protection</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
By the end of 1999, none of the applicants had been granted asylum in Estonia. Fifteen applications had been rejected. One of the rejected asylum seekers left the country and another was sent back from the border. All the other rejected applications were pending at various stages of the appeals procedure. Some applicants departed from the country (either illegally or legally) before receiving the first instance decision, decreasing the number of asylum seekers in Estonia to 27 by the end of 1999. The Citizenship and Migration Board received the majority of the applications on the territory of the republic; only five out of the 45 applications were submitted at the border to the Board of Border Guard. Out of those five, two approached the border guards with an intention to apply for asylum, the other three were apprehended during illegal border crossing. Some of those who submitted their applications while already in Estonia had entered the country legally, others illegally. It seems to be fair to state that the majority of those 45 who had applied for asylum in Estonia were forced to do so after having found themselves in one way or another stuck in the country.

Table 2
Visa-free travellers to Estonia

<table>
<thead>
<tr>
<th>Category/citizens of</th>
<th>Remark</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alien in possession of residence permit in Estonia</td>
<td></td>
</tr>
<tr>
<td>Alien participating in an organised pleasure cruise</td>
<td>up to 12 hours</td>
</tr>
<tr>
<td>Alien in possession of visa issued by Lithuania</td>
<td></td>
</tr>
<tr>
<td>Alien in possession of visa issued by Latvia</td>
<td></td>
</tr>
<tr>
<td>Andorra, Australia, Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Malta, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, San Marino, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom, USA, Vatican</td>
<td></td>
</tr>
<tr>
<td>Romania, Turkey, Ukraine</td>
<td>only with a diplomatic passport</td>
</tr>
<tr>
<td>Canada, Israel, Republic of South Africa</td>
<td>meeting the Estonian visa requirements in merit</td>
</tr>
</tbody>
</table>

In 1998 the new visa regulations came into force whereby border guards started to issue at border checkpoints special visas and visas to the citizens of the EU and some other countries. In 1998 border guard institutions were granted the right to carry out pre-trial investigations in the cases of illegal border crossing and illegal transport of people over the border.

In 1995 the total number of visas issued was 227,031. Over 100,000 issued by the Estonian Embassy in Helsinki, 33,000 issued by Embassies in Moscow and St. Petersburg each, 19,219 by Stockholm, over 9,000 by Bonn, almost 9,000 by Pihkva (Russia) and 7,600 by Kiev. The total number in 1996 was slightly less than the previous year – 216,366 – with the top five embassies remaining approximately with the same numbers. In 1999 approx. 75,000 visas were issued by foreign representations, 259 of which were
business visas. The Embassies in Moscow and St. Petersburg issued about 900 and China exactly 51 visas. In general about 100 different nationalities applied for and received an Estonian visa during

Table 3

<table>
<thead>
<tr>
<th>Year</th>
<th>Estonian–Russian Border</th>
<th>Estonian–Latvian Border</th>
<th>Estonian–Latvian Sea Border</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>64 persons (group)</td>
<td>12 Kurdish origin with forged passports; 146 Kurdish origin by ship from Latvia to Estonia</td>
<td>149 persons (group)</td>
</tr>
<tr>
<td>1995</td>
<td>16 Turkish citizens</td>
<td>5 persons</td>
<td>–</td>
</tr>
<tr>
<td>1996</td>
<td>14 Indian citizens hidden on a bus</td>
<td>7 persons</td>
<td>–</td>
</tr>
<tr>
<td>1997</td>
<td>2 Kurdish origin with forged Hungarian passports</td>
<td>4 Kurdish origin with forged Hungarian passports</td>
<td>–</td>
</tr>
<tr>
<td>1998</td>
<td>7 Kurdish origin with forged passports by train; 15 Kurdish origin without documents; 1 Sri Lanka origin</td>
<td>1 Nigerian origin with forged UK passport</td>
<td>–</td>
</tr>
<tr>
<td>1999</td>
<td>16 Chinese origin with forged Korean passports; 9 Chinese origin with forged Korean passports; 2 Pakistan origin; 2 Afghan origin; 2 Turkmenistan origin; 1 Somali origin with forged Danish passport; 1 Afghan origin; 1 Chinese origin; 1 Sierra Leone origin</td>
<td>1 Kurdish origin with forged Slovakian passport; 1 Afghan origin</td>
<td>–</td>
</tr>
</tbody>
</table>

Source: Board of Estonian Border Guard.

the previous year, although Estonia is still a country most often visited by neighbours and not an attractive asylum nor a transit country for asylum-seekers but rather important for illegal migrants as Table 3 indicates.

LEGAL INSTRUMENTS ON ASYLUM AND CONNECTED ISSUES

• The Estonian Constitution (1992) does not include a reference to asylum.
• Refugees appeared at first in the Alien Act (1993) saying “The order of the stay in Estonia of refugees will be regulated with a separate act” (Art. 2).
• Although the first problems with refugees in Estonia emerged at the beginning of the 1990s, the Estonian Refugees Act was adopted only on 18 February 1997. It entered into force on 9 July 1997. Partly due to the relative marginality of asylum-related issues and partly because Estonia feared that the introduction of an asylum institution would act
as a pull-factor, the Refugees Act was adopted only when its establishment became absolutely inevitable. Namely, the passing of a national refugee law was one of the conditions to the introduction of a visa-free travel with the Nordic countries. It was also obvious that Estonia, as a candidate to the European Union since November 1995, would sooner or later have to adopt an asylum policy. Estonia, eager to become a member of the Western world and not wishing to risk undermining its steady progress made towards the consolidation of democracy and the rule of law could not but co-operate with its Western partners.

- After a couple of years of experience with asylum-related issues, the Estonian authorities felt the need to re-organise and better regulate some aspects of the refugee law. Therefore, on 8 February 1999, the Refugees Act Amendment was adopted by Parliament. The latter entered into force on 1 September 1999.
- The Refugees Act was thereafter complemented by a number of laws regulating the implementation of the Act. On 8 February 1999, the Refugees Act Amendment was adopted. The latter entered into force on 1 September 1999. The amendments intend to regulate better some aspects of the law (e.g. the suspension and cessation of determination procedures due to the disappearance of applicants), to make the procedure more efficient (e.g. the introduction of an accelerated procedure in the territory of the country), and to exercise better control over the whereabouts of asylum seekers in the country (e.g. creation of a closed initial reception centre; conditions of stay in the main centre).
- A Government Decree regulated the accelerating procedure on asylum (No. 163 of 28 July 1998) that was replaced by a new one (No. 263 of 31 August 1999).
- The Act Amending the Aliens Act was passed on 17 February 1999 and entered into force on 1 October 1999 which, inter alia, gave a possibility for an alien to apply for a temporary residence permit on the basis of an international agreement. This clause gave a possibility, at least a theoretical and a legal one, to grant protection to asylum seekers who do not qualify for refugee status under the 1951 Convention but could seek protection against refoulement under some other human rights instruments. The Obligation to Depart and Entry Ban Act (1999), that entered into force on 1 April 1999 also includes a clause stipulating prohibition of refoulement (Art. 17). Moreover, it regulates issues such as the banning of entry of certain aliens to the country and the expulsion of aliens who arrive or reside in the country illegally or violate the provisions of the alien law. It also provides for the grounds for placing such people in detention and the application of a prohibition against entry into the country (Art. 1). This law is an important instrument when it comes to the implementation of the national immigration policy. The introduction of an entry ban serves the interests of public order and national security. In the Aliens Act and the Code of Administrative Offences the obligation of aliens to depart and the banning of their entry have not been regulated sufficiently.
- The Law on Immigration of the Estonian SSR entered into force on 1 July 1990 establishing the requirement for residence permits for those residing in Estonia. The reception of applications for residence permits in essence marked the beginning of a process of regulating and limiting immigration to Estonia.
- The creation of the visa system of Estonia started on 18 November 1991 when temporary procedures for entry and departure were established. In January 1992, the issue of temporary permits for stay in the country began. On 1 July 1991, the Visa Requirements
of the Republic of Estonia were adopted. Visas at that time could be issued at the border of the country.

- On 12 July 1993, the Aliens Act entered into force regulating the entry of aliens, their residence and employment in the country (Art. 1). It also established the principle that every alien residing in Estonia must have a passport and either a visa or a residence permit. The Aliens Act also set up an annual immigration quota according to which the quota for aliens immigrating to Estonia will not exceed a certain percentage of the permanent population of the country (Art.6). The quota was 0.1 per cent of the permanent population in 1993, but had been decreased to 0.05 per cent by 1999. The Act provides right to settle in Estonia outside of the quota. According to an amendment to the law (1997) these persons include ethnic Estonians, nationals of the European Union, Norway, Iceland, Switzerland and those who had settled in Estonia before 1 July 1990.

- On 29 February 1992, the Law on Citizenship of 1938 was reinforced and on 1 April 1995 the Law on Citizenship entered into force replacing the previous one. The new law did not change the principles of the 1938 law, but specified the conditions for granting citizenship through naturalisation by establishing the requirements of passing the exams on the Estonian language and the knowledge of the Constitution.


- Estonia acceded to the major instruments of human rights. Table 4 enumerates them.

<table>
<thead>
<tr>
<th>Conventions</th>
<th>Remark</th>
</tr>
</thead>
<tbody>
<tr>
<td>UN Convention on the Right of the Child</td>
<td></td>
</tr>
<tr>
<td>UN Convention on the Elimination of All Forms of Discrimination against Women</td>
<td></td>
</tr>
<tr>
<td>UN Convention on the Elimination of All Forms of Racial Discrimination</td>
<td></td>
</tr>
<tr>
<td>UN Convention against Torture</td>
<td></td>
</tr>
<tr>
<td>UN International Covenant on Economic, Social and Cultural Rights</td>
<td></td>
</tr>
<tr>
<td>UN International Covenant on Civil and Political Rights</td>
<td>Optional Protocol</td>
</tr>
<tr>
<td>CE Framework Convention for National Minorities</td>
<td></td>
</tr>
<tr>
<td>European Convention for the Prevention of Torture</td>
<td></td>
</tr>
<tr>
<td>ECHR (European Charter for Human Rights)</td>
<td>Protocol 1 (right of property et al.)</td>
</tr>
<tr>
<td></td>
<td>Protocol 4 (freedom of movement et al.)</td>
</tr>
<tr>
<td></td>
<td>Protocol 6 (death penalty)</td>
</tr>
<tr>
<td></td>
<td>Protocol 7 (ne bis in idem)</td>
</tr>
</tbody>
</table>
INSTITUTIONAL ACTORS

- On 16 January 1990, the State Migration Board of the Soviet Socialist Republic of Estonia was founded in order to start forming the permanent population of Estonia and exercising state migration control by implementing a migration policy. Its tasks also included to issue of residence and work permits, to assist people wishing to re-migrate, to help people who had settled in Estonia to integrate in the society and to keep a record of people who had received residence permits until the creation of a population register. In November 1991, the State Citizenship Board was founded as a result of uniting the State Passport Board and the Bureau of Citizenship. The tasks of the Citizenship Board included the formulation of the concept of citizenship, the preparation of materials for granting and revoking citizenship, the registration of Estonian citizens and the issue of documents confirming Estonian citizenship. On 28 December 1993, the Citizenship Board and the Migration Board were united and thus the State Citizenship and Migration Board was founded.

- Initially, the Ministry of the Interior together with two subordinated institutions (Citizenship and Migration Board and the Board of Border Guard) was responsible for the Asylum Act. The Ministry of the Interior was responsible for reviewing asylum applications, analysing the reasons for the application and making a proposal to the Government of Estonia to either grant asylum or reject the application (Art. 12 [3] of Asylum Act). Thus, the responsibility for taking decisions on asylum cases was laid on the Government of Estonia.

- Although the Citizenship and Migration Board mainly deals with the documentation of people living in Estonia and those who wish to come to live in the country, the entitlement by the Refugee Act made it a central body of asylum procedure. There is a Refugees Bureau in the Department of Illegal Immigration of the Citizenship and Migration Board, which currently employs four officials. The planning of the work of the Bureau started after the adoption of the Refugees Act. The Citizenship and Migration Board is responsible for receiving asylum applications, conducting interviews, issuing documents and orders (to leave the country, for example) to asylum seekers and refugees.

- The activities of the Board of Border Guard are established by a variety of acts, such as the State Borders Act and the Border Guard Act (1994) and the Regulations of Border Regime (1997). According to the Border Guard Act, the main task of the border guard is the surveillance of the land, sea and international water borders. It includes the prevention of border violation, illegal border crossing, too. Since July 1997 the border guards have been entrusted with the additional task of accepting and examining asylum applications that are submitted at the border. In each border region there are responsible trained persons (thirteen altogether) who conduct the asylum procedure. In addition, there are two persons in the headquarters who are responsible for the general co-ordination of asylum-related issues inside. Although the border guard officers do not have the right to grant asylum, they have an exceptionally significant role in the asylum procedure. They
can either reject the application for asylum and send the person back from the border, or send the application to the Citizenship and Migration Board for further consideration. The role of the Board of Border Guard has been often regarded as one of the most contentious issues in the Estonian asylum procedure.

- The Ministry of Social Affairs would be responsible for the activities related to organising the reception of asylum seekers and integration of refugees. A reception centre in the village of Jaama (in the N-E of Estonia) was to be set up on 1 May 1998 by the Government Regulation No. 77 of 14 April 1998. The centre was to be under the administration of the Ministry of Social Affairs. As the reconstruction of the centre was delayed, asylum seekers stayed in various temporary accommodations over the years. Since autumn 1998, they had been residing in separate premises allocated for them in a care centre and old people’s home in the village of Aa (in the N-E of Estonia). The permanent reception centre in the Jaama village was opened in June 2000.

- Consequent to the amendments to the Refugees Act (Art. 12) and terms of competence of government agencies, the right to analyse asylum applications, to take a decision on asylum application was transferred to the Citizenship and Migration Board. The aim of such a transfer of competence was clearly to make the asylum procedure fair and efficient. Besides the cumbersome procedures, it can be assumed that asylum-related decisions taken by persons not directly working with these issues are more likely to be influenced by political considerations.

- From September 1999, there exists a Project of Legal Assistance to Asylum Seekers and Refugees. It was started up by the Estonian Red Cross, Concordia International University and the UNHCR with the financial assistance from the Open Estonia Foundation. The aim of the project is to guarantee professional legal assistance to asylum seekers at all stages of the procedure and through this to contribute to the building up of a fair and efficient asylum determination procedure in Estonia.

MECHANISMS OF ASYLUM MANAGEMENT

Generally speaking refugee issues have been and still are of marginal relevance in Estonia. There was one single incident which caused the international community to put pressure on Estonia and which thus had a noticeable impact on the development of the asylum policy in the country. Namely, a group of 85 asylum seekers, mostly of Iraqi origin that had arrived in Estonia between August 1993 and May 1994 were imprisoned as illegal immigrants. In September 1994, the asylum seekers started a hunger strike. The Finnish Red Cross visited the asylum seekers in October 1994 and stated that the situation was inhumane and a solution on a political level was required to the refugee problem. The Regional Office of the UNHCR was invited by the Estonian government to a consultation in Tallinn on 19 October 1994 together with high-level representatives from Finland, Sweden and UNDP in Tallinn to discuss the issue of the detention of asylum seekers as well as related policy matters. With regard to the immediate problem of the detention of 85 asylum seekers, the Estonian authorities proposed to take the some urgent measures to alleviate the detention conditions. They studied the possibilities of how the restrictions on the freedom of movement can be lifted without encouraging illegal
movements. The Finnish Government formally requested Estonia to reconsider its existing policy and informed the UNHCR of its exceptional readiness to resettle the detained refugees under its quota. The Estonian authorities were reluctant to request resettlement of the detainees for fear of encouraging more transit movements in the future. The asylum seekers were finally resettled to Finland at the beginning of 1995.

The UNHCR also made sure that Estonian authorities had to establish their own applicable refugee system. It was also recognised that a comprehensive package would have to contain the following elements: the adoption of national legislation on refugees (as envisaged by the *Aliens Act*, a system for screening asylum seekers), an improved infrastructure for the reception of asylum seekers and the conclusion of readmission agreements with countries in the region. International partners were aware of the fact that due to political, demographic and economic conditions the country was not ready to join the 1951 Convention in the early 1990s. Thus they kept offering their assistance to Estonia so that the latter could adopt temporary measures to address the problem by giving the country time to proceed with the preparation of refugee legislation which was hoped to be consistent with international standards. In May 1995, for example, the first training course for about 20 Estonian government officials on refugee determination and reception was organised by the UNHCR in co-operation with the UNDP Tallinn and the IOM.

It was not a coincidence that agreements abolishing visa requirements between Estonia and Nordic countries entered into force on 1 May 1997 that Estonia adopted a national refugee law and ratified the 1951 Convention. The *Refugees Act* entered into force simultaneously with the 1951 Convention and the 1967 Protocol on 9 July 1997. In addition, the quick integration into Western structures had been Estonia’s foreign policy objective since it regained its independence. On 24 November 1995, Estonia lodged an application for European Union membership, which meant clear commitment to the implementation of international standards, including those of human rights. It was thus clear that in the long run Estonia had no choice but to yield to the Western pressure in the asylum field.

Asylum in Estonia can be granted to an applicant who has a well-founded fear of persecution as laid out in the 1951 Convention. Further on, he has to arrive in Estonia directly from his/her country of nationality or permanent residence or indirectly from another country in which he is also threatened with such persecution or expulsion to a country where there is a risk of such persecution (Art. 5 of the Refugees Act).

The asylum procedure at a border-crossing post consists of a preliminary interview and a decision to either send the applicant back from the border or forward the application to the Citizenship and Migration Board for status determination.

According to the Code of Administrative Court Procedures, all individuals have the right to appeal a decision issued by the Government. The principle is reiterated in Art. 7 (7) of the *Refugees Act*. An asylum-seeker has altogether three instances where he/she can lodge an appeal: the local Administrative Court (Tallinn or elsewhere), the District Administrative Court (Tallinn or elsewhere) and the Supreme (State) Administrative Court (Tartu). A serious gap in the Estonian asylum system emerged when the first aliens whose asylum applications had been rejected wished to exercise their right to turn to the court in order to appeal against the negative decisions. The applicants could not practise this right without having a legal representative although the *Refugees Act* stipulates the right of an
asylum seeker to “have a representative during proceedings” (Art. 7 [2]). The authorities did not provide one for the asylum seeker. As a temporary measure, legal representation to the applicants was guaranteed by the UNHCR and NGOs.

The *Refugees Act* raised concern among international experts. As a result of accelerated procedure in respect of applications submitted at the border an applicant could be sent back from the border if the applicant arrived from a safe country or the application was manifestly unfounded or the exclusion clauses were applied. According to the law, the Board of Border Guard is not obliged to consult any other agencies when taking the decision to return the applicant from the border. A rejected applicant has the right to submit an appeal against a negative decision, but the appeal has no pending effect. Both EU and the UNHCR experts have clearly stated that the established border procedure lacks necessary guarantees and thus falls short of the minimum standards laid down in the EU asylum acquis.

The Estonian legislation provided for a possibility to grant refugee status only according to the 1951 Convention. The legal measures to deal with persons who do not qualify for refugee status under the 1951 Convention but would be in need of protection for other reasons do not exist. Moreover, the narrow interpretation by the Estonian authorities of the refugee definition indicates the missing intention to protect these migrants. However, since the adoption of the Act Amending the Aliens Act there has been a legal possibility to grant a residence permit on the basis of international agreements.

**Restriction on the entry of potential asylum seekers and accession to procedure**

In 1992, Estonia, just like all the Baltic States, had to start finding ways of dealing with the issue of groups of refugees and other migrants illegally passing through its territory on their way to Western Europe, particularly the Nordic countries. Illegal crossing was often arranged by smugglers and took place under dangerous circumstances. The countries around the Baltic Sea, attempting to discourage the human trafficking started, inter alia, to assist the Baltic States to take firmer measures of border control. The situation of those, however, who were caught in the Baltic States and who sought asylum in these countries was a considerably more complicated one to deal with.

**Visa requirements**

The frequently amended Aliens’ Act of 1993 and Regulation No. 6 of the Government of the Republic on the approval of visa regulations provide the legal basis for Estonia’s visa policy. There exists a general visa requirement. But a great majority of countries have been exempted from the visa requirement either on the basis of a visa-free agreement or a unilateral waiver. According to the Regular Report from the Commission on Progress towards Accession (13 October, 1999) “Estonia’s visa policy is aligned with that of the EU, except for the facilitated border crossing formalities for Russian nationals living in border areas (Narva-Ivangorod).” According to the Ministry of Foreign Affairs
Estonia is mostly in line with the requirements of *Council Regulation 574/99* which determines the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States. There, however, exist a visa-free agreement with Bulgaria and some special arrangements for Russian citizens residing in Russian-Estonian border area, which due to family relations make it substantially easier for them to cross the border. This is to be abolished by the year 2002 to facilitate the total alignment with EU regulations. The Ministry of the Interior and of Foreign Affairs is supervising the visa policy together with the Citizenship and Migration Board and the border guard.

Aliens who, according to the Estonian Visa Regulation (RT I 1998, 8, 87), do not need to obtain an Estonian visa in order to enter the country are listed in Table 2.

Estonian visas can be issued as single or multiple entry for tourists, transit diplomats, public service and business purposes. All visas for private travel have to be applied for at an Estonian Embassy or an Honorary Consulate, if there is no Embassy in the territory of the country. There exists a foreign representation of the Republic of Estonia in 50 different countries and starting from January 1997 Estonia has extended diplomatic representation to all EU Member States except Luxembourg.

According to prior regulation it was possible to apply for an Estonian visa within the country (the issuing authority is the Citizenship and Migration Board) until 7 May 1993. There was a great number of Russians who entered the country after the proclamation of independence and did not have a legal basis to stay in the independent Republic of Estonia. This opportunity, however, no longer exists.

Until March 1998 it was also possible to apply for Estonian visa at the border checkpoint. This practice has since been terminated.

The major rule is to obtain Estonian visas only at foreign representations (Art. 9 [2] of the Aliens Law) with exceptions on issuance at the border crossing. They are as follows:

- a foreigner whose position can be equal with members of diplomatic or official delegation and with foreigners accompanying a delegation – on the basis of a decision of an official empowered by the Minister of Foreign Affairs;
- a foreigner whose entrance is allowed according to a foreign agreement – on the basis of a decision of an official empowered by the Minister of Interior;
- an Estonian who has arrived at a border checkpoint for international movement – on the basis of a decision of an official empowered by the Minister of Interior;
- a foreigner who arrives in Estonia on the basis of an invitation by a member of the Estonian Government – on the basis of a decision of the Minister of the Interior;
- a foreigner whose entrance is required by unforeseen and pressing circumstances – on the basis of a decision of the Minister of the Interior.

A standard requirement while applying for visa is the existence of health insurance starting from about 10,000 USD for the whole stay.

Transit visa for single or multiple entry may be issued for transit up to two calendar days if the foreigner meets the requirements to enter the destination country (Art. 11 and 30 of the Estonian Visa Regulation). This transit visa, however, cannot be considered to be necessary for airport transit. The introduction of an airport transit is currently under consideration in Parliament and it is to be introduced (further amendment of the Aliens Law, the Act on the Obligation to Depart and Entry Ban and Act on Identification
Documents). Accordingly, an alien may receive an airport transit visa, which does not grant the holder of such a visa the right to enter and stay in Estonia, but allows him or her to enter and exit the transit zone of the Estonian airport.

**Carriers’ sanctions**

It is the responsibility of the carrier to cover all expenses of the return alien whose entry is rejected (Art. 54 of the Estonian Visa Regulations, 1998 and the Alien Law). If departure is not possible the carrier shall cover the living, substance and transportation costs until the return is executed (Section 2 of the Government Decree 255). Contrary to as stated in the European Commission Regular Report on Progress towards Accession (1999) there are no sanctions implemented against the carrier who brings in an insufficiently documented passenger.

According to the data by Estonian Air the carrier is responsible for the return of a passenger with insufficient documents or entry permits to the point of departure also on the basis of international legal instruments such as the ICAO Chicago Convention and IATA Resolution 701. The same legal instruments stipulate that if the passenger fails to produce the funds for the return, the carrier has to secure them. Estonian Air was responsible for the return of about 100 passengers in 1999.

**Border control**

Border crossing can be effected at border posts during working hours. Passengers are checked both on entry and exit. The international checkpoints are all connected to a computer network that stores information about each entry and exit. This network is exploited by both the border and customs officials, and partly even by the police. Border checking procedures are standardised and similar to the ones prescribed in the Schengen Common Consular Instructions.

The highest percentage of refusal for entry is detected at the Russian border although there is no readmission agreement signed with Russia. There exists a draft border treaty with Russia on terrestrial and maritime borders to be concluded in the near future. Estonia also wishes to conclude readmission agreements with Russia, Ukraine, Belarus and other CIS countries that are the major sending countries.

Due to numerous co-operation agreements with the neighbouring countries there are certain exceptions to the general rules of border crossing. For example, a person is checked only once at the Estonian-Latvian border in order to avoid double-checking. Furthermore, due to a simplified border crossing procedure for people living in the border area (25-30 km zone) there are even several crossing points exclusively used by the citizens of the two neighbouring states. According to the data of the Estonian Border Guard about 18,000 people are given the permission to use the simplified procedure and about 5,000 of them are Russian citizens.

It is the opinion of the Head of the Board of the Border Guard that within the context of illegal migration Estonia’s position has remained rather stable during the past few
The exchange of information concerning illegal immigration (including information on asylum seekers, statistical data and analysis on different aspects of migration) among different countries has improved lately. The stability of illegal migration has been achieved through extensive co-operation in the border guard structures with neighbouring countries and strengthening the border control. Within the last three years 66 illegal migrants were denied entry to Estonia and only a few managed to get on to the Nordic countries.

The main legal instruments of combating illegal migration are formed by the Constitution, the State Border Act, Border Guard Act, Border Regime Regulation, Alien Law, Visa Regulation, Act on Surveillance, Criminal Code, Code on Criminal Procedure and the Law on Administrative Offences.

The Estonian Border Guard has the main responsibility to fight organised criminal activity at the borders including illegal immigration and human smuggling. However, the Border Guard is authorised to co-operate with any or all law enforcement organs, such as the Police Department, the Security Police Department and also the Citizenship and Migration Board as well as with the relevant foreign organisations. In 1998 a structural unit was established within the Border Guard to analyse detected cross-border organised actions and to propose the necessary measures.

In addition to the computerised network that enables to keep track of the individuals entering, the need to develop skills to detect forged documents led to the establishment of the Travel Document Assessment Centre in August 1999. The responsibility of the Centre is to collect data on forged and original documents, to analyse forgeries and to issue guiding and study materials on the topic.

The Border Guard is active in regular exchange of information and joint long-term projects in the fight against illegal immigration, as the following examples show. In 1994 Estonia, Russia and Finland concluded a border guard co-operation protocol in order to enhance the exchange of information about illegal immigration and combat human smuggling. Since 1997 the Border Guard of Germany has forwarded to Estonia the relevant monthly overviews covering with European illegal immigration and document forgery. In 1998 Estonia was invited among the other candidate countries to participate in the European Union Council illegal immigration working group meetings of CIREFI. In 1999 Estonia, Latvia and Russia set up OAK as a border guard joint operation that concentrated on the detection and discovery of illegal immigrants, their routes and methods.

Most asylum movement that transits Estonia is directed towards Sweden or Finland, but also other Nordic countries. Some illegal migrants via Russia end up in Estonia unknowingly either because smugglers betray them or they stumble upon Estonia on their way to somewhere else. According to the Board of the Border Guard data since 1994 there has been reason to eliminate a new substantial human smuggler connection each year while the number of criminal procedures for unlawful actions has not decreased. For instance, in 1998–1999 there were seven criminal cases brought against illegal immigrants and their smugglers by the Border Guard. As a result of these charges seven smugglers and one organiser were found guilty while in 1998 only five smugglers and one organiser were sentenced. The high quality of forged documents and the national origin of the detected groups (mostly from Southeast, Central and South-Asia) shows that Estonia
has not become a regular transit country of illegal migrants. The route of transit is based on scarcity of information.

The improvement of co-operation between different law enforcement agencies is based on Legal Assistance, Co-operation and Readmission agreements. They provide joint operations to prevent illegal immigration, training, availability of a special border control data-base, sensors and other technical surveillance equipment between border checkpoints.

The safe country principle

The refugee definition in itself as laid out in the Refugees Act (Art. 5) does not allow the granting of asylum in Estonia to a person arriving from a safe third country. If there is reason to believe through the screening interview that the applicant arrives from a safe country of origin or through a country which can be “reasonably” considered safe, or the application is manifestly unfounded, an accelerated procedure can be carried out (Art. 9 [1] of Refugee Act). The screening procedure at the border; was introduced together with the Refugees Act in 1997; the procedure is applied to those arriving from a safe country of origin or safe third country or in the case of a manifestly unfounded request. This novelty was extended to applications submitted within the territory in 1999.

It was politically explained by the geopolitical position of Estonia. Before its introduction the law did not foresee any special concept of safe country and manifestly unfounded applications vis-à-vis the asylum claims submitted in the territory of the country.

The place of lodging an asylum application (at the border or in land) determines the agency competent to conduct the accelerated procedure. Asylum applications submitted at a border checkpoint even during proceedings following an illegal crossing are determined by the local unit of the Board of Border Guard in the border region. The Citizenship and Migration Board processes applications submitted in the territory of the country.

In the course of an accelerated procedure the relevant agency conducts a supplementary interview verifying the identity of an applicant and checking the credibility of an applicant. It takes a decision either to finish the accelerated procedure and pass the application to a regular procedure or reject the application (Art. 9 [2] of the Refugee Act). In the latter case, the Citizenship and Migration Board issues an order to leave the country while the Board of Border Guard makes a decision to send the person back from the border.

The procedure has to be conducted within seven days of the moment the application is submitted. The term can be extended up to 30 days due to hindering circumstances. Applicants at the border are not allowed to leave the territory of the border guard authority, and whose application is being processed in an accelerated way by the Citizenship and Migration Board is obliged to stay in the closed reception centre (Art. 9 [1] [(3) of the Refugee Act). The latter does not apply in the case of an lawfully staying in the country.

An appeal against the rejection of an application and the consequent order to leave the country has to be submitted to the administrative court within ten days after decision. The appeal does not have an automatic pending effect for refouled applicants (Art. 9 [5] of
The Refugee Act). The fact that all expulsion orders are issued by the court provides an additional guarantee only to migrants being in the country. The court upon receipt of appeals suspends the execution of the order to leave.

The implementation of safe country principles and manifestly unfounded request is not regulated and guided in detail. Only a few applications have been lodged at the border and most of these have been forwarded to the Citizenship and Migration Board for regular consideration. Moreover, Estonia does not use lists of safe countries while authorities have stated their intention to follow the relevant EU guidelines as laid out in the acquis when it comes to the interpretation and application of this concept. EU and UNHCR experts have noted that the current border procedure is not in compliance with the acquis on asylum (e.g. authorities responsible for examining an asylum claim are not fully qualified in the field of refugee matters). While border guard officials have been receiving training in asylum-related issues together with the relevant officials of the Citizenship and Migration Board since 1997 the matter of asylum has remained an additional issue in the daily work of border guards. However, the fact has been recognised that the current procedure must be improved by adding certain safeguards in order to really comply with the EU acquis on asylum.

Readmission agreements

Marching towards integration Estonia has concluded agreements abolishing visa requirements (see Table 2) and readmission agreements, too. By the beginning of the year 2000, Estonia had concluded visa-free agreements with all the European Union countries. While it was in the interest of Estonia to abolish visa restrictions, the Western countries endorsed agreements on the readmission of third-country nationals. Consequently, readmission agreements with Finland, Sweden, Norway and Iceland entered into force up to early 1997.

All the agreements abolishing visa refer to readmission but in most cases there are no specific references to asylum. The visa-free agreement between Estonia and Denmark contains provisions for the readmission of third-country nationals. The preambles of Estonian readmission agreements with Finland, Norway and Sweden also refer to the 1951 Convention and the 1967 Protocol. The authorities of the Nordic countries indicated that the readmission agreements would not be applied to asylum seekers until a proper asylum system had developed in Estonia and until that time asylum seekers would be allowed to apply to the relevant procedures in the Nordic countries instead. To date, there is no information on asylum seekers having been returned to Estonia from the Nordic countries under the readmission agreements. There were similar readmission agreements made with Slovenia, Italy, Switzerland, France, Germany and Spain until 1999.

According to the EU Commission Report (1999) “(s) till some attention should be paid to developing readmission agreements with third countries from which illegal immigration might originate.” While Estonia would be clearly interested in concluding readmission agreements with all CIS countries, especially Ukraine, Belarus and Russia, the latter has, however, shown no intention to do so. A technical agreement with Russia on border demarcation was finalised in March 1999. However, the signature and ratification of the agreement depends on Russia’s will. Nevertheless, working relations between the
Estonian and Russian border guards are good and apparently there are no problems for Estonian border guards to return irregular migrants to Russia if it can be clearly proved that the person has arrived from the Russian side.

**Detention of asylum seekers**

At the beginning of the 90s, Estonia, like the other two Baltic States, was not in the possession of relevant legal provisions or the administration to distinguish between illegal migrants and refugees by accepting and processing asylum claims. The return of rejected asylum seekers to their countries of origin (often Iraq or Afghanistan) posed a great deal of logistical problems. Similarly, their return to Russia as safe third country was generally unsuccessful. As a result of the lack of viable options, Estonia could not but resort to the prolonged detention of asylum seekers. Furthermore, the detention policy was seen as beneficial by the authorities in terms of acting as a deterrent to human trafficking through the country.

The situation of the detention of asylum seekers was clearly not sustainable.

Firstly, international pressure started to mount (e.g. communications from the UNHCR Regional Office, Amnesty International, the UN Working Group on Arbitrary Detention). All of them condemned the detention practice and called for a humane treatment of asylum seekers. They urged Estonia to start to accept the international responsibility for migrants in need of protection and to provide a minimum of basic assistance.

Secondly, in some cases the judges of the Administrative Court refused to prolong the detention of asylum seekers kept unlawfully in detention beyond 48 hours (Art. 20 of the Constitution). As a result, Estonia established its national asylum procedure and currently, asylum seekers in general are not detained.

However, essentially the *Refugees Act* provides for the possibility of detention during an accelerated procedure. It says that “(a)n applicant is not permitted to leave a border checkpoint during expedited processing of an application except in order to turn back upon withdrawal of his or her application for asylum” (Art. 9).

In addition, the *Refugees Act Amendment* (1999) provides for the establishment of a primary reception centre where illegally arrived asylum-seekers should stay during an initial interview and accelerated procedure. The centre could be left temporarily for a preliminary interview or to receive urgent medical aid (Art. 9.) Currently, the primary reception centre does not exist and all the asylum seekers are accommodated in a regular open reception centre.

During the regular procedure the CMB can give permission to live outside the reception centre if:

- the accommodation and subsistence of the applicant is guaranteed by a person residing lawfully in Estonia; or
- the applicant is in possession of sufficient financial means to accommodate and sustain himself; or
- the applicant has to live outside of the reception centre for safety reasons.
The following applicants are not allowed to leave the reception centre (and can be considered as detained persons):

- those are kept in quarantine suffering from an infectious disease or posing the threat of an infectious disease;
- those whose identity has not been established;
- when there are severe reasons for threat to security or public order;
- those under criminal procedure but whose preliminary arrest cannot be ordered.

The reception centre is situated some 200 km from the capital in a little village close to the Russian border. It was built to accommodate 39 asylum-seekers and was completed only in June 2000. At the moment there are 11 asylum-seekers living in the reception centre on a regular basis. Most of them share a room with one other person and all of them have the opportunity to use the kitchen, bathroom, laundry-room and the computer. There, however, is no permanent medical staff at the centre. Life in the centre is supervised by a social worker and there are regular visits executed to the centre by both a family doctor and psychologists.

Aliens are detained as soon as the administrative judge has made a deportation order (e.g. for illegal residence or false documents). It has to be executed within 48 hours (Art. 18–19 of the Act on the Obligation to Depart and Entry Ban). In the case of delayed deportation the administrative judge may prolong the detention up to two months or due to further obstacles indefinitely (Art. 25). Its justification review is made bimonthly. Contrary to Administrative Offences Act and Criminal Code that maximise the detention up to 30 days the cited Act makes its duration endless. In practice the average duration of detention is approximately 15 days.

To date irregular migrants and deportees have been detained in the Tallinn prison separately from other detainees. According to the Act on Imprisonment the expulsion camp is run by the Ministry of the Interior and the pre-detention rules set forth in the Act apply. The Act also stipulates that until the expulsion order the alien shall be detained in a separate section of a closed prison or in a police station cell up to 10 days in a row. The prison system is overcrowded, the physical circumstances are rigid and there are no special areas for minors or families despite the relevant provision in the Act Amending the Administrative Offences Act and the Act on Execution Procedure.

Subsidiary forms of protection

The refugee definition in Estonian law is identical to the definition in Art. 1 of the 1951 Geneva Convention. The decisions taken by the authorities to date indicate a strict application of the refugee definition. However, a rule seems to provide for a possibility to grant asylum also “pursuant to an international agreement” (Art. 5 [2] of the Refugee Act). In this context it should be mentioned that Art. 7 [1] of the Act regulates that applicants and refugees have the “rights and freedoms arising from the Constitution, laws and other legislation of the Republic of Estonia, and generally recognised norms of international law and international customs.

On 1 October 1999, amendments to the Aliens Act entered into force. These introduced (Art. 12) international agreements as one of the bases for an application for a temporary
residence permit. This provision seems to refer to the above-mentioned international conventions although due to missing practice it is rather theoretical. Theoretically, these provisions could be used to grant protection to those who do not comply with the 1951 Convention definition but who are nevertheless in need of protection (e.g. by Art. 3 of the European Convention on Human Rights). In practice, however, alternative protection has not been granted to applicants in Estonia.

Moreover, the Obligation to Depart and Entry Ban Act that entered into force on 1 April 1999 contains a clause on the prohibition of refoulement. It is wider than Art. 33 in the 1951 Convention: “An alien may not be expelled to a state to which expulsion may result in his or her torture, inhuman or degrading punishment or treatment, or death or persecution for racial, religious, social or political reasons” (Article 17.2). Thus Estonia has clearly recognised the non-refoulement principle while effective mechanisms of such protection has not been fully provided for.

The absence of subsidiary forms of protection was mentioned in the report of the 1998 Justice and Home Affairs expert mission to Estonia. The experts recommended that Estonia comply with the EU 

**INFLUENCE OF EU ASYLUM AND MIGRATION POLICY**

### Bilateral influences

Since the establishment of the national asylum system in 1997, the authorities and NGOs of neighbouring countries have launched a variety of training sessions. The training of government officials can be considered as an attempt to indirectly influence the development of the asylum institution in the country. Training sessions and study visits have been arranged, for example, by the Finnish Ministry of Labour, the Danish Immigration Service, the Swedish Immigration Board, the Swedish Refugee Council and the Finnish Refugee Council. Their aim is to introduce the principles of international refugee law to Estonian officials, to familiarise them with the asylum systems in practice, such as the reception of refugees, interviewing technique, analysis of asylum applications and formulation of decisions.

The most active European countries to assist Estonia in the shaping of its asylum system are Finland and Sweden. In July 1999, the Finnish Ministry of Labour concluded a cooperation agreement with Estonia on asylum-related issues according to which it provided financial assistance to Estonia for the renovation of the refugee reception centre. Finland also allocated resources for the training of the staff of the centre. The Swedish Immigration Board has similarly promised to assist Estonia with furnishing and equipping the centre and training the staff by twinning with one in Sweden. It is in the

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interest of these countries to guarantee the emergence of a solid asylum system in Estonia in order to share the migration burdens.

**EU influences**

Estonia submitted her application for membership of the European Union on 24 November 1995. The Council of Ministers decided on 4 December 1995 to implement the procedure of consultation as laid down in Article 0 of the EU Treaty. The European Agreement between the European Communities and Estonia was signed on 12 June 1995. Its aim is to provide a framework for political dialogue, promote the expansion of trade and economic relations between parties, provide a basis for Community technical and financial assistance, and an appropriate framework to support Estonia’s gradual integration into the Union.

- In its Opinion on the Estonian application for EU Membership (1997) the Commission stated: “Estonia presents the characteristics of a democracy, with stable institutions, guaranteeing the rule of law, human rights and respect for and protection of minorities. But measures need to be taken to accelerate naturalisation of Russian-speaking non-citizens, to enable them to become more integrated into Estonian society.” The Commission gave the following general evaluation: “Relations with the EU have developed well since Estonia regained its independence. There have been no disagreements over implementation of the Free Trade Agreement and free trade has virtually been achieved. Co-operation will be further enhanced when the European Agreement with Estonia enters into force.” Furthermore, the Accession Partnership with Estonia indicates that measures to facilitate the naturalisation process are needed and better integration of non-citizens including stateless children is also necessary. The document urged Estonian language training for non-Estonian speakers as a short-term priority.

- The Commission Report (1998) states that: “There is presently an insufficient skilled capacity in the Estonian public administration and a high turnover of staff. However, a continued commitment to public administration reform is necessary to create a body of highly qualified civil servants, which can ensure the adequate implementation and enforcement of the EU acquis.” Another disturbing factor to the correct execution of the asylum-seekers rights could be the fact that “justice at lower courts level is considered to be unsatisfactory, as there are many new inexperienced and overburdened judges.” The Report announces that “Estonia has ratified the major international conventions in the field of Human Rights, [but] it has not yet signed the European Social Charter”(1961). Further on, the Report stresses the necessity for further improvement in the following areas: “Pre-trial conditions need to be improved in Estonia. In 1997 considerable improvements have been made, such as the opening of new, modern detention facilities. However, pre-trial conditions are still considered unsatisfactory in the country’s only pre-trial detention centre in Tallinn. Some isolated cases of ill-treatment, suffered by prisoners in custody, including the use of punishment cells, have also been reported. The authorities are currently investigating these allegations. Finally, the Commission expresses its regret “that the Parliament has not yet adopted the amendments to the Citizenship Law which would align it with CSCE recommendations and facilitate...
naturalisation of stateless children,” but on the whole Estonia is to be congratulated for its successful and fast development.

• The Commission Report (1999) acknowledges that on the whole “Estonia has continued to make progress in aligning further its legislation to the acquis. Progress has been limited in improving administrative and judicial capacity, where the short-term Accession Partnership priorities have only been partly met.” But the Commission also stressed that “Estonia needs to make further efforts to increase the institutional and administrative capacity of its administration.” According to the document “Estonia has now reached a relatively high standard of security on its eastern border. Border infrastructure and equipment development need to be continued and the facilitated border crossing procedures need to be brought into conformity with EU-visa practice. Estonia’s has brought its visa policy almost in compliance with the Schengen acquis and has already adopted laws on asylum and money laundering. Therefore, this priority has been partially met.” In its Report the Commission underlines that Estonia’s medium term goal is “the ratification and application of necessary international legal instruments relevant for the acquis.” Among further aims the enhanced border management “especially on the eastern border, implementation of migration policy and asylum procedures, enhanced fight against organised crime (in particular money laundering, drugs and trafficking in human beings), and to align visa policy with that of the EU and to complete alignment to international conventions, notably in view of the Schengen acquis” were also mentioned.

Operation of Phare funds

The most comprehensive initiative of the European Union in the field of asylum is undoubtedly a project in the framework of the Phare Horizontal Programme on Justice and Home Affairs. It intends to support the implementation of the EU acquis on asylum. The aim of the two-year project (1999–2000) was to support the creation of conditions that would enable the associated countries to adopt the standards and practices of asylum and refugee law. The project consists of a series of round table events, workshops and study visits in order to identify and subsequently find a way of addressing the gaps and needs of a given asylum system at the legislative, institutional and capacity level. In this framework Estonian officials, together with EU experts have identified the shortages in domestic legislation, and they drafted a national action plan to address them. The officials participated in workshops dealing with issues of how to access the asylum procedure, of refugee definition, regular and accelerated procedures, procedural guarantees, appealing procedure, safe country notion, special treatment of vulnerable groups, termination of stay, expulsion and mandatory repatriation of rejected asylum seekers. Estonia focuses first and foremost on the developing of its asylum system to the point at which it would comply with the minimum standards of the EU and worries less about the actual guaranteeing of effective protection of refugees in the country. Considering the fact that Estonia has to deal with a wide array of economic and social problems, there is little political will to use any extra resources to “marginal issues.”

Support in combating illegal migration has been received from the Phare Horizontal Programme, too. The Eastern Border Programme that was specially designed for the
strengthening of the Eastern Border of the three Baltic Republics is coming to an end. That Programme was one of the only ones especially allocating funds from the EU for the development of the Eastern Border Control. That border is of the highest concern and Estonia has already made a list of efforts to secure the external borders of the country.

SOURCES

Data submitted by Erki Teras, Service Contract Manager of Estonian Air.
COUNTRY REPORT

Zoltán Aszalós

Hungary

FACTS ON MIGRATORY MOVEMENTS

Hungary has been facing immigration since 1987, the year of the very beginnings of the visible political transition in the Central European region, when migrants started to arrive in its territory. Before that time, Hungary had been a migrant sending country, and was thus turned rapidly into a host country during the last years of the Communist world. Hungary welcomed a significantly greater number of asylum seekers than other Central European countries in political transition, regarding both those who wanted to stay and those who used Hungary as a transit country.

The first large wave of refugees arrived in 1988 when Hungarian authorities registered 13,000 persons entering the country seeking temporary or long-term protection. The same figure was 17,000 in 1989 and 18,000 in 1990 (Dövényi, 1995: 18). According to the UNHCR, during these years some 60,000 persons, mostly ethnic Hungarians, arrived from Romania fleeing a politically and economically unstable country.

In 1991, the civil war in Yugoslavia broke out, causing a sharp increase in the number of refugees, totalling 75,000 by 1995. From 1988 until 1995–1996, the majority of these people coming to Hungary found a welcoming atmosphere, and the asylum system ensured the legal basis for their stay.

By 1995, the number of registered refugees had fallen to some 8,000, as many returned home, moved on or were granted citizenship. The refugee camps were half-filled. Later that year though, new ethnic cleansing and warfare in Bosnia led to the arrival of 6,000 new persons, who were given temporary protection. After 1995, the arrival of new refugees constituted a constant factor in domestic affairs.

In 1998, the number of asylum seekers rapidly increased reaching 7,118, seven times more than the same figure for 1997, and 11,499 in 1999. The dramatic increase in the number of applications reflected the closing down of Western borders, which kept migrants in the country, as well as the growing migration pressure. During 1998 only 360 persons (8% of the applicants), including 177 Afghans, 43 Iraqis, 35 Yugoslavs and 22 persons from Cameroon, were granted refugee status. In addition, 230 foreigners, (5.1% of the applicants), including 166 Yugoslavs, 30 Afghans and 18 Iraqis received one-year protection as “persons authorised to stay” (see the term defined below). In 1999, the number of those recognised was 313 (2.7%), and 1,776 foreigners received “person-authorised-to-stay” status. Refugee status was mainly provided to Afghans (127 persons), Iraqis (60 persons), and to Cameroonianis (17). The person-authorised-to-stay status was
provided mostly to Yugoslavs (1,408 persons) and Afghans (223 persons). It is important to note that in 1998
and 1999, out of the 7,118 and 11,499 asylum seekers respectively, 5,045 and 6,589 persons each year violated the entry and exit regulations of the country, before applying for asylum.

The Table 1 reveals the main figures of the formal asylum procedure, and shows how these procedures gained importance nearly a decade after the appearance of the first massive refugee waves.

The number of formerly recognised refugees and other protected foreigners still staying in the country is difficult to establish, given the lack of precise administration about those who returned to their country of origin or travelled on to a third country. According to UNHCR calculations, the number of refugees staying in Hungary was 5,400 in 1998. The number of those waiting for status determination, or the number of asylum seekers, was around 2,600 during the same year. On average, there were also some 1,000 illegal migrants or rejected asylum seekers who stayed in the community centres of the border guards under the surveillance of the alien police.

The number of asylum seekers would radically diminish in a hypothetical sealing of all illegal entry possibilities into Hungary, as most asylum seekers arrive illegally. Table 2 demonstrates that several foreigners who arrived in Hungary illegally may receive refugee status or the “person-authorised-to-stay” status but recognition rate of illegal and lawful arrival is not known.

The outcomes of the application of the various legal standards and policies depend greatly on officials. On these grounds, before 1998, and especially in the period before 1995,

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**Table 2**

Major groups of asylum seekers, number of illegal arrivals and recognised claims (1999)

<table>
<thead>
<tr>
<th>Nationals from</th>
<th>Applications</th>
<th>Illegal arrivals</th>
<th>Recognised refugee</th>
<th>Person authorised to stay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>2,238</td>
<td>1,962</td>
<td>127</td>
<td>223</td>
</tr>
<tr>
<td>Algeria</td>
<td>179</td>
<td>80</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>1,314</td>
<td>1,012</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>Bosnia</td>
<td>322</td>
<td>116</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>Ghana</td>
<td>99</td>
<td>71</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>India</td>
<td>121</td>
<td>80</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>Iraq</td>
<td>543</td>
<td>271</td>
<td>60</td>
<td>52</td>
</tr>
<tr>
<td>Yugoslavia</td>
<td>4,783</td>
<td>2,016</td>
<td>37</td>
<td>1,408</td>
</tr>
<tr>
<td>Nigeria</td>
<td>130</td>
<td>28</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td>Pakistan</td>
<td>322</td>
<td>239</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>Somalia</td>
<td>65</td>
<td>51</td>
<td>17</td>
<td>12</td>
</tr>
<tr>
<td>Turkey</td>
<td>91</td>
<td>29</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>11,499</td>
<td>6,589</td>
<td>313</td>
<td>1,776</td>
</tr>
</tbody>
</table>
asylum was to be provided primarily to ethnic-Hungarians arriving in the country and to people from the former Yugoslavia. Thus to a certain degree, Hungary had a basic form of ethnic and local asylum programme, but it did not face international refugee issues.

The overwhelming majority of migrants reach Hungary through Romania, Ukraine and Serbia. Although Serbia was blocked as a migration route during the Kosovo crisis, it again became a major entry point for groups, such as the Chinese, who travel via Moscow or Kiev and to Belgrade. Entering Hungary is much easier for those who have the adequate financial means or travel documents to enter the country, not to mention those who come from neighbouring countries or can even speak our language.

After decades of isolation the upgraded international migratory movements have resulted in a high level of illegal border crossing since early 90’s. Table 3 gives some examples of the phenomenon. The direction and patterns of illegal migration can be better seen through the border zone statistics in recent years as demonstrated by Table 4.

**Table 3**
Number of illegal entries and exits from the country and number of detected crossing persons (1995–1999)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Illegal entry the territory of the country</td>
<td>3,485</td>
<td>3,084</td>
<td>3,045</td>
<td>4,658</td>
<td>2,109</td>
</tr>
<tr>
<td>Illegal exit from the country (towards neighbouring state, including readmitted aliens)</td>
<td>2,461</td>
<td>2,412</td>
<td>3,488</td>
<td>5,463</td>
<td>4,374</td>
</tr>
<tr>
<td>Attempted illegal exit from the country</td>
<td>6,081</td>
<td>5,081</td>
<td>6,533</td>
<td>7,896</td>
<td>6,734</td>
</tr>
</tbody>
</table>


**Table 4**
Number of illegal entries to and exits from the country, and number of persons detected during illegal exit from the country by destination country

<table>
<thead>
<tr>
<th></th>
<th>1998</th>
<th></th>
<th></th>
<th>1999</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Illegal entry to</td>
<td>Attempt to illegal leaving to</td>
<td>Illegal entry from</td>
<td>Illegal exit to</td>
<td>Attempt to illegal leaving to</td>
</tr>
<tr>
<td>Austria</td>
<td>125</td>
<td>3,460</td>
<td>3,452</td>
<td>69</td>
<td>3,187</td>
</tr>
<tr>
<td>Yugoslavia</td>
<td>2,043</td>
<td>1,290</td>
<td>2,692</td>
<td>481</td>
<td>25</td>
</tr>
<tr>
<td>Romania</td>
<td>757</td>
<td>28</td>
<td>30</td>
<td>353</td>
<td>23</td>
</tr>
<tr>
<td>Ukraine</td>
<td>868</td>
<td>2</td>
<td>151</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Slovakia</td>
<td>114</td>
<td>654</td>
<td>1,722</td>
<td>52</td>
<td>114</td>
</tr>
<tr>
<td>Total*</td>
<td>4,658</td>
<td>5,463</td>
<td>7,896</td>
<td>1,978</td>
<td>4,374</td>
</tr>
</tbody>
</table>

Source: Immigration and Citizenship Office.
* Including persons apprehended by the Budapest Border Guards Directorate or at border with countries not on the list, as well as those whose presence was detected later on and documented at the National Border Guards Directorate.

Source: National Border Guards Directorate.

LEGAL INSTRUMENTS ON ASYLUM AND CONNECTED ISSUES

Up to the political changes and Constitutional reform in 1989 the Hungarian legal system seriously lacked regulations concerning refugees. Only one provision of the Hungarian Constitution referred to the right to asylum. “Everyone who is persecuted for his democratic behaviour, or for his activity to enhance social progress, the liberation of peoples or the protection of peace, may be granted asylum” (Art. 67). Protection was provided only according to the decision of the government, e.g. to Greek and Chilean Communists fleeing their countries.

Therefore, with the emergence of migration waves, a series of national laws were drafted and enacted, and international agreements were signed to fill the apparent legal and administrative gap. Laws and ministerial-level regulations were used for tackling the asylum issue with a complex, and frequently contradictory set of regulations for a long period after the arrival of the first refugee waves at the end of the 1980’s. Similarly to other countries affected by international migration, Hungary also selected a variety of policies in order to protect refugees, and at the same time, measures to protect its territory against migrants. Developing an asylum policy its major legal instruments have covered on the following issues.

• Hungary became a signatory to some of the major international human rights agreements. These instruments significantly influence national policies related to asylum-related matters, but the application of their underlying principles are greatly shaped by the country’s changing geopolitical situation. Hungary became a party to the International Covenant on Civil and Political Rights, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1974 and 1986 respectively.

• During the political transition Hungary ratified the 1951 Geneva Convention on Refugees and its 1967 Protocol in 1989, and in 1993, the European Convention for the Protection of Human Rights and Fundamental Freedoms. The 1951 Geneva Convention and its Protocol were enacted in a Law-Decree (15 March 1989) during the last Communist government of the country. Hungary opted for the geographical reservation at Art. 1.B.1 (a), which limited the country’s obligations to the protection of refugees of European origin. In other words, Hungary decided to provide asylum only for those who were persecuted within the former communist states of Europe, as there was no chance for refugees arriving from the more wealthy West European states. The 1951 Geneva Convention became the foundation of the Hungarian refugee law.

• In order to apply the Geneva Convention a Law-decree on the legal status of recognised refugees was passed by the Presidium (No. 19 of 1989). Moreover, a Government-decree defined the asylum proceedings that entered into force in mid-October 1989 (No. 101 of 1989).
• In 1993, a new law on the Entry, Stay and Immigration of Foreigners in Hungary (No. 86 of 1993, Alien Law as it is usually labelled) replaced the prior Law-Decree (1982) and related executive provisions. To the Alien Law a set of related government and ministerial decrees was issued in 1994–1995 to arrange the operation of the alien police system. The Alien Law regulates the competence of authorities dealing with visa, border control, residence authorisation, settlement authorisation and illegal migrant in the country. It covers aliens who do not request asylum, or whose claim is rejected.

• A law on National Security (No. 125 of 1995) defined the reasons for rejecting an asylum application on the grounds of security risks (such as activities against the state’s territorial integrity, or those violating political, economic or defence interests). Another new law (No.38 of 1996) regulated issues concerning international criminal legal aid, the details and conditions of extradition, the definition of a safe third country, and of a country of persecution in the context of extradition.

• Despite the above efforts to create a stabilised legal system, Hungary still only had a “patchwork of legislation and government decrees concerning refugees and migrants” (Fullerton, 1996: 499) before 1998. Moreover, several rules were defined in the form of government decrees instead of statutes. There were apparently no national laws or regulations on temporary protection, on the social integration of recognised refugees, etc. As a panacea, a new Act on Asylum was passed by Parliament in late 1997 (No. 139 of 1997). The Ministry of the Interior had launched the preparatory work on the bill as early as 1996. After an almost three-month debate, the adopted Act entered into force on 1 March 1998. It intends to observe the relevant international legal instruments, the equal treatment of asylum seekers of all origins, and a fair recognition procedure. The Act lifted the geographical restriction against non-European refugees, which was the most significant step forward on a theoretical level. However, for 9 years, non-Europeans had been excluded formally from the recognition procedure, which shows that there was no real government intention, just a gradually growing EU pressure to establish a non-discriminatory recognition system for both Europeans and non-Europeans. The Act could not cover all aspects of refugee-related issues. Legislation moved on, with a solid base to build on.

The Act introduced three categories of protection: (1) Refugee status mainly defined by the Geneva Convention; (2) status of person authorised to stay status means a year-long, renewable residence permit and protection for those whose return would lead to inhuman or degrading treatment violating the provisions of the Convention against Torture; (3) Temporary protection for non-individually persecuted victims of war, ethnic clash, or civil war.

According to the UNHCR, the Act is a “distinct improvement of the system in place since 1989” for lifting the geographic limitation, deleting the deadline to submit the asylum application to the authority, and for the establishment of temporary protection (UNHCR, 1998: 3). At the same time, the Act has a few shortcomings. According to a representative of the branch office of UNHCR, the most important weaknesses in 1999 are as follows:

1. The Act does not fully match international migration, alien police, or health care related regulations.

2. The Act does not prohibit police or border guards from initiating expulsion during and simultaneously in the asylum procedure, although application for asylum does suspend the realisation of the expulsion.
3. Alien police and border guards may turn to the embassy or consulate of the country of origin, through which action the person may truly become a genuine refugee. Such lack of cautious and confidential treatment of data on asylum seekers leads to the creation of refugees, which may also result in the harassment of family members in the country of origin.

- **Two Government decrees** gave more concrete meaning to the Act on Asylum. Government decree (No. 24 of 1998) defined rules of the refugee recognition procedure and the documents issued for asylum seekers, temporarily protected persons and persons authorised to stay. The other Government Decree (No. 25 of 1998) outlined the various social supports and contributions for applicants and recognised migrants.

- The refugees and other categories of protected migrants have been inserted into dozens of legal sources since 1989 in order to provide their basic rights. For instance, Act on Welfare Services (No. 3 of 1993), Act on Child Protection (No. 39 of 1997) also cover them.

### INSTITUTIONAL ACTORS

During and after the political transition, the lack of legal regulations on the treatment of migration affairs was accompanied by the apparent lack of administrative bodies to welcome and effectively deal with the waves of migrants arriving in the country. Due to this fact the list of competent agencies and institutions in Hungary differs from the other neighbours.

- In 1988–1989 churches, grass-root civic organisations and international non-governmental organisations were the only actors that could react quickly by setting up camps, and collecting and distributing food, clothes and medicines. Hungarian people welcomed immigrants to their homes and helped them to find jobs and long term accommodation. Gradually, various decrees ordered the institutionalisation of the management of migrant-affairs, but a great share of the practice was based on “unwritten administrative policies that have developed to fill yawning gaps in the legal structure” (Fullerton, 1996: 511).

- The Office of Refugee Affairs was set up in the Ministry of the Interior in April 1989. Its local unit made decisions on asylum requests while appeals against rejection were reviewed in the Office. With its competence unchanged, the office was renamed in 1993 when the Office for Refugee and Migration Affairs (ORMA) was set up, also inside the Ministry of the Interior. The Immigration and Citizenship Office – the successor of ORMA since 1 January 2000 – performs the major roles concerning the official and administrative activities related to refugee and illegal migration affairs. Its responsibilities are defined in the Asylum Act (No. 139 of 1997, Art. 24.) The new Office, with a staff of some 180 persons, embodies the former Office of Refugee and Migration Affairs, the Alien Police Department of the National Border Guards and that of the National Police Headquarters, as well as the Citizenship Department of the Ministry of Interior. The objective of this unification was to create a central authority in place of the existing fragmented structure, which could communicate efficiently with EU bodies, and oversee all duties related to the presence of aliens in Hungary. The Office responsible for determining asylum claims
decides over the applications of asylum seekers and appoints such persons an obligatory
place to stay during the period of the asylum procedure. The major deficiency of the
Office is its enormous lack of staff. The number of caseworkers who decided over
asylum claims decreased from 28 to 23 during 1999, which left an appallingly limited
time for each of the more than 11,499 individual asylum seekers during that year. The
operation of the Office promised to speed up the recognition procedures, and PHARE
funds have been allocated for the restructuring of its operation.

- Asylum seekers usually stay in one of the three Reception Centres of the Office, that
were set up in summer 1989. After certain enlargement or cutting of reception capacities
the Act on Asylum provided for the accommodation of applicants in community shelters.
When reception centres are full, the community shelters of the Border Guards may also
accommodate illegally arrived asylum seekers.

- Ten directorates of the border guards are in charge of foreigners apprehended
during illegal entry/exit until the person leaves the country or his/her stay is legalised.
Foreigners apprehended in an illegal crossing or staying within the country (i.e., those
without a valid document to stay, illegal workers, foreigners committing offences) are
under the control of the Alien Police Department of one of the 19 county Police
Headquarters or the Budapest Police Headquarters. The operation of the Border Guards is
hindered by the fact that out of the 14,000 positions on this force, only 11,800 are
actually filled. The number of those who actually work on the borders in non-
administrative positions is 6,686 (1999). Thus, the border guard/border-zone-km is 2.98,
while the same figure for a Border Guards directorate in the German Republic (with its
Polish and Czech border zones) is 6.51. Therefore, more than six border patrols in Germany
control in shifts the movements of persons across borders on average on each km of the
border. In early 2000, additional increasing and training of staff is planned in order to meet
the requirements of the present duties and those of the EU, which would bring the above
ratio close to half of the German figure. Similarly, the Police also have financial difficulties
paying the staff properly and acquiring new equipment.

- The UNHCR opened a local branch office in Budapest in 1989 having signed a co-
operation agreement with the Government. Due to the geographical reservation made to the
Geneva Convention, non-Europeans were offered protection prior to 1 March 1998 by
the UNHCR. Non-European protection seekers had to apply for refugee status at the
UNHCR, and the few that were recognised (some 260 out of 2,700 applicants) received
social allowances from the same organisation.

- The legal protection, social integration programmes, training for interpreters,
regular exchange of information on migration management or refugee affairs were
organised and run by NGOs, such as the Hungarian Association for Migrants (Menedék)
and the Hungarian Helsinki Committee. They are also lobbying for a comprehensive
migration policy.

MECHANISMS OF ASYLUM MANAGEMENT

Between 1989–1995 many of those who arrived in Hungary had no opportunity to
qualify for refugee status, and practically never took part in the refugee procedure. The
administration was not prepared to control and fully administer the applications for asylum. Out of the 133,000 persons who sought asylum in Hungary between 1988 and 1995, only some 5,000 took part in a complete recognition process. Of the 133,000 persons only 73,888 (55.5%) were given temporarily protected status by the ORMA, frequently without adequate determination. The high recognition rates clearly show that Hungary, despite its underdeveloped administrative framework, found it important until the mid-90s to welcome asylum seekers, and provide them with protection.

The institution of asylum went through changes after 1995. First of all, new asylum seekers were obliged to request asylum, to enter the formal asylum procedure. Secondly, recognition rates, as well as the number of applications, began to fall. The number of asylum seekers was approximately 800 in 1995 (excluding the 6,000 Bosnian refugees), 700 in 1996, and 1,100 in 1997.

**RESTRICTIONS ON THE ENTRY OF POTENTIAL ASYLUM SEEKERS AND ACCESSION TO PROCEDURE**

Hungarian authorities apply a variety of measures to avoid the further increase of the number of potential refugees and other migrants arriving in the territory of the country. These measures close the legal possibilities to enter the country even for those foreigners who have a genuine claim to seek protection. Illegal entry is also limited by the further closing of borders and the fight migrant smuggling operations. The tables above reveal one of the major dilemmas of the institution of asylum in Hungary: there are very few legal ways to have access to the asylum process for many of those foreigners who have a good chance to be recognised by the state.

Genuine refugees, similarly to illegal economic migrants, are obliged to travel illegally and seek the help of human smugglers. Passports are frequently not provided to members of persecuted minorities or to persecuted individuals, and visa requirements are strictly implemented against refugee sending countries. Thus, the legal travel, the physical access of genuine refugees to asylum is blocked. These conditions are basically contrary to the 1951 Geneva Convention, which demands that “the Contracting States shall not impose penalties, ... on refugees who ... enter or are present in their territory without authorisation” (Art. 31).

**Visa requirements**

Hungary, at the time of the political transition, had no visa requirements against the countries of the vanishing communist world, including Cuba and Nicaragua. Finland, Austria, Sweden, Malta and Cyprus were the only non-communist countries whose nationals could enter Hungary without a visa before the political transition according to agreements signed in 1970, 1979, 1983, 1986 and in 1987 respectively. States of the former Soviet Union as well as those of the former Yugoslavia became successors to similar agreements.

A liberal trend has been unfolding since the first years of democracy. Hungary abolished visa restrictions against all West European states, the United States, Canada, and Israel in 1990 and 1991. South-American states, such as Uruguay, Argentina, Chile, Costa Rica,
Ecuador, received the same preferences between 1990–1992, while the only African state on the free-entry list was South-Africa, after 1993. In Asia, South Korea (1991), Singapore (1994), and Japan (1997) eventually also received this preference.

Apart from the liberal trend to eliminate visa restrictions against nationals of several countries, a restrictive trend emerged after 1996 against the southern states of the former Soviet Union. Visa restrictions were implemented against Georgia in 1996, Kazakhstan, Uzbekistan, Kyrgyzstan in 1997, and against Azerbaijan in 1999.

There is strong resistance against the implementation of visa requirements for nationals of neighbouring countries and Russia, as it would lead to a sharp decrease in the economic ties in the region, a decline in trade and a loss of contacts with ethnic-Hungarians abroad. Thus, the implementation of visa requirements against those countries on the visa list applied jointly by EU states, such as Russia, Ukraine and Romania will be implemented during the last days of the pre-EU period. Different organs of the EU have expressed both understanding and discontent in regard to Hungary’s reluctance to implement the visa requirements in question.

The overwhelming majority of visas are issued by the diplomatic missions of Hungary in co-operation with the National Police. In-depth analyses of the visa issuance system of Hungary are impossible until full computerisation and the development of a clear database is achieved. However, major trends demonstrate the visa policy. Visa is considered as a tool for controlling the influx of Western tourists and it is transformed to keep potential illegal migrants out of the country.

The number of visas provided abroad was around 270,000 in 1996, 183,000 in 1997, 157,000 in 1998 and 150,000 in 1999 through almost 100 diplomatic missions of Hungary. Visa applications have to be presented personally at one of Hungary’s diplomatic missions that drastically decreases the application possibilities of those in countries without a Hungarian diplomatic mission, especially in Africa and Asia. The requirement to prove the presence of the proper financial background further eliminates the chances of obtaining a visa. Visa applications arriving from the potential illegal migration zone are forwarded to the National Police Headquarters in Budapest. The rate of rejection is high in these regions. This practice reflects a policy to decrease significantly the number of visas provided for citizens of countries with a high potential for sending illegal migrants.

Nowadays the role of the Border Guards as a visa authority decreased in comparison with prior years combating illegal migration (e.g. they issued 430,653 visas in 1990 and 417,986 in 1991.) Today visas at the borders are provided mostly for Turkish citizens to transit Hungary towards or from Germany (in 1999, the bulk of the 14,362 visas were issued for Turkish citizens 10,071). Those migrants who are regarded as potential illegal aliens are basically excluded from a visa application at the border.

The minister of the interior issued a decree (35/1998. [VIII.7.] BM r.), that regulates the implementation of transit visa requirements for transit passengers changing flights at the Budapest Airport. The attachment of ministerial decree defines the countries whose nationals do not need a transit visa at the Budapest international airport. The list of countries whose nationals need a transit visa at the Airport is quite short: Afghanistan, Bangladesh, the Philippines, India, Iraq, Iran, Lebanon, Pakistan, Sri Lanka, Syria, Vietnam, Eritrea, Ethiopia, Ghana, Guinea, Cameroon, Congo, Liberia, Nigeria, Rwanda, Sierra Leone, Senegal, Somalia, Sudan, Zaire. Stateless persons also need transit visa. There may be
exemptions from presenting this visa, if the foreigner has a valid visa to enter the
countries of West Europe or has a valid residence permit to one of these countries.

Carriers’ sanctions

Besides visa requirements, sanctions against air companies for transporting
undocumented persons, including those without a transit visa, is another major method of
keeping potential asylum seekers out of the country. The Alien Law (No. 86 of 1993) and
its amendment in (No. 75 of 1999) produced the refoulement of thousands of
inappropriately documented migrants by air companies. Air companies are obliged to
cover the costs of return for all foreigners whose entry to the country is refused due to lack
of a valid passport or visa. If the return of the foreigner cannot be executed immediately,
the cost of his stay is to be covered by the air-company. Thus, the accommodation and
health-care costs of those applying for asylum and stay in the country for several months
is also to be paid by the air companies.

Air companies have to return the person to the country where s/he boarded the plane,
or whichever country is to readmit him. In 1996, 320 foreigners, in 1997, 583, in 1998, 1,020
and in 1999, 846 inappropriately documented foreigners had to be returned by air carriers
from the Budapest Airport. The 17 per cent decrease from 1998 to 1999 is even more sig-
nificant when considering the 4.4 per cent growth in the number of passengers at the
Airport, reaching 5,011,000 in 1999.

Since 1 September 1999 the alien police authority may charge the carrier company up
to 1 million HUF (4,200 USD) for each flight taking a foreigner or foreigners without the
necessary documents for legal entry to Hungary. Out of all the 74 fines during
September-December in 1999, of the amount of 17,500,000, some 30 fines were charged in
September, which shows the fast reaction of air companies by improving the control of
travel documents of all boarding passengers. The present policy of the border guards is to
fine air companies 100,000 HUF (420 USD) for each improperly documented passenger.
The policy of sanctions is based on obvious cases (e.g. the visa has expired, has been
manipulated or is not stamped into the passport) when non-expert may recognise the
inadmissibility. In 1999 the border guards fined the air-companies 74 times. The most
frequently fined company was the state owned Hungarian airlines, with its 36 cases.

Passports are usually checked in the main terminal building. However, since 31 December
1999, the procedure of pre-screening has been implemented for passengers on flights from
Cairo, Tunis, Damascus, Saint Petersburg, Istanbul and Tirana. Later on, passengers on the
flights from Skopje, Sarajevo and Prague will also be pre-screened according to a 1999
report by the ombudsman. Pre-screening means that a border guard examines the travel
documents of the passengers immediately after they leave the plane, in the presence of a
representative of the air-company, before the formal passport control. With the implemen-
tation of pre-screening, the Border Guards prevent passengers reaching the transit zone of
the airport, throwing their passports away, and then refusing to declare which flight brought
them to Budapest.
Before 1989, Communist states had sealed the borders representing the Iron Curtain. Movements across borders were nearly perfectly controlled, especially on the Austrian-Hungarian border. After the political transition, this total control collapsed, due to the boom of travels in and out of the country. Today, instead of the fight against Westward migration of Hungarian nationals, the border guards have to protect and control all of the seven borders against illegal migration. On these grounds, beside the 362 km Austrian border zone, an additional 1,843 km border zone is protected with equal care, both at checkpoints and on the “green border.” The major controlling measures are as follows.

The attraction of Hungary leads to a constant pressure on Hungary’s borders by those who wish to enter or leave the country illegally. The number of persons apprehended by the border guards during illegal border crossing grew steadily after 1996, but decreased in 1999. More than 75 per cent of these illegal migrants were Yugoslav or Romanian citizens, who wished to leave the country to the West after a legal entry. (For example, between 1 January and 17 May 1999, 3,190 persons were caught crossing Hungarian borders illegally, of whom 898 tried to enter and 2,292 intended to leave the country according to the Border Guard statistics. During the same period, 1,514 persons were returned by force from other countries on the migration routes to the West, on the basis of readmission agreements.)

- **Border registration system.** The computerisation of 57 border-guard checkpoints between 1 September 1999 and March 2000 is the major step towards a total control of the validity of passports and visas at the borders. This system also checks whether the holder of the passport is under entry ban, or is wanted by the police. An investment of 1.5 billion HUF provides for full registration of all those who leave or enter the country with a passport, i.e. not illegally through the “green border.” Foreigners who arrive at the border checkpoint unable to fulfill the necessary requirements still have the option to apply for asylum, as opposed to those who would reach Hungary by trying to board a plane to Budapest in vain. However, they have to prove that there is a special danger waiting for them in the country they entered Hungary from. Otherwise, their claim is rejected on the grounds of their possibility to apply for asylum in the previous country, according to the “safe third country principle.”

- **Rejected entry.** A number of foreigners have been denied entry to the country: in 1997, 54,672 persons (including 2,210 who presented forged or false documents), in 1998, 32,854, and in 1999, 31,881 foreigners.

- **Control of visa and travel documents.** A number of foreigners enter the country presenting false visas. This is assisted by the lack of a general on-line information system for border checkpoints, which would provide information on the visas issued by the diplomatic missions of Hungary. A Phare study confirmed that “as illegal migrants may present a valid passport issued in their own countries of origin at border checkpoints, the validity of the visa presented will be a decisive factor in the authorisation of entry” (Phare, 1998: 28). The control of visas will be of special importance, as “in a few years, a visa for an entry to Hungary will authorise the foreigner to enter other countries of the European Union, too.” On these grounds, EU experts have recommended the establishment of on-line connection between diplomatic missions, the Ministry of Foreign Affairs, and the border
checkpoints, so that the validity of the visa can be checked immediately. The implementation of this work started already in late 1999, with a prospective to join the new network to EU databases later on.

• **Border surveillance.** The full control of migration across the green borders is an enormous enterprise. A Phare study states that “with regards to green border management … deficiencies exist through the system and Phare support cannot be expected to alleviate all such problems.” However, it is recommended that “attention be given to enhancing mobility on the border through the provision of cross country patrol vehicles and to enhancing surveillance on the border through the purchase of man-portable observation systems which provide vision day or night and in all types of climatic conditions” (Phare, 1998: 7). The easiness of green border transit is partly due to the geographical fact that 515 km of the Slovakian, Ukrainian, Romanian and Yugoslavian border is formed by rivers, where transit by boat is fast and difficult to control, especially if facilitated by local people. For all that, illegal migrants hope to reach Austria, Germany, Italy, France, Great Britain or Switzerland, frequently by transiting first Slovenia, Croatia, or Slovakia. Between September 1990 and the end of 1996, a total of 38,552 foreigners originating from 65 different countries were arrested while trying to cross the border from Hungary to Austria. In 1997, according to estimates of the Border Guards, more than 10,000 persons tried to leave Hungary illegally, the largest group being Romanians (3,962), Turks (1,315), Pakistanis (1,127), Bulgarians (766), Bangladeshis (626), Albanians (511), Indians (468), Hungarians (402) and nationals of the CIS (341). Some 3000 tried to cross the border on the Slovenian border, as many as on the Croatian and Slovakian borders together. The rest, some 4,000 tried the route towards Austria. According to some Border Guards officials, migrants have 5-10 per cent chance to cross the borders to the West, while international sources confirm a rise in illegal migration.

• **Sanctions against illegal crossing.** In 1998, 818 persons were arrested after illegal border crossings and 1,171 during illegal entry. As confirmed by statistics, the bulk of illegal migrants enter from Yugoslavia, Ukraine and Romania, while the major destination is Austria. The large number of illegal exits and attempted illegal exits to Yugoslavia is explained by the illegal trade, e.g. that of stolen cars through the less efficiently protected border with that country. Today, despite the strengthening of the borders and stricter application of readmission agreements under the political pressure of the European Union, the ratio or the number of those successfully leaving the country is still uncertain.

• **Measures against human smuggling.** The EU expectations are especially clear in that further developments concerning migration should contribute to the blocking of the illegal transit of foreigners through Hungary. As the EU Summit held in Vienna (December 1998) confirmed, candidate countries had to be in possession of structured public administration including migration-related issues and the efficiency of execution. Thus, the country is motivated politically to return migrants in order not to become a container of those who could or should not make it to the West. Human smuggling is a possible factor that contributed to the rapid increase of the number of asylum seekers in 1998–1999 (see Table 2). As border control is strengthened, and the legal ways for several economic migrants and genuine refugees are being eliminated, the only possibility for moving across borders is through human smuggling. Although according to the Penal Code (No. 4
of 1978, Art. 218) human smuggling is a criminal act, and prison sentence for members of organised human-smuggling groups shall be 5-10 years, and 2-8 years for those who assist them, this provision did not prevent smuggling. (In 1996, 227 persons were arrested and charged with human smuggling, and 93 others were charged with connected actions. In 1997, some 306 persons were arrested by the border guards for human smuggling, and in 1998, 558 persons.) The difficulty of investigating smugglers is due to the usual lack of proof of actual involvement in this activity as well as the shared interests of smugglers, assistants and migrants. Some sentences passed illustrate the difficulties of fact finding, too. Sometimes border guards are also involved, due to the attractive profitability of the enterprise. (For example, some Chinese citizens paid 1,700 USD for a journey from Belgrade to Szeged, a city in Southern Hungary. The cheapest form of assistance may mean no more than the provision of a local map and brief instructions on how to avoid border guard patrols. Transport from the main railway station of Budapest to Austria is usually around 1,000 DM.) Smugglers are getting more professional, better organised, and their groups have established more contacts across the borders. According to statistics only 5 persons were expelled from the country on these grounds in 1997, and just one in 1998. Fines are insignificant compared to the lucrative gains from smuggling. The Act on Actions against Organised Crime (No. 75 of 1999) opened a new epoch in combating human smuggling. It authorises the notary of local government to close down any shops, restaurants and other entities that are involved in human smuggling or human trafficking (Art. 5). The tightened control of the borders, backed by the radical new anti-smuggling legal regulations, is being further developed with the intention to counterbalance the increasing pressure of illegal migration through human smuggling.

- Developing infrastructure. The Austrian border is still the major route for those travelling from the East to the West, and there has been a sharp increase in detected illegal migration. There is a significant lack of modern technology on the border, such as off-road vans and carbon-dioxide detectors to locate people hiding in lorries or vans. The border-guard authorities lack financial means to strengthen the control on borders, which otherwise would be important as a requirement for Hungary’s accession to the European Union.

The safe country principle

Theoretically, migrants who reach the country’s borders or enter its territory may apply for asylum. If rejected, they may ask the revision of the decision, and this revision has a pending effect on their return. However, their application may also be rejected on the grounds of the safe country principle. This rejection does not automatically lead to expulsion from the country, as the lack of travel documents or unconfirmed identity.

According to the Act on Asylum, a safe country of origin is a presumption relating to the country of origin. Accordingly, “the presumption [is] relating to the country of citizenship, or in the case of a stateless person, to the habitual residence, of the person seeking recognition as a refugee whereby that country applies the provisions of the International Covenant on Civil and Political Rights, the Geneva Convention, the International Convention against Torture and Other Cruel, Inhuman or Degrading
Treatment of Punishment, and the Convention on the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950, and where through the legal system and the guarantee of lawfulness there may not prevail a threat of persecution for reasons of nationality, membership of a particular social group, political opinion, race, religion; or torture, inhumane or degrading treatment and which country enables independent national and international organisation to control and supervise the enforcement of human rights.” (Art. 2.d)

The definition of the safe third country is the same, where the applicant stayed prior to arrival at the territory of Hungary, where he had the chance to lodge a claim and the alien would be secure from being returned to the country where he would be exposed to persecution, torture, inhuman or degrading treatment. (Art. 2.e)

Unless the applicant proves the opposite of the refugee authority rejects the asylum request. There is no internal regulation at the Immigration and Citizenship Office concerning the application of this definition. Everyone who applies for asylum, regardless of which country s/he reached Hungary from and which country is her/his country of origin, participates in the full procedure, i.e. no automatic rejection exists.

Foreigners who present their request for asylum at the border-crossing need to undergo a short interview by the border guard. The potential applicant has to prove that his stay in the country from which he moved to Hungary constitutes a special danger for them, and they therefore cannot apply for asylum there.

Some databases support the determination procedure. The German refugee authority (BAFL) keeps a list of safe countries and regularly sends it with country descriptions and related materials, within the framework of a bilateral agreement. The UNHCR sends its country reports twice a year (REFWORLD), and provides complete country updates upon request. The Consular Department of the MFA provides concrete individual-specific information at request. Despite this background, given the time limits of the determination procedure, and especially in the case of countries of Africa, information usually arrives with several months’ delay. This significantly adds to the slowing down of the recognition procedure.

The application of the principles of safe third country and the country of origin has not been the major reason for rejection in the last few years. According to estimates of the proceeding authority some 15 per cent of claims are rejected on the grounds of the safe country of origin principle, while another 5 per cent were due to the safe third country principle. The rest of the claims are rejected on the basis that the person cannot prove their fear of persecution, and/or cannot prove his/her identity with documents, which is essential for determination by the authority. After the recognition procedure. There is no support for those whose rejection is based on the safe third country principle, and are returned from Hungary, i.e. there is no guarantee that these foreigners really have an access to the deeper asylum procedure.

Readmission agreements

The return of potential applicants who enter Hungary after transiting a safe third country is largely facilitated by readmission agreements. The policy of the European Union to protect
its territories from illegal migrants has led to the signing of readmission agreements with EU and non-EU states. Since 1998, these agreements have been concluded on the basis of an EU specimen agreement (Council of the European Union, 1994). The most relevant readmission agreement was concluded with Austria in 1995, and it was re-shaped in 1998. The protection of the European Union from illegal migrants automatically brought up the necessity of signing similar agreements with countries where these migrants are coming from.

Up to 1999 Hungary has signed readmission agreements with 13 European countries, is engaged in negotiations with 5 other countries, while East European countries are regularly contacted on the highest diplomatic levels to launch these negotiations. Readmission agreements have been signed with Austria, Germany, Switzerland, Italy, Croatia, Slovenia, the Czech Republic, Poland and Slovakia – countries where migrants head for; as well as with Ukraine, Romania, Bosnia and Bulgaria, where migrants usually come from. Negotiations are going on with the Benelux countries, Greece, and Portugal, the former CIS countries, Macedonia, Albania, Yugoslavia, Pakistan, Russia.

The above-mentioned EU standards obliged Hungary to readmit even those persons whose entry to Hungary was already illegal, in addition to those who left Hungary after a legal stay. The agreements ensure the fast return of those apprehended within 72 hours of entry without any formalities, but return is possible later on within 90 days of the alleged date of illegal entry. So far, only six of these agreements have reached operational phase, as demonstrated partly by data from 1998 and 1999 in Tables 5 and 6.

Table 5
Readmitted persons from and to neighbouring countries in the framework of readmission agreements (1998)

<table>
<thead>
<tr>
<th>Country</th>
<th>Readmitted from neighbouring country under readmission agreement</th>
<th>Turned to neighbouring country under readmission agreement</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Total Citizen of Hungary 3rd country national Total Citizen of the partner country 3rd country national</td>
<td></td>
</tr>
<tr>
<td>Austria</td>
<td>3,764 72 3,692 28 14 14</td>
<td></td>
</tr>
<tr>
<td>Slovenia</td>
<td>1,163 1,163 4 3 1</td>
<td></td>
</tr>
<tr>
<td>Croatia</td>
<td>27 27 6 31 37</td>
<td></td>
</tr>
<tr>
<td>Romania</td>
<td>1 784 769 15</td>
<td></td>
</tr>
<tr>
<td>Ukraine</td>
<td>2 2 566 27 539</td>
<td></td>
</tr>
<tr>
<td>Slovakia</td>
<td>602 585 17 33 14 19</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>5,561 659 4,902 1,452 831 621</td>
<td></td>
</tr>
</tbody>
</table>

Source: Alien Police Department of the National Border Guards Headquarters.

Table 6
Readmitted persons from and to neighbouring countries in the framework of readmission agreements (1999)
Besides the main migration routes, these figures reveal the high differences in the efficiency of migration control on the various border zones. For instance, the 45 “Schengen buses” equipped with infra-red detectors, as well as the helicopters and other infrastructure of the Austrian border police, which are presently not available in the former Communist states, highly increase the number of apprehended illegal migrants, and thus also the number of those returned from Austria to Hungary.

**Detention of asylum seekers**

The modified Alien Law (No. 86 of 1993, Art. 43) allows that a foreigner regardless of the submission of an asylum application be assigned a compulsory place of residence until:

- his/her identity has been established;
- the conditions of his/her stay have been legalised;
- the conditions of return have been guaranteed, if he/she has been given an expulsion order; or
- expulsion can take place but its execution is prohibited due to the non-refoulement principle.

The compulsory place of residence can be either a flat, shelter offered by relatives (invitee), charity organisations, or a facility, such as a rented flat or a hotel paid by the migrant. In the absence of all these solutions, or when it seems to be reasonable for public order reasons, a Border Guards Community Shelter is designated as the compulsory place of residence. This shelter is a closed place to each inmate without confirmed identity. This is basically the legal basis for the detention of asylum seekers at Community Shelters, too.

In 1998, 16,290 foreigners were assigned a compulsory place of residence. Of them, 11,488 persons, some 70 per cent, had to be accommodated at a Community Shelter. In 1999, out of the 13,849 persons assigned a compulsory place of residence, 10,280 foreigners (74 per cent) stayed at a Community Shelter.
The double effect of closing the Community Shelters (i.e. preventing migrants from moving on and deterring migrants who would think about coming to Hungary) has been criticised by the Hungarian Helsinki Committee. Moreover, the discretionary power of the authority is wide. The financial background is a major factor at the designation, but in practice, the availability of travelling documents and the previous record of the migrant are also relevant. In addition, foreigners frequently have difficulties in renting flats, as owners are not willing to let apartments to foreigners – or, in order to avoid taxes, they do not sign any contract, which would be needed to prove to the authorities the adequacy of accommodation arrangements. Therefore only the very rich who can pay hotel accommodation or those with friends or relatives in Hungary can live outside the Shelters. In this case the alien police in charge define some rules on behaviour (prohibition to leave the city and to leave the accommodation during the night) and also monitor the observation of these rules.

The Act on Actions against Organised Crime (No. 75 of 1999) entered into force on 1 September 1999. It limited the maximum stay at any compulsory place of stay (including Community Shelters) to 18 months (Art. 31.5). Having completed the 18 months, the foreigner may be assigned another compulsory place of residence (Art. 43/A.). This provision continues to decrease the flow of illegal migration Westward, and functions as a deterrent measure against those in migrant-sending countries who consider trying their chances through Hungary. It is not by chance that this form of detaining illegal migrants and asylum seekers, some of whom are genuine refugees, is the most neuralgic area of the Hungarian asylum system.

SUBSIDIARY FORMS OF PROTECTION

The Act on Asylum defines three categories of protection: (1) refugee status for recognised persons under the 1951 Geneva Convention, (2) authorised to stay status (see above) and (3) the “temporarily protected person” status. The latter may be provided for entire groups of people if the Government designated them for a given period. They are persons who flee as victims of war, ethnical clashes, civil war or the violation of human rights en masse, in large groups, from persecution. This form of protection has never been provided, thus there is no legal practice of this definition or legal instrument.

The third, “temporary protected person” status is provided for one year but it is renewable. It has gained importance in 1999 because it was granted to more than 30 per cent of asylum seekers.

High recognition rates of refugees at the beginning of the 90’s must be understood in terms of the arrival of asylum seekers of Hungarian origin from neighbouring countries. The refugee determination framework was in their favour, despite the neutral terms of the law. The system included the danger of the rejection of other legitimate asylum seekers. Ethnic Hungarians from neighbouring countries could therefore apply for asylum more easily. As waves of immigrants from Romania and the former Yugoslavia came to a sharp decrease, more attention was given to other sources of the immigrant influx, including arrivals from non-European countries. South-North migration finally reached
an equal importance with East-West migration in Hungary. By now, the preference for
ethnic Hungarian asylum seekers has ceased to exist. Although asylum seekers are recorded
according to their citizenship (country of origin) it is evident that Hungarian refugees and
foreigners authorised to stay would come from Romania, Yugoslavia, Ukraine up to
1998. In 1998 the bulk of those 201 persons from Yugoslavia who received either
refugee status or the one-year long persons authorised to stay status were mostly from
Kosovo.

THE INFLUENCE OF EU ASYLUM AND
MIGRATION POLICIES

Simultaneously with the preparation and the implementation of the new 1997 Act on
Asylum, Hungarian co-operation with the EU was extended with new means for
channelling expectations as well as expertise and financial support. The PHARE and COP
programmes (March 1998) as two channels are the most explicit forms of expressing EU
policies towards Hungary’s new role in the migration and asylum regime of Europe. It
must be emphasised that accession to the European Union should be interpreted broadly;
the accession procedure is firmly embedded in Hungary’s overall integration into Western
Europe. (For example, Austria, before its accession to the EU in 1997, had already put
political pressure on Hungary to sign a readmission agreement, which was later amended
according to EU standards.) Thus, the transformation of the Hungarian asylum system is
due to Western European expectations, but the most explicit negotiations and the bulk of
definitive statements on asylum have been crystallised through EU channels.

Bilateral influences

The bilateral influence of West European states – as far as concrete financial support
is concerned – has not been widespread. The Refugee Directorate of the Citizenship and
Immigration Office has been receiving regular training and materials from the experts of
the German Office of Refugee Affairs to facilitate the implementation of EU legal
regulations in the Hungarian practice. The regular yearly training by French experts on how
to identify false documents and German Government support in early 2000 to purchase 70
night vision devices, laptops and heat detectors are the major bilateral means of support for
the development of border guards. Despite promises, no other significant bilateral
contribution has been provided for the modification of the asylum and migration system
of Hungary.

The silhouettes of a stronger co-operation with the border guards of neighbouring
countries have been slowly emerging in the last few years. A significant event was the
meeting of the ministers of Interior of Hungary and Austria during the spring of 1998,
when the harmonisation of the border control systems of the two countries began. The
basis of the co-operation is a special EU standard mobile, digital phone system that was
introduced at the meeting. This phone system is planned to help guards on the two sides
of the border to inform one another of any information useful in stopping illegal
migrants. In addition to this “traditional” co-operation with the Austrian border guards, similar joint efforts were also revealed by the head of the Border and Alien Police Department of the Slovak Ministry of Interior in 1999.

Border control obviously has different developmental requirements for present and future EU borders as opposed to frontiers with non-EU countries. The uncertain position of Slovakia re accession poses difficulties in defining the necessary investment and training on this rather long border zone. Probably, after the accession of Hungary, the border with Slovakia will be an external frontier for only a limited period of time.

**EU influences**

One of the criteria on which the speed and quality of accession is the ability of the given country to manage refugee flows as the may depend. The constant refinement of the present legal instruments, and a search for a more balanced operation of administrative state bodies is effectuated in order to reach higher efficiency of operation and conformity with EU practices.

There are presently no unified pan-European standards for all aspects of migration and asylum policy; the consensus on these matters is at best a mid-term goal for EU countries. Therefore, Hungarian policy makers have a limited, and – as the accession process unfolds – possibly a somewhat narrowing scope for deciding whether to choose a restrictive or a more liberal, welcoming interpretation of these international instruments.

The European Commission Reports describe all policy and administrative factors taken into consideration in determination of the country’s capability to gain full membership, including the Justice and Home Affairs (JHA) area. The major evaluative statements of these studies outline the focal points and trends of EU influences during the accession period. The Act on Asylum and several other measures presented reactions to EU requirements.

- The first Report (1997) was one of the major preparatory policy papers before the launching of the negotiation talks. The assessment underlines that “[a]n important priority for the near future will be developing more effective border management systems, especially on the future external borders” (p. 64). The assessment warns about the inevitability of the implementation of the same visa regimes as those in force in the EU: “The visa systems with regard to the CIS and other non-associated neighbours remain unsatisfactory and Hungary will need to ensure that the facilitation of crossing by ethnic Hungarians from neighbouring countries does not detract in any significant way from the need to carry out effective border controls at the future external border” (p. 66). The Commission stressed as a priority the abolition of the geographic reservation against non-Europeans that finally happened in the Act on Asylum 1997. The conclusion added, that “Hungary is well on the track to meet the justice and home affairs acquis “assuming progress continues at the current rate and effective training and institutional development programmes are implemented in the key JHA institutions” (p. 66).
- The second Report (1998) began with the summary of the Opinion of the previous year, where the “need for efficient border controls including a visa regime increasingly close to that of the EU and an asylum policy … with sufficient resources” (p. 29–30) was
emphasised. It welcomes the conclusion of additional readmission agreements with EU states, the implementation of the new Act on Asylum which lifted the geographical reservation against non-Europeans, and the Act on the Border Protection (No. 32 of 1997) covered the management of border controls and defined the organisational structure of the Border Guards. The report found that Hungary had proven her capacity to progress in the harmonising of its asylum policy and in the creation of a more efficient border control system. The Report asked for “a law on… a visa policy suited to the requirements of the EU (and covering the Commonwealth of Independent States), as well as an increase in human resources, with adequate pay and suitable training, so that the new legislation (particularly that on asylum) can be implemented” (p. 30).

• The third Report (1999) welcomed the conclusion of readmission agreements with EU countries and other CEE states. At the same time, the Commission was dissatisfied with the implementation of visa obligations for airport transit of nationals of certain countries that has not been achieved according to the EU Joint Action on airport transit arrangements introduced in September 1998. It clearly stated that the country should make further measures to align its visa legislation and practice with that of the EU, and to improve the effectiveness of border control. The Report highlighted the importance of staff training at ORMA and the upgrading of necessary equipment. In addition, the Report stated, that “[i]t is also important to provide for a direct online connection between immigration offices, border posts and diplomatic representations” (p. 51). The serious backlog at the authority determining asylum claims, and the low operational quality of the court of appeals within the asylum determination procedure was criticised. The Commission demanded the improvement of the living conditions at the reception centres and the construction of new ones in order to cope with the increasing number of asylum seekers. In conclusion, the Commission found that “no real improvement can be reported on border control and asylum. Further efforts are required…. on border control, both at border posts and on areas without border posts (‘green border’) in accordance with Schengen standards, and on asylum through the establishment of new reception facilities for asylum seekers, an increase of qualified staff and further harmonisation with the EU procedures” (p. 53).

The reaction of Hungarian authorities shows a willingness to follow the proposed actions of these studies. For example, the Human Rights Committee of the Hungarian Parliament held a meeting at the largest Reception Centre (in Debrecen, 3 November), soon after the country received the 1999 Report. The members of Parliament agreed that the conditions at the Centres must be ameliorated, as suggested by the Report.

Since 1998, due to the strengthened control on illegal migration, a far higher ratio of foreigners wishing to move to the West are “trapped” in Hungary, and apply for asylum, in order to avoid or at least postpone forced return home. The role of Hungary as a shield protecting Western Europe is created by the local implementation of the anti-migration policies of the European Union. Stricter visa requirements, carriers’ sanctions and a fight against illegal border crossing radically curtail the possibility of potential asylum seekers to reach and enter Hungary to request protection. Furthermore, with the inclusion of the safe third country principle in the Act on Asylum 1997, even genuine asylum seekers have to face the possibility of being returned to other countries. The return of illegal migrants, including potential asylum seekers and rejected asylum seekers, has been facilitated by readmission agreements with neighbouring countries and their further
travel has been impeded by their accommodation at the closed Community Shelters of the Border Guards.

For these reasons the Hungarian asylum system has integrated into the European Union’s anti-migration regime, resulting in the prohibition of tens of thousands of potential asylum seekers every year to transit Hungary and enter the European Union in search of protection. These measures basically force illegal migrants, both genuine refugees and economic migrants, to apply for asylum in Hungary, in a country where they would not like to stay for long. These conditions make Hungary a “country of unintended asylum.”

Operation of Phare programmes

They provide expertise for the transformation to a market economy and the institutions of the associated Central European states. The Programme is based on co-financed projects through the preparation of studies, capital allocation, loans, and direct investment in infrastructure. The Government defined the priorities of the Phare Programme (Resolution of the Government No. 1062/1999. (V.31.) Korm. h.) covering development of border protection, public administration and the judicial system, in addition to eight other fields for Phare support.

The Twinning Programmes specialise in institutional and personnel development, e.g. training. Hungary most often seeks the partnership of German, or less frequently, Austrian partners for the training of the staff of the Border Guards or the Office of Refugee and Migration Affairs.

The COP Programmes (1997, 1998, 1999) cover two to three year, overlapping periods that are jointly financed by the Phare funds and by the Hungarian government, at least 50 per cent of the budget for each programme item.

- COP’97 programme (8.47 million USD) covered primarily the preparation of the feasibility study on the Hungarian Border Control Programme in 1998, which was the only migration and asylum related Phare expenditure that year. These figures include both EU and Hungarian contributions. In 1999–2000 the programme covers the professional and language training of border guards, police, and officers of the Immigration Office, and includes training on how to fight organised crime. Experts from Germany, France, Austria and Spain perform the professional training within the framework of Twinning programmes by providing their experience and expertise to Hungary. A special element of the professional education programme is the training in the management of border control on non-EU frontiers (by German experts) and that of internal EU borders (by French and Austrian experts).

- COP’98 programmes (17.33 million USD), with funds allocated in this programme cover, the further training of border guards and police on combating organised crime (including human smuggling), and the launching of Twinning programmes in the area of asylum claim determination. The acquisition of equipment for border checkpoints and the computerisation of information flow began with this programme.

- COP’99 funds (27.3 million USD) are being used for the acquisition of equipment for the control of migration on the green border, the restructuring of the operation of the border guards, and the preparation of the police forces to fight illegal migration. As far as
the operation of the Citizenship and Immigration Office is concerned 3.47 million USD is spent on the development of the operation of the Office, of which 82 per cent is for the development of its regional network and infrastructure, while the rest is for training through the Twinning Programmes. Finally, COP’99 allocates funds for the development of a unified visa policy, with special regards to the computerisation of the visa distribution system by diplomatic missions.

The operation of the above Phare programmes explicitly reveals the major focus points of EU influence. The Three COP programmes of the Justice and Home Affairs area include 53 million USD with Phare and government contribution. Out of this total sum 2 million USD is invested in the development of the asylum system of the country, while some 44 million USD is spent on the restructuring of the operation of the Border Guards, and 5 million USD on Police, including the direct and indirect functions of alien policing. The above Phare budgets demonstrate the major emphasis given to strong border control, fight against illegal migration and human smuggling, and to a faster and more professional determination procedure.

In addition to the Reports of the Commission in 1997, 1998 and 1999, specific reports have also been prepared in the areas of Justice and Home Affairs. These reports also set the main objectives for spending Phare support, and asylum institution is mentioned just per tangente. They focused primarily on border control and fight against organised crime, including human smuggling.

The first Report (1997) concluded by German border control experts was the first contribution to the preparation for establishing compliance with the Schengen Convention. It indicated a “tremendous lack of equipment and basic infrastructure to even execute basic control” (Phare, 1998: 55), concerning the operation of border guards. The Report proposed the following actions partly financed from Phare funds:

- A nation-wide computer network and a unified border computerisation system to control activities;
- Technical equipment for the detection of false or forged documentation;
- Technical equipment for the performance of lorry checks;
- Training for officials at the border posts.

Between July and September of 1998, experts of the Member States joined Phare representatives to analyse the two major areas of border control, namely control at border checkpoints and the communication and computerisation of related offices. The feasibility study of the “Hungarian Border Control Programme” (Phare, 1998) of 1998 stated that “Hungary faces significant difficulties concerning the control of its borders… Hungary has common borders with an EU member state, future member states, but also with states without real chance of accession in the near future. In addition, the country is also close to a crisis zone. Therefore, border control is a complex issue, and only few EU countries, if there is such at all, have similar problems.” (p. 5) This study, which mentions the main requirements for accelerating and rationalising the operation of the ORMA (expansion of staff, computerisation) became the major resource material for the planning of the COP programmes and for the channelling of Phare funds to Hungary. The strengthening of border control that has resulted from this focus has had an enormous influence on the operation of the asylum system in the country, as asylum seekers are mostly illegal migrants.
The Hungarian government must cover at least the half of the costs of the Phare programmes. At the same time, the Hungarian government decided to give a far larger contribution to these and the related Justice and Home Affairs areas in order to speed up the implementation of acquis and the fulfilment of EU expectations in the country. The relevant Government Resolution (No. 2184/1999. [VII.23.] Korm. h.) defined the planned contribution to all Phare funded and other related developments at about 244 million USD. These sums went towards legal harmonisation with the EU and institutional development for bodies belonging to the Justice and Home Affairs area, first of all ORMA (670,000 USD for upgrading personnel, 166,000 USD for the construction of a quarantine at one of its three reception centres, 290,000 USD for the establishment of a national and international data transmission network, and 166,000 USD for the fingerprint verification system), the Border Guards and the Police. (The Ministry of Interior received 42 per cent of all state funds for legal harmonisation and institution development within the framework of the above decision.) It shows a high level of commitment to fulfil EU requirements, while the EU contribution for the development of the Justice and Home Affairs area during 1997–2002 is 26.5 million USD. It means no more than 11 per cent of the state funding for the same area.

The contribution to the strengthening of border control is close to 10 times more (121 million USD) than the government contribution to the reform of the institution of asylum (1.33 million USD). During the 1999–2001 period, the government plans to invest close to 30 billion HUF in the expansion of the staff, the acquisition of new equipment (81 million USD), the development of the community shelters (7 million USD) and the training of staff (3 million USD).

Out of the total 244 million USD that the Government spends on Phare related programmes, some 7 million USD is spent on the establishment of an information network for diplomatic missions where visas are issued.

ACKNOWLEDGEMENT

I wish to kindly thank the employees of the Ministry of the Interior and Administration, UNHCR, Head of Alien Police and Refugee Department, National Headquarters of Border Guards, Airport Directorate of the Border Guard, Consular Department of the Ministry of Foreign Affairs and Hungarian Association for Migrants for their kindness and help without which this paper could not have been created.

SOURCES


UNHCR. Website: www.unhcr.ch/world/euro/hungary.htm
Table 1
Asylum seekers participating in formal recognition procedure
(1989–1999)

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<td>Number of applications</td>
<td>36</td>
<td>3,520</td>
<td>921</td>
<td>458</td>
<td>468</td>
<td>207</td>
<td>130</td>
<td>152</td>
<td>177</td>
<td>7,118</td>
<td>11,499</td>
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<tr>
<td>Refugee status granted</td>
<td>35</td>
<td>2,561</td>
<td>434</td>
<td>472</td>
<td>361</td>
<td>239</td>
<td>116</td>
<td>66</td>
<td>27</td>
<td>362</td>
<td>313</td>
</tr>
<tr>
<td>Recognition rate (not including cancelled procedure)</td>
<td>97.2</td>
<td>72.7</td>
<td>47.1</td>
<td>103*</td>
<td>77.1</td>
<td>115.5*</td>
<td>89.2</td>
<td>50</td>
<td>15.25</td>
<td>6.1**</td>
<td>5.5**</td>
</tr>
<tr>
<td>Subsidiary form of protection</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>232</td>
<td>1,776</td>
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<tr>
<td>Recognition rate</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>3.9**</td>
<td>31.1**</td>
</tr>
<tr>
<td>Number of cancelled procedure (e.g. applicant disappearing during the procedure)</td>
<td>–</td>
<td>548</td>
<td>223</td>
<td>58</td>
<td>21</td>
<td>13</td>
<td>5</td>
<td>31</td>
<td>57</td>
<td>1,174</td>
<td>5,786</td>
</tr>
</tbody>
</table>

* More than 100% due to backlogs.

** Total applications minus the number of cancelled procedures.

Source: Office of Refugee and Migration Affairs.
FACTS ON MIGRATORY MOVEMENTS

Until 1989 Poland was a country with strictly controlled border movements in both directions. Among other things the transition process brought the abolition of a number of restrictions against the mobility of Polish citizens and foreigners. From 1988 to 1995 the number of foreigners entering Poland increased from 6 to 82 million, and the number of Poles leaving the country from 10 to 36 million (Okolski, 1999b). A full picture of the intensification of the border movements is illustrated in Table 1.

In 1996, when the political and economic situation reached some stabilisation, 262 million departures and arrivals were registered, from which Poles were responsible for 87 million and the foreigners for 175 million of border crossings (Kozłowski, 1999). Poland – not long ago an emigration country – also started to play an important role as a target country. The change in the character of the population movements and the rising share of foreigners has several sources. First, Poland is a country situated on a transit route leading from Asia or Africa to West European countries, especially Germany, which is perceived as particularly attractive. Second, the development of the political and economic situation in Poland makes it possible that the Poland itself becomes increasingly attractive for potential migrants, in a large part illegal. Additionally, a possibility of repatriation of the population of Polish origin from the countries of former USSR as well as from Germany and Israel has emerged (Lodzinski, 1997).

The response to the influx of aliens is a tendency to tighten the status granting rules, applying the safe country of origin and the safe third country principles as well as the rigorous control of borders in the context of preventing illegal migration. After the 1989 breakthrough there has been all kinds of non-voluntary migrants coming to Poland – asylum seekers, refugees, victims of wars and ethnic purges, victims of natural disasters as well as transit migrants (already at the very beginning of this process, in 1989, Germans from the GDR, in the years 1990–1991 the transit of Jews from the former Soviet Union to Israel, in the years 1991–1993 transit of some ten thousand refugees from the former Yugoslavia to Sweden (Kozłowski, 1994).

In summer 1990 about 600 people were turned back who tried to reach illegally Sweden from the territory of Poland. It has also been estimated that in the period preceding these events, i.e. between October 1989 and the beginning of 1990, over 7,000 asylum seekers took the route to Sweden through the territory of Poland. In the same year, after bilateral negotiations, the Swedish border was closed to Poles and people entering from the territory of Poland (Lavenex, 1999). The government contacted the UNHCR, which resulted in the...
arrival of its first mission to Poland already in 1990 (Kozłowski, 1999). After these overtures the influx of asylum seekers started to Poland. Table 2 presents the distribution of asylum applications in Poland between 1990 and 1999 including information on recognition and decisions issued by the Ministry of the Interior and Administration.

Table 3

<table>
<thead>
<tr>
<th></th>
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<td>Afghanistan</td>
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<td>10</td>
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<td>Armenia</td>
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<td>47</td>
<td>18</td>
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<td>Azerbaijan</td>
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<td>6</td>
<td>4</td>
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<td></td>
</tr>
<tr>
<td>Bosnia Herzegovina</td>
<td>24</td>
<td>67</td>
<td>7</td>
<td></td>
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<tr>
<td>Bulgaria</td>
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<td></td>
<td>6</td>
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<tr>
<td>Ethiopia</td>
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</tr>
<tr>
<td>Georgia</td>
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<td></td>
</tr>
<tr>
<td>India</td>
<td></td>
<td>13</td>
<td>7</td>
<td>5</td>
<td></td>
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</tr>
<tr>
<td>Iraq</td>
<td>5</td>
<td>7</td>
<td>6</td>
<td>11</td>
<td>6</td>
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<tr>
<td>Lebanon</td>
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<td>5</td>
</tr>
<tr>
<td>Pakistan</td>
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<td>10</td>
<td>5</td>
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<td>Romania</td>
<td></td>
<td>7</td>
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</tr>
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<td>10</td>
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<td>4</td>
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<tr>
<td>Somalia</td>
<td>9</td>
<td>6</td>
<td></td>
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<tr>
<td>Sri Lanka</td>
<td></td>
<td>7</td>
<td>19</td>
<td>24</td>
<td>19</td>
<td>3</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Ukraine</td>
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<td>7</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td>12</td>
<td>5</td>
</tr>
<tr>
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<td>7</td>
<td>3</td>
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<td></td>
</tr>
<tr>
<td>Other countries</td>
<td>18</td>
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<td>20</td>
<td>19</td>
<td>19</td>
<td>18</td>
<td>17</td>
<td>22</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

In the first half of 1990 there were about 1000 people coming to Poland, predominantly from African and Arabic countries, who were applying for a refugee status (Table 3). In most cases they were deported from Sweden, although there were also 50 Albanians brought from Tirana where they occupied a Polish diplomatic post (it is estimated that there were altogether 1,600 asylum seekers in Poland in 1990). Because there were no adequate legal instruments it was necessary to establish an inter-ministerial commission on refugees. Its goal was to arrange for accommodation for foreigners in holiday centres. The Polish Red Cross held their care, and
connected issues to refugee status were handled by the UNHCR with no participation of Polish authorities (Lodzinski, 1998a).

In 1992 asylum seekers from the former Yugoslavia appeared, who were forced to leave their countries because of the civil war but refugee status was granted only to 75 persons. This trend continued in 1993. At that time there were, in general, three groups of asylum seekers in Poland:

- Foreigners, who submitted application and were under the care of the Department for Migration and Refugees of Ministry of the Interior and Administration,
- Foreigners evacuated from Bosnia and Herzegovina as well as from Croatia (children together with their guardians from Osijek, Bosanski Brod and Sarajevo). The Polish government, under the bilateral governments’ agreement, took care of them. The number of this group, which counted initially over 900 persons, was systematically decreasing (it was merely 100 persons at the end of the year),
- War refugees, who did not submit the applications (mostly from countries of the former Yugoslavia and from Armenia), their assistance was provided by the Polish Red Cross and Local Offices of Social Aid.

Along with the decreasing scale of the Balkans conflict the refugees’ group from the former Yugoslavia was losing significance while newcomers from Bosnia and Herzegovina were staying in Poland without recognition (the introduction of visa duties for the citizens of Bosnia and Herzegovina had some importance). Residents of the former Soviet Union’s republics provided the major asylum seekers in 1994–1995. War refugees from Armenia were removed from Germany under the re-admission agreement (1993). Additionally, significant groups arrived from the Ukraine, Georgia and Russia.

In 1996 the number of recognition exceeded 3,000, almost 4-times more than in the preceding year. In the opinion of numerous observers it was a result of the situation in the Ukraine. The Ukrainian Border Guard was not regularly paid, which led to the intensification of corruption and to the development of the transfer trails blazed earlier. Some spectacular actions were noticed, e.g. illegal migration transfer operation using the Ukrainian army helicopters. Persons accompanying them (smugglers) instructed illegal migrants to destroy the documents and immediately apply for refugee status giving false data in case of interception by the Polish Border Guard (e.g. most of the Africans posed as residents of Somalia) (Kozlowski, 1999). Since 1997 the nationality composition also changed, as more applicants arrived from Sri Lanka, Armenia, Afghanistan, Pakistan and Bangladesh while recognition dropped. It also seems that the sudden increase of negative decisions is a direct result of solutions provided by the Act of 1997. The intensification of the inflow of Armenians was rather due to changes in Polish migration regime and visa policy. An important event was also the Kosovo conflict, which led to a dramatic increase in persons applying for refugee status originating from the countries of the former Yugoslavia (Okolski, 2000).

The “transit country” effect produced growing prejudices. On the other hand there is an even more positive reception of the refugees on the part of Polish society. A public opinion survey (October 1999) on a representative sample shows that 41 per cent of Poles think that it should be allowed for foreigners to settle in Poland for a longer time (in 1996 – 17%, in 1998 – 29%), another 8 per cent would allow them to settle permanently. The number of persons which thinks that asylum seekers should be sent back to the countries from which they came is decreasing: in 1996 48 per cent were of this opinion, in 1999 30 per cent (Polscy ouchodzcech, 1999).

Enforcement of the expenditures for refugees’ care while many of them admit that Poland is not their country of destination is somehow a sensitive issue. In the years 1991–1992 refugees staying in Poland undertook 4 times a hunger strike protesting against staying in Poland. Similar conclusions can be drawn from another fact: at the beginning of 1998 out of over 800 persons who obtained refugee status, only 300 stayed in Poland. This means that obtaining the status and, predominantly, the Geneva Travel Document often amounts to a decision to leave the country. Yet, together with the positive development of the social and economic situation in a country its acceptance by the asylum seekers is also increasing. The not so distant prospects of joining the European Union are also of some importance.

The increasingly common phenomenon of asylum seeking and illegal migration has to be a subject of adjustment on the way to the EU. In the enlarged Europe Poland will be the country with the longest EU border
of all (1,700 km). It covers 233 crossing points (149 road, 33 rail, 18 sea, 5 river and 18 air checkpoints), of which 38 are located on the eastern border. Many of them are obsolete, there is also a lack of equipment while the financial situation of the employees creates corruption opportunities. In 1999 the Border Guard consisted of 13 units, administrated 143 watch posts and 62 border control posts, and the personnel consisted of about 13,500 people. Currently it consists of 13,623 officers and 3,400 civilian officers, which, as it is estimated, makes up 75 per cent of the needs (Lisiecki, 1993; Łatawski, 1999). The efforts which are being made are not only aimed at adjusting the Polish rules to the acquis communautaire but also at “sealing the borders” (preventing mass illegal migration).

LEGAL INSTRUMENTS ON ASYLUM AND CONNECTED ISSUES

- The only regulation regarding the migration problems incorporated in the 1952 Constitution reads: “The Polish People’s Republic grants asylum to the citizen of foreign countries, persecuted for protecting the interests of the working masses, fighting for ethnic liberation or pursuing scientific activities” (Art. 88). This pointed out quite clearly that asylum was an outstandingly political institution with strong ideological connotations. After the amendment, it reads: “The citizens of other countries and the stateless may enjoy the right to an asylum based on the principles specified in the Act.”
- The Act on Foreigners adopted in 1963 defined as a foreigner the person who does not have Polish citizenship (alien or stateless person). This Act was in force until 1997 with some amendments. The basic problem lies in the fact that it was created under entirely different conditions than those we have to deal with in the 90’s. Moreover, the presence of aliens is considered an exceptional case. Therefore a large number of solutions were missing and others, like deportation rules, were treated in a very imperfect way (Łodzinski, 1999). Foreigners could cross the border on the basis of a valid passport or other document after obtaining a permission (visa), unless other regulations were in force in particular bilateral agreements (Act on Foreigners, 1963, Art. 1–3). The original version of this act has not enabled one to obtain refugee status, which was connected to the fact that until 1989 Poland as an emigration country was not interested in the ratification of international treaties and conventions.
- In 1989 the principle of free the movement of people was adopted. Among other things the card of border crossing (a document, which enabled the control of the arrivals and departures of Poles and foreigners and the residence of foreigners on the territory of Poland) was abolished.
- In December 1991 Poland joined the Geneva Convention of 1951 and adopted the New York Protocol of 1967. Poland has accepted all the commitments resulting from them with the exception of Art. 24 Par. 2 of the 1951 Convention, regarding the right for compensation due to a foreigner’s death during work or as a result of an occupational illness.
- The natural consequence of ratifying the international treaties was an amendment of the Act on Foreigners (19th September 1991), introducing for the first time in the Polish legal system the institution of a refugee as well as providing for the possibility of asylum granting. In 1992 a Liaison Office of the UNHCR was established as well as the first Refugee Reception Centre, which was in the hands of the Ministry of the Interior and which has admitted the first refugees from Bosnia already in the same year (900 people have arrived).
- In 1993 another important international treaty was signed: the European Convention of Human Rights and Fundamental Freedom (1950).
- Poland signed in 1991, treaties on free-visa tourist movements with the Schengen-Group Countries as well as with Austria. By the end of 1999 Poland had signed free-visa movements treaties with over 60 states (see Table 4).
- These treaties were followed by agreements on the re-admission of persons, who illegally arrived from the territory of Poland and included commitment to admit the citizens of third countries. It turned out relatively fast that the consequences of abandoning the restrictions in border movements were significant. The escalating phenomenon of illegal migration from the territory of Poland to Germany (in this period mostly Polish citizens) was the main reason for the first re-admission treaty in 1993. This provided for the return to Poland not only of
Polish citizens but also of citizens of third countries who arrived illegally in Germany’s territory. Similar agreements were also signed with over 20 other countries. For instance, Bulgaria, the Czech Republic, Slovakia, Romania, Moldova, Slovenia, the Ukraine and Hungary. Canada, Sweden and Italy joined this group in 1998. Other re-admission agreements are being prepared with China, Albania, India, Pakistan, Vietnam, Sri Lanka, Bangladesh, Algeria and Kazakhstan. In the case of Lithuania (additional re-admission agreement in 1998), Latvia and Estonia resolutions regarding re-admission were included in agreements on visa-free movement.

- The first phase of changes in Polish legislation was finished with the adoption of the Act on Employment and Countering Unemployment (Act on Employment, 1994). It provided to the foreigners, who already had refugee status or had gained permanent residence status, the same rights on the job market as for Polish citizens.
- In 1997 a new Constitution was passed. Its Article reads, that “foreigners can avail themselves of the right of asylum in the Polish Republic according to the principles set out in the Law.” At the same time “the foreigner, who seeks in the Polish Republic protection from persecution may be accorded the status of refugee consistent with international agreements, which are observed by the Polish Republic” (Art. 56, Section 1–2).

Table 4
List of countries, which signed an agreement to abolish of the visa requirement with Poland and which abolished the requirement on a unilateral basis (1st January 2000)

<table>
<thead>
<tr>
<th>Country (in parentheses date of abolishing the visa requirement)</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hong-Kong (1991)</td>
<td>up to 14 days</td>
</tr>
<tr>
<td>Philippines (1994)</td>
<td>up to 21 days (unilateral, only for citizens of Poland)</td>
</tr>
<tr>
<td>Bulgaria (1965), Estonia (1993), Macedonia (1963), Romania (1971), Singapore (1999)</td>
<td>up to 30 days</td>
</tr>
<tr>
<td>Danmark (1991), Finland (1991), Island (1992), Norway (1991), Sweden (1991)</td>
<td>a total of 90 days in all Scandinavian countries</td>
</tr>
<tr>
<td>Ecuador (1991)</td>
<td>up to 90 days (unilateral for the citizens of Poland)</td>
</tr>
<tr>
<td>Panama (04.1998–04.1999)</td>
<td>up to 90 days (temporary established only for the citizens of Poland)</td>
</tr>
<tr>
<td>USA (1991)</td>
<td>up to 90 days (unilateral, only for the citizens of the USA)</td>
</tr>
<tr>
<td>UK (1992)</td>
<td>up to 180 days</td>
</tr>
</tbody>
</table>
Table 4 (continued)

<table>
<thead>
<tr>
<th>Country (in parentheses date of abolishing the visa requirement)</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Former Soviet Union countries (1979):</td>
<td>the mode of the border crossing strictly connected with the travel’s target:</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>tourist travels – on the basis of passport and voucher;</td>
</tr>
<tr>
<td>Belarus</td>
<td>private travels – on the basis of passport and invitation;</td>
</tr>
<tr>
<td>Georgia</td>
<td>business trips – on the basis of the passport with registration (AB stamp).</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td></td>
</tr>
<tr>
<td>Kyrgyzstan</td>
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<tr>
<td>Russia</td>
<td></td>
</tr>
<tr>
<td>Tajikistan</td>
<td></td>
</tr>
<tr>
<td>Turkmenistan</td>
<td></td>
</tr>
</tbody>
</table>

Source: Ministry of Foreign Affairs.


In spite of some measures to improve international migratory movements the practice and the procedures applied left a lot to be desired. The problematic spheres were predominantly:

- The lack of a clearly defined migration policy, which would necessitate a less ambiguous approach to migration-related issues; the lack of an autonomous administrative centre, which could specify the rules and realise the migration policy – in 1990 the issues connected to migration was handed over from the police to local governors (voivoda). Thus the decisions, especially regarding visas and permanent residence permits were in the hands of 49 civil servants. They often make contradictory decisions. Moreover, a division of competences (Ministry of Labour and Social Policy, Ministry of Foreign Affairs, Ministry of Economy, Ministry of National Education, Ministry of Health and Social Care, Polish Border Guard Headquarters) requires co-ordination and a unified legal practice.
- The residence permit authorisation was not properly regulated.
- The lack of clear criteria specifying the conditions necessary to be met by foreigners entering the territory of Poland (especially the amount of money requested at the border).
- Generally, there was no possibility of the police to exercise control over the foreigners entering the territory of the RP.
- Due to prior problems the prevention of abusing asylum requests was not present. No such commonly applied principles as safe country of origin or safe third country were foreseen (Lodzinski, 1997, 1998a, 1998b; Silawko, 1994).

As a result of these problems the necessity to adjust the legal system to the present migration situation in Poland has been perceived by the public. The work over the new act on foreigners started already in 1992, and the act was passed in September 1997 (Act on Aliens, 1997). It has to be stressed that the Act passed is in harmony with West European tendencies. The basic tasks of the act are: the regulation of entering, residence, transit and departure of foreigners on the territory of the RP, the definition of concepts, the specification of institutions’ competencies. These issues, which appeared for the first time or had been regulated in part until this moment deserves special attention. The modification covered the issue of asylum. The Act provided for a simplified procedure of granting refugee status. The safe country of origin and safe third country principles were introduced for the first time in the Polish legal system enabling the foreigners coming from countries recognised as safe to be sent back without the necessity of application consideration. Asylum seekers were obliged to stay in guarded centres, to undergo an interrogation and fingerprints examination. It grants asylum status to asylum seekers that entered the territory of Poland illegally – they may submit an application for asylum within 14 days of crossing the border, if it was a justified concern for life or health. The Act regulates expulsion, its reasons were
formulated, and it defined the deportation arrest. The Act covers the responsibility of carriers, who bring the illegal migrants to the country and the charge of foreigners’ expulsion costs. In the context of illegal migration-related regulations the possibility to control and the obligation of invitations’ registration is of great importance. Also a temporary residence permit was introduced (the maximum total time of residence cannot exceed 10 years). While it introduced restrictions on temporary protection for victims of war or ethnic clash was not regulated.

INSTITUTIONAL ACTORS

The role of institutions and competencies are described in the context of the Act on Aliens of 1997, which has changed the rules in force in some points in the recent past. The competent authorities are as follows:

- The Ministry of the Interior and Administration (before 1997: the Ministry of the Interior). The Minister and public administrators are authorised to grant or withdraw the refugee status. It issues (in the form of a decree) a list of control posts of the Border Guard that is authorised to accept the application for refugee status. It also issues residence visas, temporary identification cards for foreigners as well as Geneva Travel Documents. Their task is to determine the rules of granting and withholding aid to foreigners and to establish and liquidate refugee centres. The task of the Ministry of the Interior and Administration (MIA) is to supervise the rules on aliens (entry, transit, residence and departure) whether they are implemented in accordance with the Code of Administration Proceedings. This shall be applied on asylum procedures, too. The Minister is responsible for the part of the visa policy – he assents to issue a repatriation visa as well as to grant a temporary residence permit in the case of rejected visa applications. He establishes and liquidates guarded centres and arrests, in which foreigners are kept until expelled (Act on Aliens, 1997, Art. 79, 84–89, 100). Within the MIA the Department for Migration, Refugees and Border Protection (earlier: Department for Migration and Refugees) operates, that is issuing decisions on refugee status. The task of the Department is also the maintenance of the database of foreigners in Poland.

- A number of decisions are made by inter-ministerial circle. Such as recognition of refugee status is issued by the Minister of the Interior in consultation with the Minister of Foreign Affairs (Art. 86 of the Act on Aliens). The principles of asylum and refugee status as well as the expulsion of foreigners are also determined in a similar way (Act on Aliens 1997, Art. 93). Art. 95 of the Act requires the Cabinet to present a list of countries regarded safe (in the form of a decree) although this list has not been published yet. The Cabinet makes decisions on aid principles for the repatriates. Moreover, under Decree of 3 October 1997 an inter-ministerial Team for Migration has been established, which plays an advisory role for the Cabinet. The main goals of the Team are to give opinions on projects of migration policy assumptions, on legislation projects and the analysis of institutions’ effectiveness.

- A Council for Refugees has been established (Art. 69 of the Act). It is an institution of appeal against the decisions issued by the MIA in cases connected with granting or withdrawing the refugee status (this regulation came into effect on 1st January 1999). The Council is a higher-ranking institution than the MIA. It consists of 12 members appointed by the Cabinet for a 5-year period (4 candidates nominated by the Ministry of Foreign Affairs and the Ministry of Justice each and 4 candidates on its own initiative). The first meeting of the Council was in February 1999 and till the end of 1999 there were 1759 complaints filed against the decisions of the MIA.

- The police concentrate on illegal residence in the territory of Poland – the provincial police commandants may apply to expel a foreigner, they are obligated to collect personal data of aliens (photography, fingerprints) as well as to escort him to the state’s frontier or airport (seaport). They may make decisions on detaining a foreigner (up to 48 hours), recommending his placement in a guarded centre (in this case a court decision is required). They supervise the guarded centres (Act on Aliens 1997, Art. 87–98).

- Outside the country consular offices as well as directors of diplomatic posts fulfil functions similar to those of the MIA. Their task is to issue residence and transit visas, residence visas with the right to employment, repatriation visas (after approved by Ministry of the Interior) as well as temporary travel permits (Art. 79, 83 of the Act).
The local governors play an important role. They control the passports, permissions and financial resources in the case of a next visa application. They issue visas with labour permit, and keep the record of invitations checking the social and living conditions of the host person. The above-mentioned amendment of the Act on Social Aid has made them responsible for the co-ordination of the activities regarding the integration process of refugees. Their task is to impose penalties on carriers transporting illegal migrants (Act on Aliens 1997, Art. 78–81, 83).

The Border Guard is a police-type formation, established in 1990 from the Border Protection Forces. It is a part of the state administration supervised by the Minister of the Interior and Public Administration. The tasks of the Border Guard encompass the control of passports, permissions and financial resources of foreigners as well as the protection of frontiers. The commanding officers of 58 chosen control posts are authorised to take care of the issues connected with asylum (receiving the applications for granting a refugee status). In addition they are entitled to reject entry, cancel visa, specify the time of residence, to propose expulsion, arrest or detention. The commanding officers of the control posts also make decisions in the case of occurrence of responsibility of a carrier or they secure the convoy (on application and costs of a carrier), they supervise guarded centres. The Chief Officer of the Border Guard keeps the record of unwanted foreigners (Act on Aliens 1997, Art. 79–84).

Resulting from the restructuring of the civil service in January 2000, the Border Guard was subordinated to Department of Migration, Refugees and Border Protection (Ministry of the Interior).

Certain domestic NGOs and international organisations play enormous role as follows:

− A liaison Office of the UNHCR was established in 1992 in connection with the admittance of the first refugees’ group where no legal instruments and technical possibilities to secure their protection were present. The role of the UNHCR in the case of Poland was very interesting – at first it concentrated on co-operation with government’s agents to develop effective procedures as well as refugees’ centres. With time there has been an evolution towards the representation of refugees’ and asylum seekers’ interests, especially towards government institutions as well as organisations, which provide integration programs (EP, 1999).

− The Helsinki Foundation for Human Rights – provides permanent assistance and advice on legal issues: several lawyers are at the disposal of asylum seekers and refugees.

− Polish Humanitarian Action – within the Polish Humanitarian Action, which has the task of providing help to victims of war and disaster in Poland and abroad as well as to refugees, functions a Refugees’ Assistance Centre. The assistance program for refugees was started in 1993. The Activities of the Centre concentrates on providing advice, social support and medical aid. Particular attention is paid to the integration process of foreigners who are recognised as refugees. Since 1996 PHA has been running The Refugee’s house where homeless asylum seekers can find shelter. The promotion actions (e.g. Refugee’s Day in co-operation with another NGOs) and educational activities are of great importance.

− The Polish Red Cross – takes care of the refugees. The role of the PRC was enormous, especially in 1990 and 1991, when no mechanism which would ensure the protection from the state’s authorities was present.

− Other organisations involved in activities directed at helping refugees: Caritas, Equilibre Foundation, Polish YMCA and YVCA, The Breslaff Centre and The Woman Promotion Centre.

MECHANISMS OF ASYLUM MANAGEMENT

The definition of “refugee” has changed from a broad one encompassing every persecuted, homeless individual migrating against their own will and crossing the state border and consequently losing the protection of the previous country of residence to a restrictive one. Refugee status is connected to protection against refoulement given by the country of residence and an international institution. In Polish legislation the institution of asylum first appeared in connection with the ratification of relevant international agreements. The refugee institution was introduced to the Polish legal system with the amendment of the Act on Foreigners in 1991. It relied on the terms of the Geneva Convention and New York Protocol.
The Minister of the Interior took the asylum (Act on Foreigners, 1963) decision (after 1997 by the Minister of the Interior and Administration) in consultation with the Minister of Foreign Affair. However, there was a possibility to pass the case on to the subordinated institutions. The foreigner who wished to obtain an asylum in Poland had to submit a request in a Polish consulate or diplomatic post (abroad) or directly to the Minister of the Interior.

The recognition rate has been gradually limited due to presumption on irrelevant legal instruments of asylum. A recognised person automatically gets the settlement permit (Act on Aliens 1997, Art. 10, 41, 42 and 50, Point 1 and 2).

After recognition he was obligated to apply for an identity card (before 1995 to the provincial police headquarters, after the amendment to the local governor – voievoda).

Recognition had to be rejected if the applicant had no sufficient grounds for a refugee status (the asylum proceedings may not substitute the refugee proceedings). The right of appeal for a rejected application was introduced.

Asylum could be withdrawn because of public interest as well as in the case of accepting a status from another country.

A more complete system was provided for under the Act of 1997 referring to the Constitutional regulation on asylum and refugee status (Constitution 1997, Art. 56, Section 2). The Act contains no detailed provisions concerning the category of persons who may be granted a refugee status. Its procedure can be divided into the following phases.

The foreigner has to be instructed, in a language he can understand about the mode and principles of the proceedings, rights he is entitled to and his duties.

The procedure is initiated upon the arrival of the application moved personally by the foreigner. The application contains personal data of the applicant and accompanying persons as well as the data justifying the necessity of granting the status. The lack of data does not entail the dismissal of the application, steps have to be taken to clear up the questionable issues.

If the applicant falls under the term of safe country of origin or safe third country, or his application is “manifestly unfounded,” they have to leave. The Minister of the Interior and Administration or authorised Border Guard commandants determine the issue. The rejected applicant enjoys the right to appeal. Before 1999 it was submitted for renewed consideration, after the 1st January 1999 it has been passed to the Council for Refugees. There is a possibility of modifying the application in order to confirm or obtain information within 7 days.

The application is to be submitted while the applicant is crossing the border (to the hands of the commanding officer of the control post of the Border Guard), unless the foreigner is able to prove that there was a justified fear about his life and health. In such a case he may submit the application within 14 days after crossing the border to the Ministry of the Interior and Administration.

For illegal entry the applicant is not free from responsibility (such exemption is guaranteed only to persons who were granted the status). Article 37 of the Act provides appeal to the Supreme Administrative Court. It specified the deadlines and circumstances for the movements of an application and made the decision dependent on it. This means that it was possible to refuse status without initiating the procedure on the exclusive grounds of the application’s delay. Article 42 clearly defines the circumstances in which the status may not be provided. The Supreme Administrative Court stated that article 37 has no legal force (Rzeplinska, 1999). The decision should be issued not later than 3 months after the application was submitted.

The applicant has to expose himself to procedures aimed at confirming his identification (e.g. fingerprints are taken) as well as, in justified cases, physical examination. As the proceedings have started, the foreigner obtains a residence visa regardless whether its requirements are not met, with the exception of state security closure in Art.33 of the Geneva Convention (Stachanczyk, 1995). In the absence of a valid passport, a temporary identification document is issued.

An applicant in need is accommodated and providing with food, medical aid, material and financial assistance until a final decision is passed or in exceptional cases (illness, additional explanation) up to 3 months after the final decision is issued.
Rejection is decided on if the applicant does not fulfil the conditions specified in the Convention, has obtained status in another country or there has been an application for extradition because of a crime in a third country (Act on Aliens 1997, Art. 42).

A recognised person receives the Geneva Travel Document as well as the settlement permit for a given period of time. The permit must not be withdrawn without the withdrawal of the refugee status.

The status is ceased if the refugee voluntarily applied for the protection of the country of origin, he accepted a new or lost citizenship, he renewed settlement in the country of persecution, or circumstances changed in the country of persecution (Act on Aliens 1997, Art. 47). The same principles apply to the applicant’s spouse and children.

The applicant or recognised person may contact a representative of the UNHCR as well as ask him for help. For this reason, the public servant in procedure is obliged to inform the representatives of the UNHCR on the proceedings, especially about the decisions issued (Act on Aliens 1997, Art. 33–45).

The Act of 1997 was a significant step forward in comparison to earlier solutions. Yet the essential parts of the procedure turned out to be dead regulations. The safe third countries principle cannot be applied in practice because no list of these countries was published (i.e. a fact of originating from a country, which is obviously “safe” may not justify the decision). This also holds true for the “manifestly unfounded” applications – this concept was only quoted in the Act but no definitions or application criteria were specified. The proposal for the penalisation of delayed applications (there were applications filed some months after arriving in Poland) has been appealed against to the Constitution Tribunal. As a result of this fact every case has to be individually considered. This may prolong the whole procedure (the average time of the procedure is actually 9 months but the actual circumstances of launching an appeal may influence the situation in this respect). Yet, it also causes that the decisions are not automatically made and the only criterion is the fact of being persecuted or the fear of persecution. Efforts were also made to improve the efficiency of the procedures. There are some simplified procedures which allow the authorities to make decisions within just one day (especially in the case of the citizens of countries like Bulgaria and Romania). Of course, the situation is much more complicated in the case of refugees from East Asia and Africa – in most cases it is necessary to check the information provided by the applicants, to interview them or to appoint experts – such activities prolong the procedure. It is expected that new solutions will allow for a simplified treatment of obvious cases and concentration on “difficult cases.” It will be necessary to make the safe third country and the safe country of origin principles as well as the “manifestly unfounded” application more suitable for practice (together with the appeal procedure). The introduction of the institution of humanitarian status and of new principles of residence legalisation for persons exposed to procedure are needed.

The Geneva Convention pays attention to the necessity of the integration of the refugees. This issue was not treated with appropriate attention because of a small number of persons considered as refugees and the fact that many of them intend to leave Poland. The key difficulties of the integration process are as follows:

- the lack of language knowledge (only one of ten refugees’ centres is offering Polish language courses);
- the lack of clear specification of the refugees’ place in the social and health aid system (especially after reforms introduced in 1999);
- problems with obtaining legal employment;
- the high costs of flat renting;
- a “closed refugee centre model” excludes integration.

In 1995 an Individual Adaptation Program (IAP) was started, which functioned until the end of 1998. It provided a financial help for a maximum of 15 months. The assistance was designed for financing food, accommodations or medical care. It covered recognised refugees. Its limited success showed that foreigners did not consider Poland a target country – half of the participants who used the financial aid left Poland. Referring to the failure of the IAP as well as to the perception of Poland as a transit country the general opinion around among refugees is worth noting. The Office for Migration and Refugee is treated as “Refugees Travel Office,” the Geneva Travel Document as “Refugee Travel Permit Document to the West,” the IAP Integration
Programme as “a Refugee Ticket-Bill Program” and the stipend as “Pocket Money for Their Journey to the West.”

RESTRICTIONS ON THE ENTRY OF POTENTIAL ASYLUM SEEKERS AND ACCESSION TO PROCEDURE

Visa requirements

The country’s visa rules are defined in Act on Aliens 1997 (Art. 4). In the first half of the 90’s the principles set in the Act of 1963 were in force. The provincial headquarters of Milicja Obywatelska and later of Police issued visas via diplomatic posts and consular offices (abroad) and via the local governors in the country (until 1995). In 1991, under the prior Act on Foreigners (1963), the Border Guard was authorised to make decisions on visa issues.

The number of countries that signed a visa-free agreement with (or unilateral declaration to) Poland has increased dramatically since 1991, so in 1993 less than 1 per cent of travellers arrived in possession of visa in the country. The total registered number of issued visa can be found in Table 5.

Table 5

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of visas issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>55,319</td>
</tr>
<tr>
<td>1995</td>
<td>59,167</td>
</tr>
<tr>
<td>1996</td>
<td>62,465</td>
</tr>
<tr>
<td>1997</td>
<td>61,032</td>
</tr>
<tr>
<td>1998</td>
<td>43,355</td>
</tr>
<tr>
<td>1999</td>
<td>19,977</td>
</tr>
</tbody>
</table>

* There are no credible data on the ratio of transit visas.

Source: Ministry of the Interior and Administration: Department for Migration and Refugees.

There is a specific situation in the case of the agreement with the Russia Federation. Theoretically a visa-free agreement was reached in 1996 but the condition for its coming into effect was to mutually sign a readmission agreement. Such agreement was not reached, so the principles from a 1979 agreement apply to citizens of both counties. It did not provide for invitation issued by legal entities nor did it take into consideration the possibilities of business trips (its application range is limited but theoretically it is still in force.) The state’s ability to control border movements, especially in the case of unwanted migrants, decreased considerably with the introduction of free visa movements to such a large extent.

The aspirations for getting a substitute of such control were shown in agreements on free visa movements with the countries of former Soviet Union and were legitimised in the Act on Aliens of 1997. It changes the old principles in force and introduces four kinds of visa (for transit, residence during employment or study, repatriation and administrative). Administrative visas have been issued by the Border Guard as well as by the governors and entitled for 48 hours’ stay on the territory of Poland with the order to leave the country within this time limit without the possibility of re-entry. The reason could be the violation of the public order, attempted or actual illegal border crossing. The most important thing was not the short-term effect but the loss of right to enter Poland for a period of one year. Administrative visas were issued until the end of 1997.

There is an additional instrument limiting the inflow of undesirable immigrants, in particular of citizens of the former Soviet Union’s countries. A foreigner entering Poland has to present (on the Border Guard’s demand) financial resources necessary to cover the costs of entering, passing through or residing in the territory of Poland (Ordinance of Minister of the Interior and Administration from 17th June 1998). There are following the possibilities to prove the required financial cover on residence:

- Ownership of adequate Polish or foreign currency;
- Documents which enable one to obtain these resources in Poland;
• Letter of invitation issued by nationals, alien in possession of settlement permit or a company and registered at governor office (see the Table 6);
• Non-unified documents that confirm a reservation and payment for accommodation and food in Poland (so-called tourist document or voucher issued by travel agencies) (Act on Aliens 1997, Art. 6).

Table 6
Data on letter of invitation

<table>
<thead>
<tr>
<th></th>
<th>1998</th>
<th>1999</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registered letter of invitation from Polish nationals</td>
<td>75,014</td>
<td>39,516</td>
</tr>
<tr>
<td>From them to citizens of:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Belarus</td>
<td>40,914</td>
<td>13,026</td>
</tr>
<tr>
<td>Russia</td>
<td>17,788</td>
<td>8,094</td>
</tr>
<tr>
<td>Letter of invitation for family visitors</td>
<td>66,070</td>
<td>27,054</td>
</tr>
<tr>
<td>From them to citizens of:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Belarus</td>
<td>43,440</td>
<td>15,135</td>
</tr>
<tr>
<td>Russia</td>
<td>20,116</td>
<td>10,419</td>
</tr>
</tbody>
</table>

Source: Ministry of the Interior and Administration: Department of Migration and Refugees.

The letter of invitation and vouchers were introduced as instruments to reduce public-order risks caused by free migratory movements, in particular from the CIS-countries since 1997. They have been inserted into agreements (apart from Ukraine, Moldavia and Uzbekistan). Soon it became a mass phenomenon to forge or to misuse these instruments (e.g. circulation of false vouchers). The consular offices required travellers to prove whether they had a specified amount of money in cash or in the form of an invitation or voucher. It caused conflicts, too and reduced border movements on the eastern frontiers of Poland. Yet, it is not an isolated procedure but one applied quite often after the abolition of the visa obligation. Due to protest of politicians from the ex-SU and of the Economic Committee in the Cabinet in March 1998 the visa fees for the citizens of Belarus and Russia were decreased and set at 5 USD for a single-entry visa and at 20 USD for multiple-entry visa.

Carriers’ sanctions

The necessity of sanctions introduction against carriers transporting illegal migrants into the territory of Poland has appeared relatively late and was in direct connection with the development of transfer trails. These sanctions were introduced first in 1997 (Act on Aliens 1997, Art. 68). Accordingly, a carrier that brought an alien whose entry was rejected (for absence of valid documents, visa or financial cover) to the territory of Poland has immediately to secure his departure or to cover the costs of departure. If there is no possibility of immediate departure from the country an order to stay in a specified place is issued. It means a separated room in a transit zone of an airport or harbour with specified sanitary and food conditions financed by the carrier. Further on, the governor fines the carrier that brings illegal migrants on board up to 1,200 USD per person. In 1998 some 585 decisions (on 618 persons) were issued. It was LOT, Lufthansa, SAS, Air France, Swissair and Aeroflot that were frequently sanctioned. In 1999 226 passengers were captured, and lawful fines reached 86,000 USD.

According to the new criminal code that entered into force in August 1998 the transportation of illegal migrants is considered a crime. So it is punishable with imprisonment (up to 5 years). Despite of immigration service
expectations, there was no regulation on human smuggling inserted into the Act on Aliens of 1997. The fight against the transfer of illegal migrants has no significant effects. From the information of the Border Guard it follows e.g. that illegal migrants pay $2,000–10,000 (from Sri Lanka to Switzerland) for a transportation to a target country, while the scale and character of this phenomenon is showed by the above-mentioned example of people transfer using unexpected means of transportation (in summer 1992 a transfer of illegal migrants group from Pakistan and Bangladesh was captured that moved via Poland on board of a large Ukrainian military helicopter [Kozlowski, 1999]). The penal law sanction is not a deterrent. The situation becomes more complicated because of the fact that, as is commonly supposed, a part of the persons involved in smuggling are those who enjoy refugee status.

Border control

The prevention of illegal migration is the task of the Border Guard. The number of persons who were not allowed to enter the territory of Poland increased especially at the beginning of 1998, when new principles of border control were introduced. Poland, located on the way to Germany attracts transit movements accompanied by asylum requests and illegal employment combined with illegal attempts to cross the west border of Poland. The Border Guard arrested over 120,000 illegal migrants in the years 1990–1997, mostly citizens of Rumania, Bulgaria, Ukraine, Russia and Armenia. After 1997 they came from Afghanistan, Sri Lanka, Algeria, Iraq and Moldova. In 1998 about 30 groups have been stopped for illegal crossing on the German borders (478 persons). Table 8 covers border crimes including the unlawful crossing attempts.

There was a dramatic increase of border crime between 1990 and 1991 (331%). This trend continued in 1992 (147% increase) but it was reversed in the following two years (1993 decrease of 45%, 1992 decrease of 22%). The numerical decrease in 1993–1994 was

<table>
<thead>
<tr>
<th>Rejected entry on the Russian border</th>
<th>Rejected entry on the Lithuanian border</th>
<th>Rejected entry on the Belorussian border</th>
<th>Rejected entry on the Ukraine border</th>
</tr>
</thead>
<tbody>
<tr>
<td>January–June 1998</td>
<td>24,814</td>
<td>1,642</td>
<td>539</td>
</tr>
<tr>
<td>January–June 1999</td>
<td>20,133</td>
<td>640</td>
<td>554</td>
</tr>
</tbody>
</table>

Source: Border Guard, 1999
Table 8

Border crimes including readmitted persons (1990–1999)

<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern border</td>
<td>66</td>
<td>181</td>
<td>773</td>
<td>802</td>
<td>1,194</td>
<td>1,186</td>
<td>1,041</td>
<td>1,271</td>
<td>952</td>
<td>599</td>
</tr>
<tr>
<td>Southern border</td>
<td>1,702</td>
<td>1,440</td>
<td>2,068</td>
<td>1,901</td>
<td>2,269</td>
<td>2,643</td>
<td>3,088</td>
<td>2,607</td>
<td>2,541</td>
<td>2,422</td>
</tr>
<tr>
<td>German border</td>
<td>1,252</td>
<td>11,785</td>
<td>30,387</td>
<td>15,154</td>
<td>10,225</td>
<td>11,243</td>
<td>10,915</td>
<td>12,217</td>
<td>7,288</td>
<td>5,603</td>
</tr>
<tr>
<td>Sea border</td>
<td>107</td>
<td>80</td>
<td>130</td>
<td>166</td>
<td>221</td>
<td>116</td>
<td>98</td>
<td>144</td>
<td>138</td>
<td>98</td>
</tr>
<tr>
<td>Air border</td>
<td>20</td>
<td>103</td>
<td>223</td>
<td>275</td>
<td>407</td>
<td>409</td>
<td>393</td>
<td>225</td>
<td>209</td>
<td>161</td>
</tr>
<tr>
<td>Total</td>
<td>3,147</td>
<td>13,589</td>
<td>33,581</td>
<td>18,298</td>
<td>15,597</td>
<td>15,535</td>
<td>15,595</td>
<td>11,128</td>
<td>8,883</td>
<td></td>
</tr>
<tr>
<td>Foreigners</td>
<td>1,387</td>
<td>11,818</td>
<td>31,049</td>
<td>15,776</td>
<td>10,970</td>
<td>11,670</td>
<td>10,942</td>
<td>11,042</td>
<td>7,024</td>
<td>5,289</td>
</tr>
<tr>
<td>Polish citizens</td>
<td>1,760</td>
<td>11,771</td>
<td>2,532</td>
<td>2,522</td>
<td>3,346</td>
<td>3,927</td>
<td>4,593</td>
<td>4,553</td>
<td>4,104</td>
<td>3,594</td>
</tr>
</tbody>
</table>


a result of the restrictive policy of German authorities, and the growing efficiency of the Border Guard. However, it could also mean – especially in 1998 – that there was an institutionalisation of the transit process, which is even more difficult to uncover. Some attention should be paid to the fact that many more arrest cases are taking place on the western border than anywhere else. It suggests that a substantial part of foreigners legally enter the territory of Poland, and in the next step they try to get illegally to Germany. There are functional transfer trails through the territory of Poland (Kozlowski, 1999; Okolski, 1999a). The major ones are the following:

- “Balkan trail” used mostly by Rumanians, Bulgarians and citizens of the former Yugoslavia;
- The trail from Lithuania to Germany – used by Asians.

There are large numbers of migrants staying illegally in the territory of Poland. In the first half of 1998 publications appeared in the German press estimating the possible number of illegal migrants staying and waiting for the proper opportunity to move Germany. Its amount was estimated about 500,000 persons in Poland and another 3 million in Russia, Ukraine and Belarus. The representatives of the Ministry of the Interior and Administration and of the Border Guard denied that saying that a big part of these foreigners were overstaying “tourists” (mostly for trading purposes), and precise numbers were not available. There are three legal instruments combating illegal residence in Poland:

- Expulsion for defined reasons whereby the person expelled is obliged to leave the country. The local governors make the decision that is recorded in the passport of the given alien. Data on expulsion cases are read in Table 9.
- Deportation as the execution of the order of expulsion if it is not voluntarily observed. Its method is regulated in the amendment of the Act on Foreigners of 1963 causing many controversies. The foreigner could be detained for 48 hours or be expelled without appeal. For these reasons the Constitution Tribunal ruled the violation of the International Pact on Civic and Political Rights (Art. 9, Sec. 4) as well as the Constitution (Art. 1 and 87). In October 1992 the Constitution Tribunal recognised them unconstitutional, which resulted the absence of provisions on forced deportation from Poland until 1995. (Lodziński, 1997, 1999).
- Detention for public order. It is carried out by the police or Border Guard and usually precedes deportation. In the period analysed expelled foreigners originated mostly from the Ukraine (1,247 persons in 1998 and 2,521 in 1999), Bulgaria (1,360; 1,413), Rumania (1,537; 969) as well as from Armenia, Russia and India.
Table 9

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Issued decision</td>
<td>994</td>
<td>925*</td>
<td>1,843</td>
<td>3,199</td>
<td>5,166</td>
<td>5,087</td>
<td>7,955</td>
<td>8,531</td>
</tr>
<tr>
<td>Executed decision</td>
<td>896</td>
<td>578</td>
<td>1,029</td>
<td>2,371</td>
<td>3,167</td>
<td>3,794</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
</tbody>
</table>

* January–September

Source: Ministry of the Interior and Administration: Department for Migration and Refugees.

The safe country principle

Its idea appeared in Polish legislation when the Bill on Aliens was prepared. The definition of safe country of origin and of third country appears in the Act on Aliens of 1997 (Art. 35). It excludes the applicant from recognition if he comes to the territory of Poland from a safe third country or from a safe country of origin and his application is “manifestly unfounded.” If the applicants’ circumstances require confirmation, the decision may be delayed for another 7 days while he has to stay at a designated place. Generally, while the safe third country principle has an automatic character, the safe country of origin principle guarantees an applicant the possibility to explain his case. The Act (Art. 4, Point 10–11, Art. 36, Art. 95) entitles the Cabinet to publish in the form of a decree a list of safe countries. The list has not been issued up till now and other controversies have to be settled. Although they intend to limit the number of so-called refugees in orbit, its effect has not been proved. The automatic exclusion limits the possibility of taking into consideration the personal circumstances of the applicant. The required time spent on the territory of the safe third country is also controversial. Further on, this period is not unified even in the European Union (e.g. in French and Austrian law a transit is enough, in Danish law 14 days and in Swedish rules 20 days of residence are necessary). The Polish Act does not regulate these criteria at all, and allows for wide discretionary powers. Additionally, a contemporary standpoint assumes that a person seeking refuge should be satisfied with the shelter in the first safe country in which he arrives, otherwise they can be in orbit for years. (Mikolajczyk, 1997; Lodzinski, 1998b).

Readmission agreements

Readmission agreements are based on mutuality while their effectiveness depends mostly on how many agreements are concluded. In other cases there is a danger of the so-called readmission trap without further outlets to another readmitting country. This situation applies especially to countries such as Poland, which has accepted a large numbers of foreigners from Germany.

The first readmission agreements accompanied visa-free agreements with the countries of the Schengen Group and Austria in 1991. In other words they were a natural consequence of fears of mass illegal migration – among them an inflow of asylum seekers from Poland. The major commitment of the readmission agreement was that illegal migrants can be send back to Poland if they arrived to Germany via Poland with exception of such foreigners who spent over 6 months lawfully in Germany. A principle was also adopted that the total number of foreigners sent back to Poland could not exceed 10,000 yearly.

The project’s preparations were supported by countries, which later also signed similar agreements (Bulgaria, Czech Republic, Slovakia, Rumania, Ukraine in 1993, as well as Moldova, Croatia, Greece, Hungary and Slovenia in 1994). Moreover, the newly concluded visa-free agreements contained certain references to readmission (e.g. with Lithuania, Switzerland, Estonia and Latvia). In 1998 readmission agreements were signed with Canada, Sweden and Italy, and similar agreements are under preparation with China, Albania, India, Pakistan.
Vietnam, Sri Lanka, Bangladesh, Algeria and Kazakhstan. In the case of Russia and Belorus the agreements are still not signed, which blocks visa waivers. However, a possible transfer of foreigners may take place according to the Act on Legal Relations (EP, 1999). Table 10 shows the available figures.

Initially the number of persons taken back was much higher than the number of persons expelled. Most of the persons admitted arrived from the territory of Germany while the scale of the problem was smaller than expected. In 1999 Poland admitted some 2,000 foreigners, mostly from Germany. They originated from Afghanistan (26%), Moldova (15%), Ukraine (15%) and Yugoslavia (5%). In the same year 6,518 persons were expelled. It was three times more than were admitted. So it was possible only at the end of the decade to obtain “positive effects” related to readmission agreements.

In the years 1995–1996 the persons expelled were predominantly Armenians, Belarussians and Ukrainians. They were expelled to Ukraine (about 50%), Lithuania and Belarus.

Table 10
Number of those taken back and returned under readmission agreements (1993–1999)

<table>
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<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Taken back</td>
<td>2,679</td>
<td>6,882</td>
<td>9,098</td>
<td>12,813</td>
<td>13,075</td>
<td>10,686</td>
<td>9,455</td>
</tr>
<tr>
<td>Of those Polish citizens</td>
<td>n.a.</td>
<td>3,696</td>
<td>4,982</td>
<td>7,904</td>
<td>8,274</td>
<td>7,869</td>
<td>7,383</td>
</tr>
<tr>
<td>From Germany</td>
<td>2679</td>
<td>6,621</td>
<td>8,632</td>
<td>8,076</td>
<td>7,664</td>
<td>5,432</td>
<td>4,732</td>
</tr>
<tr>
<td>Of those Polish citizens</td>
<td>n.a.</td>
<td>3,496</td>
<td>4,566</td>
<td>3,228</td>
<td>2,931</td>
<td>2,722</td>
<td>2,747</td>
</tr>
<tr>
<td>Aliens returned and expelled</td>
<td>n.a.</td>
<td>1,024</td>
<td>2,144</td>
<td>3,449</td>
<td>5,166</td>
<td>7,079</td>
<td>6,518</td>
</tr>
</tbody>
</table>

Source: Polish Border Guard Headquarters.

Starting in 1996 the statistics encompass also the citizens of India, Sri Lanka, Bangladesh and Pakistan. Among the expelled persons Rumanians (28%), Bulgarians (12%), Ukrainians (15%) and Armenians (7%) were the most dominant groups. Since 1998 the number of expelled persons exceeded the number of foreigners taken back from abroad. Improvement in the efficiency of the Border Guard and the Police are assumed as a reason for this. The persons taken back in 1997 on the basis of the readmission agreements originated mostly from Asia (49.8%) and from the countries of the former Soviet Union’s (about 40%). The citizens of Afghanistan (15%), Ukraine (10%), Sri Lanka (12%) and the former Yugoslavia (16%) dominated in 1998 (BG, 1998, 1999).

Detention of asylum seekers

According to the UNHCR, an asylum seeker should be arrested only in cases when it is really necessary, namely for the purpose of identification (e.g. documents are destroyed). But for public order reason it is also acceptable when there is no other solution, and when screening and accommodation is provided in open centres (UNHCR Guidelines…, 1999).

Polish law regulates that an alien who has been arrested for attempting an illegal border crossing or who does not meet the lawful residence requirement may be put in a closed centre or arrested and expelled. Arrest is usually ordered if recidivism can be proved. In the absence of up-to-date, unified and accessible data-base the practice of the Border Guard is not equal. The majority of potential refugees tries to illegally get to the West, and after detention about 20-30 per cent of all applicants move on the border, mainly on the western one. When an illegal migrant is detained, he may declare his intention to submit an asylum application. If the commandant of the Border Guard post rejects it as non-acceptable, the foreigner may appeal to the Ministry of the Interior and Administration. In practice, such a foreigner tries very often to cross the border again, and for repeated illegal
crossing expulsion and arrest is possible. Public administration has 48 hours to make a decision on expulsion or to request the arrest in court while they have to launch the refugee proceedings. Problems are occurred when a large group of foreigners was arrested and specialised translators are needed as well as other administrators. The other applicant who reached the centre he could submit a refugee application. In such a case the 1951 Convention has priority over expulsion. A foreigner stays also in a centre until his refugee status is determined. In the case of recognition he may leave the centre and stay in the country (although he may suffer the consequences of illegal border crossing). If the decision is negative he is expelled from Poland. Arrest cannot exceed 90 days. If the expulsion order is not executed during this time, he has the right to leave the guarded centre or arrest.

There is one guarded centre (Lesznowola) supervised by the Ministry of the Interior and Administration and the Police. There are also deportation jails under the control of the Border Guard or the police (currently 24). Potential refugees are accommodated in the Lesznowola centre whose character is similar to other refugee centres with the exception of free departure. In 1997 about 700 foreigners were staying in Lesznowola, and from them 296 submitted asylum requests but 265 left the guarded centre after 90 days. Of the 574 foreigners 251 were staying in deportation jails (Liebaut, 1999).

Regardless of the above-mentioned, there are also some open centres in Poland. Many asylum seekers (with the exception of applicants in detention) are accommodated in these centres or state-financed shelters (in hotels) and food, medical services, clothes, personal hygienic kits, financial aid to cover current expenses or departure costs to the third country may be granted (Decree issued by the Minister of the Interior and Administration). In 1991 there were five centres operating which were under the supervision of the Ministry of the Interior. A total of 225 persons were staying in the centres. In 1993 about 900 foreigners were accommodated in centres or shelters, and the Polish Red Cross ran 14 shelters. In 1997 there were 10 centres in which accommodation was provided for over 600 foreigners. Nowadays there are 5 centres under the supervision of the Ministry of the Interior and Administration: the Central Reception centre in Dubak during the first three months of residence, and in further centres in Lukow, Lublin and Smoszewo. On 7th April 2000 there were 504 persons staying at the centres.

SUBSIDIARY FORMS OF PROTECTION

Polish law provides no additional forms of protection. Future changes may be forced by the events connected with the Kosovo conflict as well as the arrival of a new influx of refugees. The lack of temporary or subsidiary status does not allow the authority to make flexible actions. For this reason all migrants in need of protection are inspired to apply for refugee status despite of the lack of any possibility of being recognised. A public debate drew attention to the necessity of establishing adequate legal instruments for victims of Kosovo. War refugees from the former Yugoslavia staying in Poland in the first half of the 90’s obtained residence permit under the non-refoulement principle but their status was not comparable with the humanitarian one.

THE INFLUENCE OF EU ASYLUM AND MIGRATION POLICIES

The law harmonisation and adoption of acquis seems to be a key issue in the question of access to the European Union. Two significant elements of adaptation may be distinguished. The first one is the free movement of persons inside the Union applying the Schengen regime. The second one is the common principles of asylum law (e.g. Dublin Convention). Making a comparison of current Polish law on immigration and principles of asylum to the same rules in the Union several potential changes are expected as follows.

• Polish law recognised as a foreigner every person who has no Polish citizenship. Such definition is different from the one currently applied in the Union where foreigner means a third country national out of the scope of the Community law and benefits.

• The requirements of entry and types of visa are different from the principles being applied in Poland. For instance, rules on border control and entry of citizens from the former Soviet Union, Bulgaria and Rumania require changes. It will be necessary to terminate visa-free travel.
Polish law provides for two separate institutions, asylum and refugee status, so the concept of “asylum application” from *acquis* involves terminological simplification and the unification of authority competence.

A provision should be formulated that guarantees the applicant for refugee status the chance of presenting his arguments during the examination. Currently this is not obligatory, so it is not applied carried out.

The mechanisms of migration regime in Poland also require certain changes (Lodzinski, 1998b; Zdanowicz, 1999).

**Bilateral connections**

The management of migration is strongly influenced by bilateral co-operation that consists of old and new agreements on migratory movements and their implementation.

- The regulations concerning the state’s border were formulated already in the 50’s and 60’s; in the years 1990–1999 additional agreements were concluded with newly established countries (the Czech Republic, Slovakia, Lithuania, Ukraine and the Russian Federation).
- Agreements on border control, customs, people and commodities’ control but also more efficient co-operation between the border and immigration services of neighbouring countries (Germany, Russia, Belorus, Ukraine, the Czech Republic, Lithuania) are relevant. They intend to co-operate in border zone activities, in fighting organised crime or visa-free travel.
- Readmission agreements and visa-free agreements with numerous countries play an outstanding role in migration management, too.
- The agreements containing financial assistance declarations – only one such agreement was signed until now. It accompanied the readmission agreement with Germany (1993), when Germany committed itself to transferring 580 billion Zloty to Poland. These resources were allocated in the years 1993–1999 in favour of the Ministry of the Interior and Administration as well as of the Border Guard. The total was divided as follows: 200 billion Zloty were allocated for communication and IT equipment and 380 billion Zloty for transportation equipment (Silawko 1994, Border Guard Headquarters). From a practical point of view the co-operation with its German partners – the borders service (Bundesgrenzschutz), police and customs office – has to be recognised as especially fruitful. Thanks to this it is possible to introduce gradually the Union’s standards and such activities as joint patrols, the exchange of liaison officers, the establishment of consultation points should be treated as direct preparations for tasks connected with the protection of the future union’s external border.

**EU influences**

European Union opinions on Polish migration and asylum policy are expressed in official documents specifying the possibilities and advances of Poland on its way to integration. The significant influence of the EU on the legal rules in force in Poland is demonstrated below.

- Agenda 2000 specifies that an asylum, border control as well as the immigration policies are the key problems belonging to the system of justice and home affairs. The fact that Poland joined the Council of Europe (1991) and ratified most of its documents concerning human rights was stressed. Certain legal solutions were criticised, especially the obsolete Act on Foreigners (1963).
- The extensiveness of the territory and the length of the borders require a lot of work in the context of many institutional imperfections. It was stated that the government of Poland has had no effective control over the migrants’ staying on the territory of Poland. Attention was also paid to the, from a EU point of view, unacceptable free visa movements for the CIS countries and to the necessity of continuing the process, which would extend the number of countries signing readmission agreements (EC, 1997).
- The European Commission has formally recognised the new Act on Aliens. It was stated in the Regular Report from 1998 that it is consistent with the Community law, especially in the field of admission conditions.
Attention was paid to the termination of visa-free agreements with Armenia, the People’s Republic of Korea and Vietnam. However, it was also recalled that no solutions were prepared in relation to Ukraine, Russia and Belarus in the field of migratory movement although readmission agreements are mentioned.

Although the asylum procedure is similar to European standards their shortages have come to light in actual practice. For instance, it will be necessary to train additional officials to become more effective, to establish a special asylum office (EC, 1998), or further readmission agreements are also suggested. A lack of lists of safe countries of origin and safe third countries was considered as one of the reasons for such a situation.

The actual border regime on the eastern side was sharply criticised. It has been recognised that it has a short-term character, there is no long-term activity planning and corresponding financial plans for the venture (despite that since 1997 a Integrated Plan for Developing the Eastern Border was realised). Attention was paid to the budget for the Border Guard that was increasing but it could not cover capacity building. This happens in a situation when vacancies on the Border Guard staff are obvious: over 30 per cent of the posts are not filled (EC, 1999). The last report of the European Commission points out the necessity of safe Eastern borders, which strongly influences the date of accession of the country. Plans for border regime development being made in the inter-ministerial team cover legal modification, co-operation in border’s issues, improvement of the efficiency of customs and control with the Czech Republic, Germany, Ukraine, Belorus and Russia. Termination of visa-free agreements is prepared with Azerbaijan, Georgia, Kirgistan, Tadjikistan, Turkmenistan, Kazakhstan, Moldova, Cuba and Mongolia, Belorus, Macedoni, Russia, Bulgaria, Rumania, Ukraine. Some new agreements on visa-free travel will be signed among others with Brazil, Israel, Australia and Canada.

Operation of Phare funds

Phare resources predominantly support the process of institutional development and structural modernisation of the administration. Most significant is the experts’ support and the possibility of equipment purchase. Phare also provides the co-financing of specific investment projects, among others those concerning the justice system, internal affairs and the so-called twinning. The Ministry of the Interior and Administration is responsible for the co-ordination of the Phare programs connected with border control. In the years 1997–1999 the following programs were realised:

- An Integrated Programme for the Polish Eastern Border (police and border guard communication equipment, observational equipment, terrain patrol vehicles, border crossings infrastructure, specialist and language training, study trips for the Border Guard and Department for Migration and Refugee Affairs). Integrated Eastern Border programs will have a budget of about 30 million euro for the years 2000–2006.
- A Third Pillar Programme (supports for institutions that are involved in border control, combating organised crime, migration and visa policy, strengthening the institution of the justice system, development of a national fingerprint identification system).
- 33 million euro is provided for twinning, which has two dimensions: police activities, in which the United Kingdom, France and the Netherlands are partners, and eastern border strengthening, in which Germany, Netherlands and Denmark are the partners.
- A Cross-Border Co-operation Programme (CBC) is realised on the territory of Poland within Phare. In the years 1994–1999 the total funds obtained amounted to 369 million euro covering transportation infrastructure, environmental protection, human resources development, and border protection (for documents scanners, communication equipment, terrain vehicles, translating, foreign language courses).

Briefly, Poland has probably already overcome the first organisational barriers in border and immigration services. It seems that funds are used more efficiently and that there are also fewer problems with the cumbersome application procedure.

CONCLUSIONS
Since the abolition of the personal movements barriers increasing immigration pressures have become even more pronounced – a phenomenon without a precedent in modern Polish history. The refugee procedure, which appeared in the Polish legal system at the beginning of the 90’s, was gradually improved. Simultaneously, it can be assumed that the efficiency of the institutions involved in the asylum process increased as well. In this context the Act on Aliens of 1997 is most significant.

The regulations applied are still not perfect (among other things the safe country of origin and safe third country principles, the lack of a humanitarian status institution). Efforts are being made to establish more efficient rules and principles. Nevertheless, changes in the institutional sphere are also necessary – especially within the Ministry of the Interior and Administration. Only such activities may secure an adequate position towards increasing pressure from the side of potential refugees, which is to be expected in light of Poland’s entry to the European Union.

The last sections clearly point to the significant influence of the European Union on the legislative norms in force. One of the conditions for realising the tasks imposed by the integration process will be the activation and effective usage of the Union’s assistance funds. Investments in infrastructure and modernised equipment will obviously influence the quality of border and immigration services. Co-operation with West-European partners as well as the possibility of direct contact with procedures applied in countries with greater experience in matters of asylum and refugees will also help to secure the most optimal institutional solutions in the sphere of Polish migration policy.

ACKNOWLEDGEMENTS

I wish to kindly thanked the employees of the Ministry of the Interior and Administration, Polish Border Guard Headquarters, the UNHCR and Polish Humanitarian Action for their kindness and help without which this paper could not have been created.

SOURCES


Selected legal instruments on immigration policy in Poland

- Constitution of the Republic of Poland of 22 July 1952,
- Constitution of the Republic of Poland of 2 April 1997,
- Act on Foreigners of 29 March 1963 (Journal of Law, No. 23 of 1995, Item 120),
- Act on Social Welfare, dated November 29, 1990 (Journal of Law, No. 64 of 1998, Item 414 with later amendments),
- Ordinance of the Minister of Interior and Administration of 10 February, 1999, on the Conditions That Have to be Fulfilled by Guarded Centres for Aliens and Deportation Prisons and Standing Orders for Inmates of Such Centres and Prisons (Journal of Law, No. 20 of 1999, Item 179),
- Ordinance of the Chairman of the Council of Ministers of 20 January, 1999, on Granting the Council for Refugees Organisational Statuses and Internal Regulations and The Determination of Rules of Remuneration of its Members (Journal of Law, No. 7 of 1999, Item 54),
- Ordinance of the Minister of Interior and Administration of 17 June, 1998, on Determining the Resources Necessary to Cover the Costs of Entry, Transit, Stay and Departure of Aliens Crossing the Border of the Republic of Poland and Detailed Rules of Documenting the Possession of Such Resources (Journal of Law, No. 90 of 1998, Item 574),
- Ordinance of the Minister of Interior and Administration of 6 February, 1998, on the Conditions That Have to be Fulfilled by Centres for Refugee Status Seekers and Standing Orders for Inmates in Such Centres (Journal of Law, No. 23 of 1998, Item 125),
### Table 1
**Border traffic of persons (1990–1998)**

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</tr>
</thead>
<tbody>
<tr>
<td>TOTAL</td>
<td>84,250,304</td>
<td>118,107,414</td>
<td>157,437,627</td>
<td>185,552,514</td>
<td>217,118,132</td>
<td>236,940,427</td>
<td>262,344,378</td>
<td>273,888,012</td>
<td>274,884,418</td>
<td>1,726,272,922</td>
<td>+132.7%</td>
</tr>
<tr>
<td>Eastern border</td>
<td>10,917,997</td>
<td>16,891,569</td>
<td>18,390,757</td>
<td>19,163,133</td>
<td>21,093,964</td>
<td>26,580,942</td>
<td>28,646,016</td>
<td>29,020,657</td>
<td>23,465,160</td>
<td>183,252,198</td>
<td>+ 38.9%</td>
</tr>
<tr>
<td>Germany – Western border*</td>
<td>42,364,574</td>
<td>60,585,830</td>
<td>84,047,692</td>
<td>118,767,710</td>
<td>133,978,169</td>
<td>130,912,609</td>
<td>127,763,691</td>
<td>140,216,355</td>
<td>141,381,130</td>
<td>937,653,186</td>
<td>+133.4%</td>
</tr>
<tr>
<td>Sea border</td>
<td>703,916</td>
<td>741,739</td>
<td>937,577</td>
<td>992,657</td>
<td>1,215,903</td>
<td>1,326,177</td>
<td>1,564,196</td>
<td>3,836,006</td>
<td>3,933,639</td>
<td>14,547,894</td>
<td>+430.3%</td>
</tr>
<tr>
<td>Air border</td>
<td>2,378,854</td>
<td>1,927,818</td>
<td>1,973,974</td>
<td>2,111,332</td>
<td>2,304,518</td>
<td>2,648,925</td>
<td>2,949,589</td>
<td>3,470,383</td>
<td>3,933,889</td>
<td>21,320,428</td>
<td>+104.1%</td>
</tr>
<tr>
<td>Non-passport border traffic</td>
<td>4,942,524</td>
<td>4,187,060</td>
<td>3,373,800</td>
<td>2,065,214</td>
<td>1,937,815</td>
<td>2,069,779</td>
<td>2,219,119</td>
<td>2,484,120</td>
<td>2,423,935</td>
<td>20,760,842</td>
<td>– 42.1%</td>
</tr>
</tbody>
</table>

* It includes the local border traffic since 1993.

Source: Polish Border Guard Headquarters.

### Table 2
**Number of asylum seekers and recognised refugees between 1990–1999**

<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>asylum applications submitted(1)</td>
<td>640</td>
<td>470</td>
<td>567</td>
<td>819</td>
<td>598</td>
<td>843</td>
<td>3,212</td>
<td>3,544</td>
<td>3,405</td>
<td>2,955</td>
<td>17,053</td>
</tr>
<tr>
<td>of rejected applications</td>
<td>107</td>
<td>n.a.</td>
<td>58</td>
<td>135</td>
<td>191</td>
<td>193</td>
<td>374</td>
<td>588</td>
<td>1,297</td>
<td>1,865</td>
<td>4,808</td>
</tr>
<tr>
<td>applications closed on other grounds</td>
<td>148</td>
<td>33</td>
<td>0</td>
<td>235</td>
<td>363</td>
<td>394</td>
<td>1,457</td>
<td>3,148</td>
<td>1,691</td>
<td>808</td>
<td>8,277</td>
</tr>
<tr>
<td>recognised refugees(2)</td>
<td>385</td>
<td>329</td>
<td>75</td>
<td>61</td>
<td>391</td>
<td>105</td>
<td>120</td>
<td>139</td>
<td>54</td>
<td>34</td>
<td>1,693</td>
</tr>
</tbody>
</table>

(1) Including accompanying family members; (2) Recognition of asylum-seekers under the 1951 Convention; (3) Until the ratification of the 1951 Convention the refugee procedures have been carried out without the mediation of Polish authorities – data quoted came from information obtained by UNHCR, other sources providing data which differ substantially; (4) Data for March 2000.
Source: Ministry of the Interior and Administration: Department for Migration and Refugees, UNHCR Warsaw.
FACTS ON MIGRATORY MOVEMENTS

Under the former Yugoslavia, Slovenia, as one of six republics, had no competence in the field of asylum. The institute of asylum was in the domain of the federation and all regular proceedings had been handled in Belgrade. Upon the disintegration of the common state the number of refugee-related issues in Slovenia increased while many war refugees fled to Slovenia from the war affected regions of the former Yugoslavia.

Considering legal and moral obligations, the independent Slovenia has established its asylum policy aiming to the following goals: (1) the protection of the asylum institution by developing a comprehensive refugee policy directed to manage massive influxes of refugees and individual asylum seekers; (2) respecting the non-refoulement principle strictly; (3) the assurance of effective protection and assistance, together with repatriation programs with special consideration to the protection of children and other categories of vulnerable refugees; (4) co-operation with other countries at times of massive refugee crises following the principle of burden-sharing; the contribution to solving refugee problems; (5) the elimination as far as possible the causes of massive refugee movements by using political, economic and moral means.

The tables below summarise the migration pressure on Slovenia and various groups of migrants arriving in recent years.

We can expect in future a much higher number of asylum seekers transiting Slovenia only to lodge asylum applications in other European states or in countries overseas that would return them according to readmission agreements or the Parallel Dublin Convention. Statistics show that migrants who applied for asylum in Slovenia have often disappeared shortly after arrival and being accommodated; one could assume that they continued their journey to developed European countries. Due to the international prevention of double or multiple asylum applications, the asylum seeker will not be able to abuse the asylum application in order to transit. However, it means that Slovenia is a safe country, and potential applicants might be returned to Slovenia. Thus Slovenia carries more burdens of asylum procedure in accordance with domestic regulations.
### Table 1

<table>
<thead>
<tr>
<th></th>
<th>1998</th>
<th>1999</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of applications</td>
<td>337</td>
<td>744</td>
</tr>
<tr>
<td>Arrived from Yugoslavia</td>
<td>229</td>
<td>320</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>31</td>
<td></td>
</tr>
<tr>
<td>Iran</td>
<td>20</td>
<td>90</td>
</tr>
<tr>
<td>Pakistan</td>
<td>17</td>
<td>25</td>
</tr>
<tr>
<td>Iraq</td>
<td></td>
<td>58</td>
</tr>
<tr>
<td>Turkey</td>
<td></td>
<td>58</td>
</tr>
<tr>
<td>Armenia</td>
<td></td>
<td>38</td>
</tr>
<tr>
<td>Ghana</td>
<td></td>
<td>24</td>
</tr>
<tr>
<td>No. of issued decisions</td>
<td>82</td>
<td>441</td>
</tr>
<tr>
<td>Recognition</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Rejection</td>
<td>27</td>
<td>87</td>
</tr>
<tr>
<td>Stopped procedure</td>
<td>13</td>
<td>237</td>
</tr>
<tr>
<td>Dismissed applications</td>
<td>43</td>
<td>117</td>
</tr>
<tr>
<td>Pending cases</td>
<td>286</td>
<td>589</td>
</tr>
</tbody>
</table>

### Table 2
Protected migrants according to decisions (1993–1999)

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Recognised refugees</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Temporary residence on humanitarian grounds</td>
<td>–</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>57</td>
<td>26</td>
<td>8</td>
</tr>
<tr>
<td>Temporary refuge</td>
<td>31,196</td>
<td>24,146</td>
<td>20,434</td>
<td>10,515</td>
<td>4,151</td>
<td>3,332</td>
<td>4,369</td>
</tr>
</tbody>
</table>

### Table 3
Number of residing migrants under protection (1994–1999)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Recognised temporary refugees</td>
<td>24,146</td>
<td>20,434</td>
<td>10,515</td>
<td>4,151</td>
<td>3,332</td>
<td>4,369</td>
</tr>
<tr>
<td>Temporary refugee card holders</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>65</td>
<td>41</td>
<td>–</td>
</tr>
<tr>
<td>Recognised refugees</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Number of issued temporary residence permits on humanitarian grounds</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>57</td>
<td>26</td>
<td>9</td>
</tr>
<tr>
<td>Number of valid temporary residence permit holders on humanitarian grounds</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>50</td>
<td>20</td>
<td>8</td>
</tr>
</tbody>
</table>
### Table 4

<table>
<thead>
<tr>
<th>Year</th>
<th>Accommodated</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In collective centres</td>
<td>With relatives</td>
</tr>
<tr>
<td>1992</td>
<td>16,063</td>
<td>46,937</td>
</tr>
<tr>
<td>1993</td>
<td>11,403</td>
<td>19,715</td>
</tr>
<tr>
<td>1994</td>
<td>7,827</td>
<td>23,029</td>
</tr>
<tr>
<td>1995</td>
<td>6,030</td>
<td>18,450</td>
</tr>
<tr>
<td>1996</td>
<td>3,762</td>
<td>10,315</td>
</tr>
<tr>
<td>1997</td>
<td>2,263</td>
<td>2,314</td>
</tr>
<tr>
<td>1998</td>
<td>1,725</td>
<td>1,855</td>
</tr>
</tbody>
</table>

### Table 5
Illegal crossing of the state border (1996–1998)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Croatia</td>
<td>1,606</td>
<td>3,320</td>
<td>4,921</td>
</tr>
<tr>
<td>Hungary</td>
<td>811</td>
<td>7,733</td>
<td>4,014</td>
</tr>
<tr>
<td>Austria</td>
<td>118</td>
<td>254</td>
<td>715</td>
</tr>
<tr>
<td>Italy</td>
<td>1,319</td>
<td>1,750</td>
<td>3,407</td>
</tr>
<tr>
<td>Sea border crossings</td>
<td>23</td>
<td>26</td>
<td>19</td>
</tr>
<tr>
<td>Total (including non-mentioned persons)</td>
<td>3,877</td>
<td>7,093</td>
<td>13,740</td>
</tr>
</tbody>
</table>

### Table 6

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Aliens waiting for recognition of refugee status</td>
<td>14</td>
<td>10</td>
<td>10</td>
<td>65</td>
<td>102</td>
<td>263</td>
</tr>
<tr>
<td>Aliens in the procedure of identity checking</td>
<td>165</td>
<td>349</td>
<td>304</td>
<td>441</td>
<td>981</td>
<td>2,632</td>
</tr>
<tr>
<td>Aliens who cannot be deported immediately</td>
<td>1,738</td>
<td>2,478</td>
<td>2,019</td>
<td>1,564</td>
<td>2,868</td>
<td>5,610</td>
</tr>
<tr>
<td>Other categories</td>
<td>837</td>
<td>211</td>
<td>555</td>
<td>25</td>
<td>218</td>
<td>364</td>
</tr>
</tbody>
</table>
LEGAL INSTRUMENTS ON ASYLUM AND CONNECTED ISSUES

- Rules on asylum according to the 1951 Geneva Convention were inserted at first into ten separate articles of the Aliens Act (1991, Art. 34 to 43). They defined the refugee notion, the amount and duration of certain benefits for recognised persons as well as the asylum procedure. The loopholes in the Law were filled by numerous regulations from the Law on General Administrative Procedure (No. 52-658/56 until April 2000), and numerous rules of implementation were adopted. They are as follows: (1) Handbook on how to handle applications for refugee status and basic care of refugees (No. 25/1991), (2) Decree on the establishment of the Office for Immigration and Refugees (No. 27/1992), (3) Handbook on the implementation of the Alien Law (No. 19-15/1991) and (4) Decree on the implementation of the rights of recognised refugees (No. 44-2763/1996).

- The Republic of Slovenia adopted the right to asylum in the Constitution. “Within the framework of the law, the right to asylum shall be recognised to foreign citizens and to stateless persons, who are being persecuted for reasons of standing up for human rights and fundamental freedoms” (Art. 48). Moreover, the Constitution defines that the laws and other regulations of Slovenia must be in conformity with generally adopted principles of international legislation and with international agreements, which bind Slovenia (Art. 8). Ratified and published international agreements are applied directly.


- The asylum issue in Slovenia includes two aspects. The Law on Temporary Refuge (No. 1139 of 1997) recognises temporary refuge to persons in danger, who have fled from their country of origin in masses due to war, occupation and/or due to massive violations of human rights. The Aliens Act (No. 1 of 1991) and since 1999 the Law on Asylum (No. 61 of 1999) have regulated the recognition of permanent asylum according to the 1951 Geneva Convention. The Law on Asylum takes into consideration several international legal documents. For instance, the 1951 Convention, ECHR, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment (1987), the Convention Determining the State Responsible for Examining Asylum Requests Lodged in One of the Member States of the European Communities (1990), the Resolution of the Council of the European Union on Minimum Guarantees in Asylum Procedure (1995), the Resolution on a Harmonised Approach to Questions Concerning Host Third Countries (1991), the Conclusion on Countries in Which There is Generally No Serious Risk of Persecution (1991), the Joint Standpoint on the Harmonised Use of the Refugee Definition in Art. 1 of the 1951 Convention Relating to the Status of Refugees (1996) were taken into account.
• The legal status of refugees is covered by the Decree on the implementation of the rights of recognised refugees (No. 44/1996).
• Slovenia has not yet adopted implementation rules in connection with the Law on Asylum. For this reason the Decree on the implementation of the rights of recognised refugees and the Handbook on how to handle applications for recognition of refugee status and basic care of refugees continuously have to be applied if they are not contrary to the Law on Asylum.
• When new states have been formed in the territory of the former Yugoslavia, the legal position of persons residing out of the country of citizenship had to be regulated. Slovenia was the destination for many nationals of other republics for shorter or longer periods of time, mostly for economic reasons. They were registered as permanent residents and could enjoy all rights in Slovenia. The Constitutional Law on the Implementation of the Basic Constitutional Charter on the Independence and Sovereignty of Slovenia (No. 1-6/1991) provided (Art. 13) that nationals of other republics registered as permanent residents on the day of the referendum on independence and sovereignty (23 December 1990) and actually living in Slovenia, enjoy equal rights as Slovene citizens. Upon request they could acquire Slovene citizenship according to Article 40 of the Citizenship Act (No. 1-8/1991) until a certain deadline defined in the Alien Law (Art. 81). Upon becoming independent, Slovenia has granted citizenship under Article 40 of the Citizenship Act to 170,000 nationals of other republics of the former Yugoslavia. Provisions of the Alien Law were not applied to the nationals of other republics until decisions on the acquisition of citizenship were pending. The independence of Slovenia did bring changes to the legal situation of nationals from other republics that had not acquired Slovene citizenship. The Alien Law contains no special provisions for this group. These persons were given the status of alien and needed to comply with the strict conditions of the Alien Law (e.g. proving means of subsistence and accommodation) although they entered the territory as non-aliens. Conflicts were generated by the fact that many of them became illegal migrants. Since 1991, although the changing Alien Law has offered various possibilities for short-term (up to three months), temporary or permanent residence in Slovenia, the status of foreigners have not been clearly regulated and stabilised because of the war or warfare situation. For instance, the majority of foreigners could not obtain valid passports or identity certificates as necessary attachments to authorisation. The incompleteness and unconstitutional character of the Aliens Act is clearly shown in the decision of the Constitutional Court in 1999 (No. U-I-284/94). It states explicitly that the provisions of the Alien Law (Para. 2 of Art. 13, Para. 1 of Art. 16) should not apply to nationals of other republics that did not acquire the citizenship of Slovenia, and competent authorities should not have transferred these persons from the existing registry of permanent residents into the registry of aliens ex officio without notifying the persons in question. For this reason Parliament had to adopt the Law on the Regulation of the Status of Nationals of Other Successor States of the Former Yugoslavia (No. 61/1999). It offered the opportunity to regulate the legal status of the persons concerned regardless of the provisions of the Alien Law. The permanent residence permit has to be issued for those residing in Slovenia since the day of independence.
• The country ratified the European Convention on Human Rights (1950, hereinafter ECHR) in 1994, just one year after joining the Council of Europe. Its Art. 3 protects a
person from being expelled to a country in which there is a serious risk that he/she would be exposed to inhuman or degrading treatment.

- The Law on Administrative Disputes (No. 50-264/87) regulates the judicial review of final administrative decisions on asylum requests.
- Numerous rules connected to the prevention of illegal migration were adopted. Besides the Alien Law the Law on State Border Control (No. 212-08/91-3/2), the Law on Evidence of Residents and Registry of Citizens (No. 204-1/82), the Law on Travelling Documents of Citizens of the R Slovenia may be picked from the set. Moreover, Slovenia is preparing suitable adjustment of its visa regime fitting it to the Schengen and EU system within the framework, for example, of the Budapest process.

**Institutional actors**

A Resolution on the migration policy of Slovenia (No. 40-1991/1999) appointed the major state organs as regulation and decision-making agencies in asylum-related affairs, residence and naturalisation authorisation.

- Until the adoption of the Law on Temporary Refuge (1997) the Office for Immigration and Refugees passed decisions on the recognition of temporary refuge. According to Government resolutions temporary refuge was granted to refugees from Croatia and Bosnia-Herzegovina, in particular on the grounds of family unification. The Law on Temporary Refuge (Art. 12) entitled collective centres to determine temporary refuge. The local administrative units of the Department for Passports registered temporary residence and made further decisions on temporary refuge.
- The Ministry of the Interior (Asylum Department) made decisions on appeals against rejected requests and withdrawal of temporary refuge. A refused applicant may submit a new asylum application if circumstances are proved to have changed since the first decision.
- Administrative disputes could be launched at the Administrative Court against the final administrative rejection within 15 days (Law on Administrative Disputes, Art. 4). It has a pending effect on execution. The Court shall issue judgement within 30 days. If the Administrative Court recognises that facts and circumstances have been partly or incompletely established, or the situation in the country of origin has changed, the administrative decision is modified.
- The Asylum Department (the Ministry of the Interior) is responsible for asylum procedures at the first instance. In 1998, the Administration was re-organised and the division of work was reshaped. The Department obtained the recognition of refugee status, and making second instance decisions on temporary refuge and the issue of temporary residence permits on humanitarian grounds. Furthermore, it co-operates with other units of the Ministry and international organisations, too.
- The alien can state at the time of entry that he intends to apply for asylum in Slovenia. In such cases the border authorities must allow aliens to enter despite of missing conditions defined in Alien Law (Art. 7 of the Law on Asylum). He shall be treated as asylum seeker, even though he has not yet submitted the formal application. (Art. 3 of the Alien Law) Competent border control officials have instructions issued by the Ministry of the Interior
on how to act in such cases (e.g. providing information without delay in order to submit the formal application).

- The transit home for foreigners has been established for accommodation of aliens during procedures for recognition of refugee status (Art. 41 of the Alien Law). It was established and managed by the Ministry of Interior that provides for subsistence and health care for inmates. Before adoption of the Law on Asylum, the Transit Home for Foreigners was re-organised and split into two parts: the Asylum Home and Deportation Centre. The Asylum Home accommodates various aliens. Asylum applicants are accommodated in the Asylum Home. Both provide basic care including accommodation, food, clothes and pocket money while inmates must contribute to the proportionate share by own resources.

- The successful implementation of asylum policy to a great extent depends on co-operation between the state administration and the local communities, NGOs and international organisations. This also relates to the co-operation with other state and interstate structures, such as the Council of Europe or the European Union.

**Mechanism of asylum management**

We can refer to several categories of persons who are entitled to protection in Slovenia:

- Persons who apply for refugee status in accordance with the 1951 Convention and Law on Asylum as individually persecuted ones.
- Spouses, single minors and parents of minor applicants can also be recognised under certain conditions. In the procedure, the existence of family status shall be examined.
- Persons who are permitted to reside temporarily on humanitarian grounds. In the procedure, the objective circumstances of the applicant shall be established.
- Persons seeking temporary refuge, if war or war-like conditions have arisen in a particular country, and in the case of occupation or massive violations of human rights. It shall be established in the procedure whether the person belongs to a particular group of persons.
- Persons who are permitted to remain temporarily in the territory of Slovenia because of the implementation of the non-refoulement principle. It shall be established in the procedure whether the individual danger exists in the case of returning him to a certain country that does not respect and implement the principle of the prohibition of torture, inhuman and degrading treatment and non-refoulement.

Each category contains different types of legal status. The most powerful protection is given to recognised refugees. This status allows them to settle permanently.

The proceeding authority accepting the application is obliged to conduct an interview with the applicant regardless whether the application was lodged in writing or orally. An interpreter shall be provided and the interview goes on record. All documents are forwarded to the Sector for Foreigners (the Ministry of the Interior) immediately. It often happened in practice that particular asylum seekers did not lodge the application at the police station immediately, so they missed the preclusive deadline of three days, especially those who had entered the country illegally. Some applicants rejected for missing the
deadline state having tried to submit the request at the police station but it was misunderstood for linguistic reasons. Unsuccessful applicants often claim that the Transit Home dismissed them and so they were not able to lodge applications in time, or they have been placed into custody waiting for expulsion. They are frequently able to submit applications only with the assistance of a legal representative. The modified Law on Asylum deleted the three day deadline for lodging the application, while introducing the system of specially trained and qualified officials.

An alien who illegally enters has to request asylum as soon as possible at the Ministry of the Interior, at the Asylum Home or at the police. Aliens abroad may submit their application at the diplomatic-consular missions of Slovenia. The authorities in charge of the supervision of crossing the state border and other local authorities that accept the application are obliged to direct the alien to the Asylum Home immediately while the notice on application is forwarded to the proceeding authority without delay.

Asylum seekers are not allowed to leave Slovenia during the procedure, while permits to cross the border and return to Slovenia are issued only in exceptional cases by the competent authorities. In the cases of deportation of asylum seekers whose asylum application has been ultimately rejected and the deadline for leaving the country has been set, provisions on the forcible removal of the aliens shall be used (Art. 21 of the Law on Asylum). Throughout the procedure, until the ultimate rejection of application, the asylum seeker cannot apply for a temporary residence permit in the R Slovenia under the Aliens Act.

The Law allows the asylum seeker whose application was rejected and to whom a deadline for leaving the country was defined to remain temporarily in the country upon his request or upon the proposal of UNHCR officials. This provision protects him against forcible removal contrary to the non-refoulement principle and other norms of international commitments. Also the asylum on humanitarian grounds protects migrants’ safety and physical integrity in accordance with Art. 3 of ECHR and its Protocols.

The applicant can be accommodated in the transit home for foreigners or he can stay with friends or relatives. It is also used for accommodation of aliens, whose identity is being checked, as well as aliens, who cannot be removed from the country immediately for any reason. These aliens can receive a certificate on temporary residence in the Transit Home and/or on relocation to their relatives or friends, with which they can move freely outside the Transit Home for Foreigners. The accommodation and care of aliens out of the centre is provided by the local administration. After seven days spent in the Asylum Home, the applicant can reside elsewhere, and those who have no means for subsistence, receive financial assistance to the amount of not more than 60 per cent of a warranted salary.

The asylum seeker is entitled to choose a refugee counsellor who shall offer him support and legal assistance in all matters connected with the asylum. The Minister of Justice has appointed 28 counsellors (No. 3-126/2000). Their fees shall be paid from the central budget.

Initial legislative and organisational arrangements were far from the mechanisms applied in developed destination countries. Since the independence of Slovenia the number of recognised refugees has been low but the adoption of asylum rules and the establishment of suitable institutes of migration facilitate accession to the European Union. Moreover,
the influence of the EU may be detected on forming regulation. According to the Law on Asylum, the first instance authority can reject the application as unfounded. The applicant may propose a judicial review with pending effect at the Administrative Court. Further, the Law grants special protection to unaccompanied minors and to persons with mental disabilities: their entry cannot be denied. Special attention is paid to the principle of family reunification, to the right to counsel, and to the right to contact UNHCR officials. In the sense of social and material security, asylum applicants are provided with basic care. The Law also emphasises the social, economic and cultural integration of recognised refugees. The integration assistance comprises mostly language courses, education and training courses, lectures with the purpose of getting acquainted with the Slovene history and culture, legal counselling, the establishment of funds for integration, including the unlimited right to work and access to financial assistance for no longer than three years.

The right to financial assistance is limited to refugees without their own means of subsistence. If the refuge refuses an offer to work or if he refuses to get involved in other forms of active employment policy, he shall lose the right to financial assistance. Moreover, the right to financial assistance is given also to close family members of a refugee, who are staying with him in Slovenia without proper incomes. The duration of their right to financial assistance depends on the duration of the refugee’s right to financial assistance.

Refugees and their close family members enjoy the same rights and obligations as Slovene citizens with regard to primary, secondary and university education, and employment (with a work permit).

RESTRICTIONS ON THE ENTRY OF POTENTIAL ASYLUM SEEKERS AND ACCESSION TO PROCEDURE

As in accordance with the Aliens Act, the main characteristic of state sovereignty is the immanent right of the country to decide independently on who may or may not enter the country, and on conditions for entry. A state shall restrict the entry of aliens by determining the obligatory acquisition of visas for citizens of particular countries, by determining obligations to carriers, by determining yearly quotas for temporary refuge (Law on Temporary Refuge, Art. 2), and by introduction of the safe country principle, too.

Visa requirements

Table 7 contains the gradually extended list of those countries whose nationals can travel to Slovenia without visas. As it can be seen from remarks certain influence of the EU visa policy is observed.

The general rule is to obtain a visa in order to enter and reside in the territory of Slovenia. In accordance with the Aliens Act, applications for visas must be lodged abroad. In his visa application, the alien must declare the purpose of his arrival in the country, submit the valid passport, and prove the purpose, term and financial cover of
residence and return. Visas are issued only by Slovene authorities abroad and they cannot be extended inside the country. Entry visas are issued for
- a short duration and cannot serve as a basis of economic activities in Slovenia (exceptions are defined in the Government decree),
- business and other visit purposes. Although the Alien Law no longer defines working and business visas it distinguishes the function of visas, such as
  - transit, including airport transit (as direct impact of the Schengen system)
  - residence (residence permits),
  - single or multiple entries,
  - collective visas.

A visa can be issued to the holder of a valid passport whose validity must be at least three months longer than the validity of the visa. The visa can be issued for the total duration not exceeding 90 days within 6 months. The Alien Law allows to issue a multiple entry visa that is applicable for one year.

<table>
<thead>
<tr>
<th>Country</th>
<th>Remark</th>
</tr>
</thead>
<tbody>
<tr>
<td>Singapore</td>
<td>up to 14 days</td>
</tr>
<tr>
<td>Malaysia</td>
<td>up to 30 days</td>
</tr>
<tr>
<td>Andorra, Australia, Bulgaria, Brazil, Canada, Chile, Cyprus, Czech Republic, Estonia, Great Britain, Holy See, Hungary, Ireland, Japan, Latvia, New Zealand, Poland, Portugal, Romania, San Marino, Slovakia, South Korea, Spain, United States of America</td>
<td>up to 90 days</td>
</tr>
<tr>
<td>Austria, Belgium, Croatia, Denmark, Finland, France, Germany, Greece, Iceland, Italy, Israel, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Norway, Sweden, Switzerland, Uruguay</td>
<td>up to 3 months</td>
</tr>
<tr>
<td>Argentina</td>
<td>up to 3 months (mutual decision)</td>
</tr>
<tr>
<td>Albania, Cuba, Philippines</td>
<td>For holders of diplomatic and business passports, up to 3 months</td>
</tr>
<tr>
<td>China, Egypt</td>
<td>For holders of diplomatic and business passports, up to 90 days</td>
</tr>
<tr>
<td>Republic of South Africa</td>
<td>For holders of diplomatic and business passports, up to 120 days</td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>For holders of diplomatic or business passports, and for holders of work permits and temporary or permanent residence permits (valid at least for 3 months on the day of crossing the border) in EU/EFTA member states, as well as for holders of valid visas for transiting Slovenia, issued by states, parties to the Schengen Agreement</td>
</tr>
<tr>
<td>Mexico</td>
<td>For holders of diplomatic and business passports. No visa required for holders of ordinary passports as tourists up to 3 months and up to 1 month if they travel for business or transit purposes</td>
</tr>
<tr>
<td>Macedonia</td>
<td>Visa was introduced on 1 January 2000 (partial exemption for holders of residence and work permits in EU/EFTA countries, which are on the day of crossing the border valid for at least 3 months – they can remain in Slovenia without visa for 10 days in case of residence, or they can transit Slovenia; partial exemption</td>
</tr>
<tr>
<td>Country</td>
<td>Visa Requirements</td>
</tr>
<tr>
<td>---------</td>
<td>------------------</td>
</tr>
<tr>
<td>Turkey</td>
<td>Visa was introduced on 1 January 2000 (partial exemption for holders of residence and work permits in EU/EFTA countries, which are on the day of crossing the border valid for at least 3 months - they can remain in Slovenia without visa for 10 days in case of residence, or they can transit Slovenia; partial exemption (for up to 10 days in cases of residence and transit) for holders of valid visa for all Schengen states, if they are valid for at least one month on the day of crossing the border; no visa required for holders of diplomatic and business passports)</td>
</tr>
</tbody>
</table>

In exceptional cases, under conditions prescribed by the Minister of the Interior, the border control authority or the Ministry of the Interior may issue a single entry visa or a transit visa.

**Carriers’ sanctions**

A carrier may bring an alien into the national territory of Slovenia by land, air or sea only if he has proper travel documents and an entry permit whose possession is required of him as the citizen of a specific country (Art. 24 of the Aliens Act). Therefore the carrier must check whether the alien is in possession of valid travel documents and an entry permit. The carrier, failing to meet these obligations must immediately (as soon as possible) take the migrant out of the country at its own expense. Moreover, the carrier shall cover all related costs until the alien actually leaves. The state border control authority shall deny entry into the state to such an alien.

Regulations on obligations of carriers undoubtedly have an impact to exclusion of refugees from the procedure by preventing them the access to procedure physically. Namely, the carrier prefers to refuse transportation to eventual asylum seekers rather than count on the exemption from the obligation to take refugees back.

**Border control**

According to the Aliens Act (Art. 6) and the Act on State Border Control (Art. 5–7.) entry, its duration and departure from the country may be permitted only at the border crossing post. The Government issues a regulation determining all exceptions regarding the crossing of the state border for cross-border traffic, and regarding special categories of naval transport, tourist transport by sea, as well as coastal fishing. The stay of aliens in the transit area of airports or their stay on ships anchored in harbours shall not be considered entry into the country.

The Alien Law (Art. 99) defines who shall be fined SIT 50,000 to 100,000 for a minor offence of assistance in illegal entry or residence in Slovenia. Unlawful entry or residence means undocumented or unauthorised entry or residence if its purpose is contrary to the authorised one. Penal Code (Art. 249) prohibits offer, payment for third persons assisting even in the attempt to cross the border.
Table 8
The number of rejected entries for aliens by security authorities

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Rejected entry of aliens</td>
<td>4,584</td>
<td>2,951</td>
<td>1,917</td>
<td>2,003</td>
<td>3,577</td>
<td>3,502</td>
</tr>
</tbody>
</table>
Table 9

Relevant events at the border crossing posts and at the green border (1991–1998)

<table>
<thead>
<tr>
<th>Events</th>
<th>Number in given years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illegal crossings</td>
<td>4,475</td>
</tr>
<tr>
<td>Discovered traffickers</td>
<td>181</td>
</tr>
<tr>
<td>Rejected aliens</td>
<td>23,409</td>
</tr>
<tr>
<td>Persons indicted for crimes at the border</td>
<td>336</td>
</tr>
<tr>
<td>Under procedure because of minor offenses at the border</td>
<td>6,503</td>
</tr>
<tr>
<td>Use of false passports</td>
<td>179</td>
</tr>
<tr>
<td>Use of a passport of another person</td>
<td>358</td>
</tr>
<tr>
<td>Visas issued at the border crossing posts</td>
<td>2,475</td>
</tr>
<tr>
<td>Readmitted aliens</td>
<td>–</td>
</tr>
<tr>
<td>Returned aliens</td>
<td>–</td>
</tr>
</tbody>
</table>

The safe country principle

Article 2 of the Law on Asylum defines the concept of safe third country. It means a country where the refugee stayed previously to arrival in Slovenia and where he was safe from persecution or human rights violations, where asylum is recognised, and where the refugee was able to satisfy his basic subsistence needs. It is necessary for him to be able to return and submit an asylum application without any risk of refoulement to a country where his life or freedom would be threatened. The safe third country notion must be read together with Article 37 of the Law on Asylum, which defines the prescreening procedure for aliens coming from safe third countries.

Slovenia takes into consideration provisions of the Resolution on a Harmonized Approach to Questions Concerning Host Third Countries (1992, Council of Ministers) and the Dublin Convention, (1990) determining the state responsible for examining asylum applications in one of the member states of the EU.

In the case of the existence of a safe third country, the merits of an asylum application shall not be examined while the applicant is sent to that country. In the case of the existence of two or more safe third countries, the applicant may be sent to any of these countries. Whenever the applicant cannot be sent to a safe third country, provisions of the Dublin Convention are applied, which impose the responsibility of examining the asylum application on the country, in which the applicant has lodged the application. Therefore, if the applicant cannot be sent to a safe third country, the merits of the applications...
lodged must be examined according to the prescribed procedure; otherwise certain persons would remain in a country without a status (because of the non-refoulement principle – Art. 6). Considering all said, refugees must have access to the regular asylum procedure in all cases, except when applicants can be returned to safe third countries according to the Law.

The Ministry of the Interior shall reject the asylum application of an alien who arrived from a safe third country. Against such rejection the applicant can appeal within three days at the Administrative Court. This Court must decide on the appeal within seven days. According to the Court decision the competent authority shall either start the regular procedure for the asylum applicant or not. In the latter case the competent authority issues a certificate to the applicant to return to a safe third country proving that his application was not examined in merit. During the pre-screening procedure the alien cannot forcibly be removed from the country.

A list of safe third countries does not exist. The provisions refer to procedure, competence and international co-operation (for example, readmission agreements, repatriation). Briefly, the substantial elements of a safe third country are not regulated. Slovenia returns asylum applicants to Hungary and Croatia according to the principle of safe third countries.

Readmission agreements

The principle of a safe third country cannot be justified and used in an isolated way. In case of removal to a safe third country, it is important to take into consideration:

- the implementation of international obligations, recognised standards of basic human rights and fundamental freedoms, especially of respecting the rule of non-refoulement in the third country,
- the practice of countries in accepting asylum seekers and
- the set of signed readmission agreements.

Readmission agreements are used for the purposes of returning and/or readmitting potential asylum seekers according to the principle of a safe third country. They would include provisions on responsibility for examining asylum applications and on readmission of asylum seekers into a country in which he has lodged the asylum application, if the safe third country has denied him entry. If there is no up-to-date registry on safe third countries, the relevant information for decision on removal must be obtained from competent authorities, and if necessary, the UNHCR can be contacted for assistance.

Detention of asylum seekers

Before the new Law on Asylum entered into force, the Transit Home for Foreigners (the Ministry of the Interior) was in charge of admission, accommodation and care of aliens, who (1) applied for asylum, (2) whose identity was under control, and (3) is under the order of deportation that could not be executed immediately.
The new Law on Asylum replaced the general alien issues establishing a more suitable institutional basis for accommodation of different categories of aliens. The prior Transit Home was split into two parts: the Asylum Home and the Deportation Centre. Both of them are units of the Ministry of the Interior (Law on Police, No. 49 of 1998) and contributed to a stricter police control on aliens who are to be deported from the country.

The stay of seven days in the Asylum Home is obligatory to all asylum seekers with the exception of refugees *sur place* (applicants who are legally residing in Slovenia already). This deadline can be extended for reasons which justify the restriction of movement, or if a person has no accommodation elsewhere. Applicants who are accommodated outside the Asylum Home and who have no means for subsistence of their own, shall receive financial assistance to the amount of not more than 60 per cent of the warranted salary in Slovenia. Asylum seekers are not detained in the Asylum Home. The Ministry of the Interior shall issue refugee identity cards for them, which shall serve as temporary residence permit until final solution of procedures. Having this identification card, the asylum seekers can move freely outside the Asylum Home.

The movement of asylum seekers can be temporarily restricted (1) outside the Home, (2) outside the appointed territory, or (3) border crossing in the case of pending identity control or to prevent contagious diseases to spread. The Ministry of the Interior shall order the restriction (1) until cessation of reasons or (2) up to three months. The restriction can be extended for another three months. The applicant can appeal against restriction at the Administrative Court within three days without pending effect. The Administrative Court decides within three days upon a preliminary interview.

Aliens residing illegally shall be forcibly removed. In accordance with Art. 8 of the Law on Asylum, the alien who had entered the country illegally and applied for asylum shall not be punished for the minor offence of crossing the border illegally. The applicant shall be considered as having lawful residence in Slovenia during the asylum procedure. The pending order on expulsion (refoulement) cannot be executed at once, so the migrant shall be accommodated in the Deportation Centre (for no longer than six months). The movement from the Deportation Centre is covered by special rules as a form of restriction of personal freedom. The alien may lodge an appeal against being kept in the Deportation Centre without pending effect. The Ministry of the Interior shall decide on the appeal within eight days, and final rejection may be appealed at the Administrative Court.

The impacts of resolutions and decisions of EU documents are as follows:

- Detention of an asylum seeker at the airport is permitted for a limited period of time and under supervision of the Court. The detainee cannot be allowed to enter the country, and he shall be free to depart to another state.
- Regardless of this, the asylum procedure, which takes place in the meantime, must include all substantial guarantees of the regular procedure (accession to legal representatives and UNHCR; decisions made by a trained and qualified central authority; appeals without pending effect).
- The presence of an asylum seeker in the restricted area shall not be deemed to be entry into the country (Art. 6 [3] of the Aliens Act) although it entails international responsibility to apply human rights regulations and the Law on Asylum. For the purpose of statistics, one can count that the person has not entered into the state, yet the state is
obliged to enable the asylum seeker to access the regular procedure, and to ensure the non-refoulement principle.

**SUBSIDIARY FORMS OF PROTECTION**

Slovenia is one of the few countries that legalised temporary protection (Law on Temporary Refuge, No. 20 of 1997). Parliament determines, upon the proposal of the Government, the quota of persons to whom temporary refuge shall be granted, taking into consideration the economic and other potentials of Slovenia, considerations of national safety and public order. It is available for persons coming from states with war or war-like conditions or with massive violations of human rights. It determines the category of persons in general and the Government is entitled to make decision whether temporary protection is necessary. The Law also determines admission procedures as well as the rights and duties of the admitted persons (accommodation, public education, health care, yearly 60-day seasonal employment, etc.)

The Government adopted the Decree on Acquisition of Temporary Refuge for Citizens of Bosnia-Herzegovina (1998), and another Decree on the extension of temporary refuge to minority refugees from mainly Bosnia-Herzegovina (1998). It means that the deadline for leaving the country shall not be defined. However, the period for which a person enjoys the status of temporary refugee cannot be taken into account towards the granting of a residence permit or naturalisation. The Office for Immigration and Refugees shall check the existence of compelling reasons and temporary refuge shall be extended for an indefinite period of time. The Government not only modified the decrees mentioned, but adopted a further decree on the quota of temporary protection (1999). Accordingly, Slovenia provides temporary refuge to 2,477 refugees from Kosovo, who have already come to Slovenia and who have been registered by the Transit Home for Foreigners. Considering the economic potentials of Slovenia and reasons of national safety and public order, further 1,600 persons from the Kosovo region may be received. The principle of family reunification and urgent humanitarian reasons shall also be taken into consideration with the extension of the quota only in the cases of the most vulnerable categories.

To newcomers arriving in masses the care and accommodation in collective centres, health care, education and psychosocial assistance are offered without proper regulation on their status up to the adoption of the Law on Temporary Refuge. Before it they were considered as other aliens under the personal scope of Alien Law without individual persecution. The protection of temporary refugees was determined in legally non-binding Recommendations of the Ex-Com of UNHCR defining the basic rights of temporary refugees. Slovenia acted in accordance with these Recommendations.

Persons who wish to acquire temporary refuge must apply for it at the authority in charge of the border crossing point. On the basis of information obtained, the official shall arrange for the transportation and escort to the nearest reception centre. The authority makes clear the identity and decision on recognition. In the cases of the extension of the quota made by Parliament, the application may be submitted at a consular mission.
ception centres run by the Office for Immigration and Refugees provide accommodation during the procedure.

Upon the ceasing of the reasons of temporary refuge the Government determines the deadline for leaving the country. The Office for Immigration and Refugees arranges for the repatriation, or the migrant may apply for a temporary residence permit at the consular office abroad according to the Aliens Act (Art. 28). This requires leaving the country.

The 1991 Alien Law (Art. 18) defined the possibility of acquiring a temporary residence permit for humanitarian reasons. Authorisation may be allowed if immediate departure from Slovenia could represent a threat to physical safety or subjective integrity due to objective circumstances. The Law provides discretionary power to the proceeding authority and the migrant is not obliged to prove sufficient means of subsistence (accommodation, lawful income). The new Alien Law from 1999 no longer ensures the acquisition of this status, as it was replaced by the possibility of granting asylum on humanitarian grounds (Act on Asylum, Art. 1). The Asylum Department of the Migrations and Naturalisation Office (the Ministry of the Interior) shall decide on the issuance of a temporary residence permit on humanitarian grounds. (In 1998–1999 the highest number of applications for issuance or extension of temporary residence permit on humanitarian grounds was lodged by citizens of Bosnia and Herzegovina and citizens of Yugoslavia. In 1999 123 applications for temporary residence permits on humanitarian grounds were submitted to the Ministry, and 84 applications were rejected.) Appeal and judicial review was available against rejection.

Asylum seekers and refugees whose protection on humanitarian grounds has been recognised (asylum on humanitarian grounds) are equal to convention refugees with regard to rights and duties.

The “non-refoulement” principle (Art. 33 of the 1951 Convention) is inserted into the Alien Law (Art. 6.) An alien who is for serious reasons considered to be dangerous for the safety of the country or the society of this country, because he was convicted lawfully for a serious crime, is excluded from this protection.

Besides this exception the Law on Asylum (Art. 61) allows the applicant to acquire a permission to remain upon request or ex officio up to a renewable six months. He enjoys the right to medical care. The proceeding authority can revoke this as soon as reasons for protection cease to exist. Moreover, upon his request, the asylum on humanitarian grounds may be granted to an alien who has resided in Slovenia on the basis of the permission to remain for at least two years.

**INFLUENCE OF EU ASYLUM AND MIGRATION POLICY**

**Bilateral connections**

Within the scope of the Phare Horizontal Programme the Ministry of the Interior is included in bilateral twinning programmes with partners from Austria and Germany. The project aims at adopting legislation and institutions, as well as creating conditions and an environment necessary for the adoption of the standards and practices in the field of the asylum and refugee law corresponding to those of the EU. The process includes the legis-
lative level as well as the institutional and capacity levels. The Ministry of the Interior received training and materials from French experts on the recognition of false documents, and they established close co-operation with Austrian and German colleagues in several fields.

**EU influences**

The influence can be observed in a slow but efficient change in legislation in accordance with acquis as well as some positive trends in practice have become observable in the past ten years since Slovenia gained its independence.

- The first EU Commission Report (1997) said that “Slovenia presents the characteristics of a democracy with stable institutions, guaranteeing the rule of law, human rights and respect for and protection of minorities.” In the Accession Partnership with Slovenia in the field of migration and immigration assessment in general it underlines the necessity of the establishment of an asylum system and state border control.

- The second EU Commission Report (1998) in general evaluated how Slovenia fulfilled the Copenhagen political criteria. It stated that the country’s institutions continued to function smoothly. In home affairs, the capacity to handle asylum and migration-related questions is still not assured, since the new law is still being prepared. However, “there are few applications for asylum. The capacity to handle the Acquis regarding visas will require some improvements. The situation in border control and border surveillance, which was already considered adequate, is unchanged; however, there is still some room for improvement in the areas of the Schengen visa policy and regarding expulsion.” The Report concluded that in order to attain the medium term priorities of the Accession Partnership, Slovenia needed to make substantial efforts in the areas of legislative policy, training law enforcement staff, and in the area of justice and home affairs as well.

- The third Report (1999) states that a new Law on Foreigners was adopted in July 1999 as well as The Law on the Status of Citizens of the other SFRY successor states. Besides, readmission agreements have been concluded with the Czech Republic and Hungary, so Slovenia has readmission agreements with 20 European countries and with Canada. Moreover, the Report mentions that implementing provisions of the new Law on Foreigners needs to be adopted. Readmission agreements with Switzerland, Romania and Canada have to be reviewed since they do not provide for the readmission of third country nationals. Readmission agreements with Bosnia-Herzegovina and Russia are under preparation, have to be finalised and efforts should continue to conclude readmission agreements with those Asian and African countries whose nationals target Slovenia in rising numbers. In June 1999 Slovenia annulled visa exemption agreements with Montenegro and Turkey. Turkish citizens will need visas as of 1 December and citizens of Montenegro since 1 September to enter Slovenia and, that Slovenia should continue progressive alignment of visa legislation and practice with that of the EU. As regards border control, it “appears that in 1998 13,740 persons were caught for illegal border crossing into Slovenia and in the first three months of 1999 6,000 illegal crossing attempts were registered, mainly from FRY, Romania, Montenegro and Turkey.” Further,
Slovenia still needs to adopt a new law on border control, border controls must be reinforced, especially along the green border with Croatia, since Slovenia is becoming a transit country for illegal migrants, mainly from Croatia and Hungary. Particular attention should be paid to the upgrading of the law enforcement (police, custom office, border guard) in terms of staffing, equipment and training. As regards asylum, it is mentioned that the number of asylum applications per year has increased significantly. The new Asylum Act was adopted in July 1999, yet efforts are still needed to train specialised agents to implement this Law and additional staff needs to be recruited since it appears that there is a big backlog of pending applications. (433 under the Geneva Convention and 213 on humanitarian grounds, out of which 21 and 169 respectively were lodged in 1997.)

**Operation of Phare funds**

In 1998 the EU Phare Programme provided financial and technical support to 13 partner countries, including Slovenia. In this framework Slovenia also concluded operational programmes for institutional building and Justice and Home Affairs. For the institutional building the Project was approved by the Phare Management Committee (October 1997) until October 1999 to the amount of 10.30 million euro. The implementing authority is the Office for European Affairs and the Ministry of Foreign Affairs.

The Programme objectives are as follow: (1) reinforcing the institutional capacity of institutions, especially the legislative body and civil society, (2) facilitating the access to information on EU related issues, (3) supporting the authorities responsible for justice and home affairs in adopting the Acquis, (4) focusing on immigration, border controls, asylum, organised crime and police co-operation, (5) reinforcing the institutional capacity of the National Assembly, to strengthen abilities to formulate, implement and monitor the adoption of acquis in certain fields.

The JHA Programme was approved at the Management Committee (July 1999) till September 2002 to the amount of 4.9 million euro of which 4.25 million euro goes to the Ministry of the Interior for the home affairs legislative framework and institutional capacity and 0.65 million euro for the improvement of the judicial system, with the implementing authorities at the Ministry of the Interior and the Ministry of Justice.

The programme defined an urgent need for an asylum bill to be adopted while the issue of stateless people needs to be resolved. Staff number is inadequate to meet these problems therefore training is also required to provide specialist staff. In addition, state border controls need to be improved and institutional and administrative capacity must be strengthened. The programme concentrates on institution building, with an anticipated allocation of 3.3 million euro for equipment provisions and investment support to meet the border control needs. For the home affairs legislative framework and institutional capacity 4.25 million euro is allocated. Moreover, Phare will provide support for drafting legislation, developing implementation structures, training and information technology.

In the field of migration and immigration, support will be delivered by means of twinning programmes (with the allocation of 350,000 euro) with focus on general policy support for developing migration/immigration policy and preparing a related national
programme, further, with assistance in the adoption and implementation of the new Law on Foreigners, Asylum Act, the Law on Foreigners without legal status, including a visa delivery system in line with EU principles), the creation of an information and documentation centre, and the training of professionals.

In the field of state border controls investment and equipment are provided with the allocation of 3.3 million euro for the implementation of a Schengen-compatible information system, the introduction of an automatic fingerprinting system, the establishment of powerful telecommunication and computer systems, the development of a central image database on suspicious persons, equipment for the surveillance of borders (thermal cameras or radioactivity devices). Technical assistance on the state border will also be provided in the form of a twinning arrangement with the allocation of 300,000 euro focusing on harmonising legislation, developing and adapting an IT system with those used in EU countries (SIS, Europol computer system, CIREA, CIREFI, FADO). Further, training for trainer’s programmes is introduced for police officers and in particular for senior public administrators.

SOURCES

The Office for Immigration and Refugees
Part III
Proposal for the Formulation of Hungary’s Migration Policy with additions, arguments, counter-arguments
In accordance with the contract concluded with the Ministry of the Interior in August 1998, the Centre for Migration and Refugee Studies operating within the Institute for Political Sciences of the Hungarian Academy of Sciences agreed to develop a proposal for the governmental agencies involved in the formulation of Hungary’s migration policy (hereinafter referred to as the “Proposal”) based on the results of research conducted in recent decades.

The following took part in the formulation of the Proposal: Ágnes Ambrus, András Back, István Dobó, Ágnes Hárs, András Kováts, Ferenc Köszeg, Boldizsár Nagy, Pál Nyíri, Endre Sik (head of research), Judit Tóth (author of the draft text of the Proposal) and Pál Péter Tóth. Boldizsár Nagy, Endre Sik and Judit Tóth were responsible for the final wording of the Proposal.

The recommendations relating to the Government’s actions and attitude were discussed in five focus groups. In these groups we attempted to identify the malfunctions of the current legal system and organisational structure and to review the requirements for accession to the European Union. The actions of the Government and local governments are the focus of the Proposal. We took account of the activities of other entities concerned with the migration policy (non-governmental and business organisations, chambers, trade unions, political parties, and so on) only to the extent to which they are connected to the governmental sphere.

1. GENERAL PRINCIPLES OF MIGRATION POLICY

1.1. In the Hungarian language there is no uniform definition of the terms used in this Proposal, either in the academic literature or in common speech. To avoid unproductive arguments over terminology, we summarise in Appendix 1 the sense in which these terms are used in the present text.

1.2. It is natural for people to move within a country and between countries. These movements are complex social and economic phenomena with advantageous and disadvantageous consequences – often inseparable – for the migrants, the country of origin and the destination country. For this very reason, halting migration cannot be the
Government’s objective. The Government’s decisions concerning migration require a choice of values and the Government must be clear about its choices. The Government’s responsibilities and competence should extend to the policy, regulation, administration, budget and co-ordination related to immigration and emigration.

1.3. International migration today and in the decade to come when Hungary’s Euro-Atlantic integration is expected to take place will remain two-way: on the one hand, a small portion of the Hungarian population will wish to work and settle abroad; on the other hand, Hungary will face an influx of guest workers, students, investors, forced migrants and other foreigners from neighbouring countries and from more remote regions.

1.4. The Government’s migration policy must strengthen the positive economic and social consequences resulting from international migration and must prevent and reduce the negative ones. These will, inevitably, lead to conflicts of interests which the Government must prepare to face in applying its migration policy and which the Government must continuously seek to resolve appropriately.

1.5. The Government’s policy should perceive international migration as a strategic issue. On the one hand, Hungary’s geographical location, historical heritage and demographic situation, as well as our principles as a constitutional state and our integration efforts, do not allow the country to turn a blind eye to international migration. On the other hand, projections concerning future migration, the degree of control the state has over migration and its social and economic effects are only partially known even under the best of circumstances, while in a transitional economic and social system the information available to politicians and experts is even more fragmentary. Therefore the Government must pay far more attention to its migration policy than it has done so far. The Government must harmonise the principles relating to international migration and its other policies partly concerning migration (such as its economic, social, cultural and foreign policy, and its relation to human rights and to Hungarians living across the border) in order to prevent various governmental measures from neutralising one another.

1.6. A comprehensive, coherent and active migration policy must replace the one-sided, partial and solely defensive practice of the Government pursued to date. The Government has, so far, considered migration merely as a police or welfare issue, or, in some cases, as an issue of foreign policy. This approach should be enlarged to include considerations of economic development, cultural and educational needs, health care, human rights, humanitarian and national security dimensions, in order to transform the country’s migration policy into a complex system. We must attempt to differentiate between humanitarian reception (for instance, related to refugees) and utilitarian reception (for instance, related to labour migration), even while recognising that the two categories often overlap as we simultaneously take account of the interests of the sending and receiving societies, as well as of the individual (Appendix 2).

1.7. In the course of the formulation and implementation of a comprehensive, coherent and active governmental migration policy, we must take account of Hungary’s integration into Europe which requires the rule of law and respect for human rights, with a legal remedy available to those whose human rights are violated. In other words, accession to the European Union, membership in NATO, the Council of Europe and OSCE requires both
the acceptance of the norms of the given organisation (specific conditions) and the creation of the elements missing from the fundamental structure of the rule of law, legal remedies and a market economy (general conditions). In the absence of the general conditions, there is nothing to which the specific conditions can attach; consequently, general conditions must come first.

1.8. A regulatory system can only be successful if it can be executed and controlled, and if those who violate the regulations can be sanctioned in merit. This requirement is essential when the use of public funds, the protection of constitutional rights and the maintenance of public order are involved. It is also essential if we wish the international community to view as legitimate our claims concerning the need to share the burdens arising from receiving immigrants.

1.9. International migration is a matter of the entire society due to its many-fold effects. In the interest of the enforcement of its migration policy, the Government should cooperate with the non-profit organisations engaged in supporting, safeguarding the interests of and providing legal protection for international migrants. This co-operation will enhance the publicity as well as professional control over migration policy and the domestic and international reputation of the policy.

1.10. We must distinguish between issues which have to be regulated in accordance with Hungary’s international obligations and the issues to be regulated on the basis of state sovereignty. The international obligations and commitments applicable to migrating Hungarian citizens and Hungary as a destination country for migrants must be reviewed. Such obligations arise from Hungary’s membership in international organisations, her multilateral and bilateral treaties and the ensuing political commitments. The applicability and enforceability of the international obligations assumed by Hungary must be ensured both with the law enforcement agencies and the courts. The sovereign regulation relating to migration – including the dimension that addresses the common national identity that is shared with Hungarians living across the borders – must be formulated in accordance with international obligations. Distinguishing between international obligations and sovereign decisions will help undertake the political obligations resulting from EU membership in the eyes of the public. It may also strengthen the country’s international reputation.

1.11. Hungary’s accession to the European Union has a powerful impact both during the process of accession and thereafter. Although prior to accession Hungary is not formally bound by the “acquis” (community law) of the Union related to migration (which has been radically transformed by the Amsterdam Treaty), there is a great deal of pressure on the candidate states to adopt the EU policy fully. Following accession, Hungary will have a greater opportunity to influence the Union’s migration policy but simultaneously will lose the privilege of formulating an independent national policy of migration. After accession, Hungary’s freedom will extend to vetoing the integration proposals, at most, unless the EU has by then switched to majority-based decision-making.

2. CONTROL AND ORGANISATION OF THE MIGRATION POLICY
2.1. Based on a proposal of the Government, Parliament should discuss and approve a document (National Migration Programme) which summarises the principles of the migration policy, as well as the legal, financial, administrative and social tools for its achievement. The policy should specify a decision-making and a monitoring system which would adopt modifications of the policy if necessary. Strengthening the controlling rights of Parliament and its Committees may at the same time increase the political support granted to the Government, including the approval of its budget and it may also enhance publicity.

2.2. Treatment of international migration as a comprehensive and strategic issue requires the appointment of a secretary of state responsible for migration policy within the Prime Minister’s Office. The secretary of state would prepare migration-related governmental decisions and regulation with a potential effect on the various social and economic systems independently of ministerial interests, and represent Hungary’s migration policy at national and international levels.

2.3. The Government should review regularly the implementation of migration policy and the conditions of its execution, and should make the required adjustments. It should consult the domestic and international non-profit organisations and institutions concerned with migration on a continuous basis, within the framework of a mechanism formulated for that purpose. It would thereby contribute to the transparency, predictability, and public acceptance of migration policy.

2.4. Parliament should establish a Migration Council to provide counsel for governmental decisions and regulation and to assist in maintaining a social and inter-ministerial dialogue. There have been several examples of this type of institution in this century’s Hungarian history. There should be 10 to 15 members of the Council. Their terms should extend beyond the mandate of the Government. The members should be appointed by parliamentary parties, the President of the Republic, the Government, and non-profit organisations.

2.5. The administration of international migration must distinguish between sectoral and functional tasks. The former include, for instance, labour and refugee administration, while the latter include – inter alia – the activities of Hungarian diplomatic mission abroad that support the full range of foreign policy and governmental decision-making, including the dissemination of information and legal protection. (The Hungarian diplomatic mission perform many functional tasks such as providing legal protection and information for Hungarian citizens, establishing contacts between authorities, lobbying for international support, regularly collecting information on countries of origin of forced migrants, monitoring repatriation through the creation of migration attaché positions and, in general, through strengthening the consular network). Distinguishing between the sectoral and the functional tasks will render the operation of the Government more efficient and more transparent.

2.6. All sectoral and functional agencies must ensure that their activities concerning international migration constitute a coherent system in which each ministry carries out its job independently in its respective area, but in harmony with the efforts of the other agencies. The rules specifying the tasks and the competence of each minister must identify and describe the functions of the given minister related to migration and to be discharged on a continuous basis.
2.7. The co-existence of the local community and the international migrants (including returning Hungarian citizens, forced migrants, foreign workers, EU citizens [after accession] and their family members), the integration of the migrants, their inclusion into the public services and the establishment of the conditions for a solid implementation of administrative law cannot be achieved without the identification of the responsibilities of the local governments (self-governments) with much greater precision than at present. Although there are already more than one hundred provisions on the obligations of local governments in connection with migrants who qualify as part of the local population, these legal rules do not create the political, administrative, institutional and professional preconditions necessary to implement these obligations. According to the data available, international migration concerns almost each settlement in Hungary, not only Budapest and the border regions.

A clear division of labour between the central and the local public administration and the transparent regulation of these separate entities will lead to migration under the rule of law.

2.8. Migration should also be co-ordinated at a regional level, both within counties and between counties. To this end, adequate regional forums should be created which would reflect to the many-fold effects of migration and the large number of institutions (such as the County Assembly, the regional development organisation, local governments, labour authority, police agencies, municipal administration offices, social, health care and child protection institutions, and various interest groups) concerned. These forums would regularly convene.

3. HUMAN RIGHTS AND CONSTITUTIONAL RIGHTS

3.1. The human rights recognised in international customary and treaty law (in particular, the European Convention on Human Rights and the UN Convention on the Prohibition of Torture), as well as the fundamental rights defined in the Constitution, must be enjoyed without discrimination by all foreigners under the jurisdiction of the state. Even undesirable, illegal migrants are entitled to human dignity, to seeking refuge and to the protection of children. It must be stressed that the jurisdiction of the state extends to all areas subject to state regulation or control (airport transit areas, border zones).

3.2. Effective national legal remedies must be provided for all violations of these obligations; otherwise condemnation of Hungarian authorities by international institutions (such as the European Court of Human Rights, the UN Anti-Torture Committee) is to be expected. Fundamental human rights, including the rights of refugees, constitute a part of the acquis (of the community law) of the European Union. Hungary cannot join the European Union without complying with these human rights. Institutionalised professional training ensuring the legal protection of foreigners, the provision of adequate interpreter services and the creation of the appropriate technical conditions shall be institutionalised at the law implementation agencies. The absence of these services must be remedied. Free legal advice must be provided for Hungarian
citizens and foreigners alike. Otherwise if access to a basic service is only secured for the needy foreigner but not for the needy national, xenophobia emerges.

3.3. Respect for family life and compliance with the rights of the child require provisions in law regulating family reunification with regard to different migrant statuses. A statute must prescribe that in the course of decision making on family reunification the authority must take into account the following:

- the legal obligations imposed by the Council of Europe and UN Conventions, as interpreted by international courts,
- the individual circumstances of the foreigner concerned, and
- the standard requirements regarding security risks.

The law must stipulate procedural guarantees for meeting the above three requirements while the central budget must provide for their practical fulfilment, primarily in the form of further training.

3.4. The composition of the migration in Hungary must be the basis for the determination of the order of ratifying of the international treaties concerning the legal protection, integration and return of migrants. Of prime concern are the treaties prepared by the ILO, the Council of Europe, the UN and the related case law. The incorporation of these treaties and case law into Hungarian law would provide an appropriate legal framework and would make it unnecessary to issue domestic legal rules. The ratification of the international treaties would also have the benefit that the labour, social and health care treatment of migrants would fit into an internationally adopted, more transparent system, which is consistent with the approach approved by the European Union.

3.5. An increasing number of stateless persons and foreigners of uncertain legal status arrive and reside in Hungary (for instance, the disintegration of Yugoslavia and of the Soviet Union, and the unsettled Palestine issue contribute to this phenomenon). The current legal system does not address this reality. The legal status of stateless persons should be regulated in a comprehensive way. Ratifying the UN treaty regarding the status of stateless persons and enacting a legal rule which would entitle to presume statelessness until the contrary is proven would help regularise the situation. We recommend to reintroduce the term “foreigners of unclarified citizenship” together with statutory regulation relating to their personal status. In this respect account should be taken of the recommendations of the European organisation for personal status (CIEC) in this field.

4. EMIGRATION FROM HUNGARY

4.1. According to the data available, the country’s migration potential is low, and the Government should not expect mass emigration or long-term departure for abroad, even after accession to the European Union. At the same time, the Government should expect the out-flow of well-trained people to continue in the future.

4.2. Hungarian citizens travelling, studying or engaged in gainful activities abroad enter a highly regulated environment about which they are not adequately informed. Information packages summarising the given country’s police, labour and customs regulations should be available at the embassies (and honorary consuls). In order to
ensure as wide a range of immigration, residence, employment and family reunification rights and benefits of Hungarians abroad as possible, the Government should examine the existing visa agreements and legal aid agreements, and later the community norms resulting from EU membership, and should initiate the relaxation of restrictive measures either by way of modifying the existing agreements or on the basis of reciprocity.

4.3. Consular protection should be a basic right of citizens staying abroad, and a public legal source should regulate consular assistance. Assisting citizens abroad should form an integral part of the consular work; in particular, consular officers should give information and legal protection for au pairs, young students and employees, provide regular liaison with the local authorities proceeding in their matters, and assist their return.

4.4. In accordance with the idea of freedom of travel and movement, no official data are gathered about Hungarian citizens who reside abroad for a longer period, and we may, at best, obtain data concerning them from the statistical reports of the host countries. For the purpose of establishing adequate foundations for governmental decisions and measures, it would be desirable to use various incentives to encourage voluntary registration by those staying abroad. This would allow the gathering of statistical data (age, sex, occupation, target country, and so on) concerning emigration on a regular basis.

4.5. Regarding the countries most frequently visited by Hungarian citizens bilateral international agreements on conditions of accident and sickness insurance should be reviewed with special regard to the legal grounds for providing health care to employees, students, trainees and au pairs. Parallel with this, Hungary must regulate the statutory contractual terms and conditions of the travel contracts and the sickness, accident and luggage insurance provisions taken out on an individual basis in Hungary and harmonise them with EU norms. There is a need to review these policies from the perspective of Consumer protection and authority control.

4.6. Multilateral treaties protect citizens travelling abroad, in particular those studying and pursuing gainful activities there. Taking into account the reception policy of destination countries, Hungary should ratify the most relevant international agreements on migrants’ rights. We have to analyse the conventions related to international migration of the ILO, the Council of Europe, the UN and the reservations of the state parties. In order to ensure the rights of our citizens, we should ratify the most important conventions (the Social Charter, those regulating the legal status of migrant workers and the legal status of au pairs).

4.7. The (potential) Hungarian work force should be encouraged to engage in lawful employment abroad through serious efforts to inform the public and through the utilisation of agreements on judicial/legal assistance. To accomplish this, labour services should develop information packages which summarise, in an easy-to-comprehend manner, the labour and alien police rules of the most frequently chosen destination countries, the addresses of the authorities issuing the required permits and of the relevant Hungarian embassies and consulates, and the importance of sickness and accident insurance. The information brochures should describe the consequences of illegal employment in detail. The labour authorities should regularly monitor the activities of the employment agencies recruiting labour to work in foreign countries.
5. RETURN OF HUNGARIAN CITIZENS

5.1. Those who left Hungary under pressure in previous decades have not returned en masse even after the change of regime. It would be desirable if the Government encouraged Hungarian citizens with potential economic, intellectual, social and cultural capital to return, thereby expressing its intention to rehabilitate them. This does not mean merely acknowledging the personal right to return to Hungary, as set forth in the Constitution, but offering assistance with re-integration into the domestic social, economic and communal environment. It would indicate that the Government relies on the contribution of those returning in the construction of a democratic Hungary.

5.2. With the expansion of international migration, there is an increasing number of people whose family relations connect them to more than one country. Recognising this reality requires accepting multiple citizenship, maintaining a wide range of agreements to avoid double taxation, facilitating transfers of remittances, establishing a transparent system for the recognition of degrees received in higher education and creating stable and predictable legal conditions regulating the geographic relocation of companies. Hungary should join the European convention regulating the military obligations of persons with multiple citizenship, and should, on its own, regulate the legal status of citizens residing (i.e. being active or holding interests) in two/three countries.

5.3. Re-naturalisation must continue to be maintained under unchanged conditions in the future the acquisition of certificates of Hungarian citizenship and national passports must be rendered easier. Returnees should be registered swiftly to ensure the conditions for the subsequent handling of their matters in a humane and fast manner. An information package should be prepared that ensures accurate information to those returning home and to those considering consolidation of their legal status; it should be available at the embassies, at Hungarian organisations abroad and at the editorial offices of public service programmes broadcast to foreign countries.

5.4. Because the principle of ius sanguinis has a major role in the Hungarian citizenship laws, no one knows at present how many potential Hungarian citizens live in other countries. If provisions basing certain social benefits and rights on the existence of citizenship remain in force or enter into force in the future, it would be desirable to estimate the magnitude of potential citizens. To survey this, it may be necessary to organise a world-wide campaign requesting those who regard themselves (also) as Hungarian citizens to register with the embassies and consulates (by mail, facsimile or in person) Following accession to the EU, those who lack actual ties to Hungary would not be entitled to the rights due to Hungarian citizens. At the same time as Hungarians abroad are surveyed there should be a review of domestic legal provisions reserving rights exclusively for Hungarian citizens (for instance, the pursuit of certain occupations) without a justifiable cause.

5.5. A number of elderly fellow-Hungarians are returning to Hungary, and purchasing holiday homes and houses here. It would be desirable to create adequate incentives for
the local governments to establish holiday, retirement and curative villages for pensioners, thereby encouraging them to return home.

6. SECURITY SCREENING

6.1. The police and security agencies have been the quickest to respond to the emergence of international migratory movements during the past decade. In spite of this, no standard procedures have been developed for reducing the security risks posed by international migration. It is not yet recognised that screening those who have already entered the country and reside here is the most expensive approach to security. It is inefficient; there is no method to remove promptly those migrants posing a security risk, and this adds to the prejudice against foreigners. Instead we must apply all legal and administrative means to screen foreigners who have not yet entered the country. This requires modernising the issuance of visas. National security, public order, criminal, financial, social and public health risks must all be defined by laws which cannot discriminate based on the citizenship or nationality of the undesirable foreigner. Legal provisions regulating security screening must keep uncertain legal terms to a minimum in order to reduce the scope of discretionary powers exercised the authority. A harmonised, unified system establishing the security criteria shall be integrated into all the legal rules regulating the competence of authorities who issue official permits to foreigners.

6.2. Visa-free entry and residence in the country (including restricted crossing and movement in the border-zone, travel with identity card) shall be regulated by international treaties which stipulate the groups of beneficiaries and the procedures to be followed if migration deviates from the contracting parties’ objectives. These treaties must, in every instance, and, with special regard to the required purpose and length of stay, be made known to the general public, employers and the law enforcement agencies. The main rule requires those entering the country to have a visa, and the benefit of travelling without a visa should only be enjoyed by citizens of certain countries. Accession to the European Union and the related Schengen system will have a major impact on Hungary’s visa policy and will determine which countries’ citizens must possess visa. In the course of the negotiations, Hungary should make efforts to avoid visa requirements for neighbouring countries. If this is not feasible, Hungary should devise individual solutions that respond to the close relations with her neighbours.

6.3. Visa applications require individual assessment based on clear criteria. Those who apply for a residency permit after entry must present many of the same guarantees they submitted with their visa application. To reduce the burden on the individuals and on the police of duplicate procedures, it should be possible to submit an application for residence permit together with a visa application at the consular section abroad. This would simultaneously strengthen the legal security of foreigners. Foreigners required to obtain a visa who have real property or operational enterprises in Hungary, who study here or live with settled family members in Hungary should be allowed to enter or leave more easily for instance by obtaining long-term or multiple entry visa.

It is essential to increase the staff and to improve the technical facilities (information database) of consular sections to provide the humane, lawful and safe issuance of visas. The
visa process should be expanded to allow low-risk foreigners to apply by mail or at visa application receipt points within an administrative agency of the host country in addition to applying in person. By using the visa authorisation as a more effective screen, Hungary simultaneously also prepares for the requirements resulting from EU membership.

6.4. Foreigners crossing the border should, if possible, be controlled by a common representative of several authorities within a single procedure. This improves efficiency and co-operation between the authorities and ensures the consistent interpretation of the law. To accomplish this and to respond to the volume of traffic varying according to the border section concerned, different numbers of personnel, procedures and technical facilities must be determined for each border section. In the event of EU membership, Hungary may become an external border in five directions. It is essential to strengthen co-ordination between the authorities because after accession to the EU, visible controls at the internal border will be replaced by a new screening system performed by police and security agencies.

6.5. It is necessary to make the statutory conditions for entry and stay in Hungary coherent (for instance, the expression the “financial means to cover residence and travel home” requires clear legal substance and not merely attempts to adjust it by the rate of inflation), and, in some cases, to make them more stringent. Administrative and court legal remedies against refusal shall be made available.

Because the issuance of residency permits is only one aspect of security screening, the current system, with full discretion in the issuing authority and no personal rights of the foreigner must be replaced. The law shall establish a new system and must specify the conditions when the authority is obliged to issue a permit for the period of time (temporary or long-term) corresponding to the purpose stated in the documents and facts supporting the application. In the simplest cases (for instance, for EU citizens), processing by mail should be permitted with appearance in person required only on a single occasion. The applicant would contact the authority by telephone and then receive by mail a list of the documents to be submitted. If difficulties were to arise, the applicant would be invited to appear for a personal interview.

6.6. The groups posing a risk with respect to public health should be screened out in the visa process and at the border crossing. The proceedings to issue residency and other official (labour) permits will only be an additional aspect of this screening.

6.7. Verifying identity, carrying out raids and filtering out migrants who remain in the country illegally, measures which reach only a small group of persons, should only function as a complementary feature of efforts to control foreigners within the country. In case the removal of the foreigner does not violate the law or international treaties, then, after the completion of the criminal procedure on responsibility for minor offences or tax law violations, the primarily tools to be applied should be: revocation of the stay/residence permit; introduction to the prohibited persons’ list and order to leave the country. A foreigner should only be deported at state expense if he or she lacks the intention and possibility of voluntary departure. The law should also specify the status and rights of foreigners who cannot be removed for technical reasons (such as lack of documents, refusal by the sending state to take him/her back) and should set forth the rules for
representing documents and the method of seeking assistance from the international organisations.

6.8. The law must define the maximum term for keeping foreigners awaiting expulsion or deportation in alien police detention and the conditions for terminating the custody (for instance, if it has become impossible to execute the deportation). Foreigners may be compelled to reside designated community shelter only if the migrant is unable to obtain accommodation on his or her own, and there is no alternative shelter operated by a charity organisation or NGO which, taking account of the unity of the family, provides cheaper and more humane services. As a result, the law would determine the hygiene and social conditions required to establish and operate alternative community shelters.

6.9. It is worth considering whether Parliament, following similar actions in other European countries (France, Italy and Spain), should exempt illegal migrants who can prove they have lived in Hungary for at least three years and that their living and family circumstances are consolidated from the consequences of their unlawful residence in the country. Parliament could grant amnesty and authorities could issue residency permits to those against whom no proceedings are in progress for other reasons. Those legalised would be able to apply for work permits, would share the burdens of taxation and would not pose a criminal risk. This legalisation could even be a one-time extraordinary gesture taken in celebration of the turn of the millennium.

6.10. It is important to develop a social consensus regarding undesirable foreigners so as to develop solidarity with those preferred and needing protection. This requires politicians, the public and the law enforcement agencies to make a clear distinction between the small group of undesirable international migrants who pose a risk and the mass of desirable, law-abiding migrants as well as the small group of foreigners in need of protection. In informing the public, the representatives of the Government should be much better prepared in stating Hungary’s policy concerning international migration, so that the distinctions in treatment and status are clear. Continuously updated, multi-lingual information materials concerning different categories of travellers and migrants should be available at the consulates and in the press in order to raise public awareness and to provide adequate information to foreigners, too. Oversimplified political statements suggesting there is a potential criminal in every foreigner lead to xenophobia.

7. ENCOURAGED MIGRATION

7.1. Aside from the proposals in Section 9 relating to foreigners belonging to the Hungarian nation we recommend that, in general, two types of migration should be encouraged.

7.2. The domestic and international literature is far from uniform as to whether it is possible to define the sphere of migrants who should be encouraged. Yet, we recommend as an experiment encouraging the migration of owners of enterprises, if they invest in the under-developed regions of the country. In addition to the statutory conditions of residence permits, the law should specify the minimal amount of capital to be invested, the number of jobs to be created, and the period of years that the company would be maintained in Hungary. Regional development, the development plans of local governments and the
country’s economic policy may provide guidance for the Government in developing this policy.

7.3. The cultural attractions of Hungary are demonstrated by the increase in the number of foreign language speakers studying in Hungary’s higher education system, taking part in PhD training and involved in research here. We recommend encouraging the migration of students and researchers. The example set by a number of countries (Australia, France) shows that this form of international migration is, in the long run, an efficient and relatively cheap investment in foreign policy, economic and cultural development. Until European Union regulations come into force in Hungary, it will be necessary to create more detailed rules regarding the legal status of students. The concluding of bilateral agreements providing for migration for cultural purposes, the creating of state grants specified in law and supporting joint academic research would ensure both legal order and diversity.

8. INTERNATIONAL LABOUR MIGRATION

8.1. Employees need transparent labour procedures, labour and health care services, and secure legal status and living conditions, the authorities need to be aware of the scope of foreigners employed in the country and to control compliance with the labour rules. At present, the sphere of the rights and obligations of foreign employees (after accession, the citizens of non-EU member states) is unclear. The provisions in force are fundamentally defensive; they are based on public order considerations and lack any economic guiding force. We propose restricting the employer’s freedom in selecting employees only as much as necessary to ensure the rights of the participants in the labour market and to contribute to the burdens on the public (taxation, social insurance contribution). We must gradually reach the solutions employed in Community law which favour or disfavour an employee’s legal status based solely on the employee’s citizenship and his preferred or non-preferred status under the treaties of the EC.

8.2. We must distinguish among (a) foreigners holding labour permits, b) foreign labourers registered on the basis of international treaties or based on a right derived from their personal status, and c) self-employed foreigners. A number of international bilateral treaties and agreements including those concluded with the European Communities provide for the employment of foreigners in Hungary, the training and complementary training of foreigners, and the exchange of young trainees. These agreements may constitute the basis for the preferences related to labour migration if they are desirable from the point of view of foreign policy or economic progress. As a result of the agreements providing for the employment of foreigners in Hungary, no preliminary work permit is required to employ benefitting persons for a definite period of time unless the agreement expressly regulates otherwise. Prior to entry into the country, such benefitting persons must obtain a labour visa, proving the existence of the contract, commission or work plan that is the basis for employment. Following entry into the country and commencement of employment, the foreigner must register with the labour authority, moreover the registration shall be deleted as employment is terminated. Employers and employees need pay only the health care and pension contributions as social insurance contributions for such
employees; labourers would not be entitled to unemployment benefit and labour services, unless the international agreement regulates otherwise. Upon termination of employment the residence permit issued would expire within a short time unless the foreign employee in Hungary obtained another type of residence permit during that period of time.

8.3. In order to help immigrants enjoying international protection become self-sufficient and integrate into society in the long run, thereby reducing the need for social benefits, they must be allowed to engage in employment. Consequently, certain groups of migrants (that is, recognised refugees, temporarily protected persons and persons authorised to stay) should, based on their specific status, remain employable without a labour permit. Immigrants and full-time students studying in institutions of higher education should not be required to possess work permits, either. (This benefit for certain foreigners does not mean that employment within a certain sphere could not be legally limited exclusively to Hungarian citizens; taking into account the review required by Section 5.4.) These migrants should register with the labour authority when they begin to be employed and should report the termination of their employment. Employers and labourers should pay pension contributions, and health care, and social insurance contributions as they do in relation to a domestic employee. As a result, these foreigners, too, could rely on the available labour services and unemployment benefits.

8.4. For a period of two or three years the Government may establish quotas for foreigners employable with labour permits, including quotas for seasonal workers excluding foreigners from certain regions or professions, unless it contravenes an international treaty. Within the quota, the labour authority may issue a permit to the foreigner not subject to a prohibition of entry or stay, whose health makes him/her suitable for the given job, who has qualifications necessary for the position to be filled, whose labour contract conforms to the labour law rules, who holds residence permit – if he enters the country – and who is not subject to refugee proceedings. The scope (duration, location) of the permit would be adjusted to the substance of the contract but would only be valid until the new governmental decision on quota came into force. The permit would expire upon the termination of employment but the residence permit would remain valid for a certain period of time in order to allow him/her to use the available labour services seeking new employment, and to apply for new labour authorisation. Employers and employees should pay pension and health care contributions unless an international treaty otherwise regulates. The unemployment contribution would be payable only in the case of a labour contract valid for more than one year, in exchange for which the foreigner would receive unemployment benefit only for the amount of time necessary for finding a new job. If the remuneration in the labour contract is close to the lawful minimum level, the permit would only be issued if the employer provided accommodation for the employee and agreed to cover, if necessary, the costs of return.

8.5. The rules of the European Community and other international organisations cover self-employment. Under the law currently in force, the closest category concerns individual entrepreneurs (small business keepers). To protect consumer rights and to keep economic and financial transactions secure, self employment permits should only be granted to Hungarian citizens and permanent resident foreigners (immigrants, refugees and, upon EU membership, European citizens holding residence permits) who satisfy the lawful health, professional and administrative requirements. The law should require the agency
issuing the entrepreneurial permit to inform the labour authority annually of the number of permits issued to foreigners and of the number that have expired.

8.6. The central labour authority should be responsible for labour permits, and for registering foreigners and preparing a booklet on self-employment. The Ministry of Labour should decide appeals from the central authority’s decisions. The procedural fees would cover a considerable part of the state expenses related to foreign language administration, labour control and labour services. The tax authority should play the main role in sanctioning illegal employment, with the removal of foreigners and the imposition of fines only serving as complementary measures. In the future, too, the same labour, labour health care and labour protection rules should apply to both domestic and foreign employees.

8.7. Organisations representing the interests of employers and employees shall be consulted in determining the foreign employment quotas. It would be desirable to convene a group of interested individuals and organisations annually to discuss the legal, labour and social ramifications of the employment of foreigners.

9. MIGRATION OF ETHNIC HUNGARIANS

9.1. The borders of the Republic of Hungary do not coincide with the borders of the Hungarian nation in an ethnic and cultural sense. The Constitution defines the Government’s responsibility for Hungarians living beyond the borders and for fostering their relations with the mother-country. This principle is, in many ways, related to the phenomenon of international migration. It can lead to policies that sometimes appear to be inconsistent. For instance, Hungary must appeal to all international fora if the successor states do not grant the Hungarian minority the right to choose and preserve their national identity thereby forcing these communities to emigrate en masse. Hungary must also act if hatred is incited, forcing these communities to emigrate.

9.2. Hungary should not shut the gates before those who wish to move to Hungary having suffered discrimination on account of their Hungarian national identity. Those who, based on our international legal obligations, are entitled to protection must enjoy that protection without discrimination; there is no scope for political considerations regarding them. However, we are free to determine the conditions of entry and stay in Hungary for those arriving as students, as patients seeking medical treatment, as employees or as long term immigrants and those seeking naturalisation. A statute must identify those whom the politics wants to prefer: one could think of those whose ancestors were Hungarian citizens, for example.

9.3. Smooth relations between Hungarians living in neighbouring countries and Hungary depend on the conclusion and implementation of bilateral agreements on travel, employment, health care and pension services. While preparing for EU membership, it is particularly urgent to conclude and maintain bilateral agreements which determine beneficiaries among each contracting party’s citizens in terms of residence, employment categories, scholarship recipients, trainees, and those seeking language training and retraining. These agreements should specify the benefits as due to all the citizens of the
contracting party regardless of minority membership but should primarily address the Hungarian community. Hungary should use the existing multilateral agreements (of CEFTA, Council of Europe) to foster good relations in favour of Hungarians living beyond the borders.

9.4. Within the framework of the sovereign regulations relating to ethnic Hungarians, those with stable subsistence and who are settled in Hungary should be granted real benefits in the naturalisation process. At the same time, it is clear that many Hungarians moving to Hungary from the neighbouring countries cannot finance their housing and subsistence from their own savings, at least not in the short term. With these applicants in mind, Hungary should institute a system of lawful immigration that allows residence and employment for a maximum period of ten years, thereby modifying the rules of immigration authorisation in force. The state budget should subsidise the economic and social integration of emigrants from Hungarian minorities within the framework of an annual immigration and contribution quota. The authorities should always issue the immigration permit so long as legally defined national security, policing and social conditions do not prevent it.

9.5. A separate quota could be determined within the authorised foreign employment quota for migrant labourers from Hungarian minorities not engaged in employment in Hungary on the basis of an inter-state agreement. If the bilateral agreements cannot cover all benefited groups national regulations should provide for state scholarships and grants. The grants, covering the costs of living and studies, would support the education of ethnic Hungarians in secondary schools, in colleges of higher education and in universities where the language of instruction is Hungarian, in language teaching courses, in vocational training, and in other post graduate and PhD training programmes. It would be desirable if private and international foundations, also, supported Hungarians residing and researching here.

9.6. A specific reason prompting the migration of Hungarians living across the borders to Hungary is the poor health care services in surrounding countries. In the interest of keeping this matter within bounds, the current organisational framework should be strengthened and medical treatment and care should be financed from public funds established for this purpose.

9.7. The labour, economic and social integration of ethnic Hungarians who entered Hungary legally and have permanent residence permit, or are awaiting naturalisation should not be regarded by the Government merely as a test of the individual’s ability to prosper and integrate. Assisting their integration should be regarded as the responsibility of the state and the local governments. The Government and the local governments should specifically prepare the staff of the domestic institutions concerning education, child protection, family assistance, health care, labour services, support for small enterprises and interest representation to provide support for integration. This would accelerate the integration of Hungarian migrants and help them become self-sufficient, ensuring that they are accepted in their new environment, strengthening their self-respect, solidarity and enhancing national identity.

10. FORCED MIGRANTS AND DURABLE SOLUTIONS
10.1. Hungary wishes to participate in the prevention and elimination of the reasons for forced migration, in the eradication of economic, security, health, nutritional and environmental problems, triggering flight in the framework of co-operation within international organisations, primarily using diplomacy and foreign policy. Due to the country’s limited economic resources, Hungary may only be able to make a symbolic financial contribution to the maintenance of internally displaced persons stranded in other countries and of forced migrants outside of our territory. Hungary’s primary assistance to them can be to provide consultants and experts, helping their temporary settlement in the receiving country and their subsequent return home.

10.2. Hungary should continue to take part in all the international efforts to protect the rights of migrants and forced migrants, and to help their repatriation on a voluntary basis and re-integration in their homeland. To this end, Hungary shall utilise its existing membership on the Executive Committee of the UN High Commissioner’s Office for Refugees, the International Organisation for Migration (IOM), the International Labour Organisation, and the International Center for Migration Policy Development (ICMPD), and should also be more efficient in achieving an international alleviation and sharing of Hungary’s burdens accompanying the reception of forced migrants in Hungary.

10.3. An act of Parliament should regulate the procedural guaranties of the human right to seek and enjoy asylum, as well as the refugee’s legal status with regard to the important aspects of life. In light of the experience gained so far, the Asylum Act and the decrees executing it should be amended to conform to this requirement. The amendments shall regulate the practical application of the durable solutions stated in the UN Convention relating to the status of refugees. In particular, the amendments should reduce the criteria of exclusion from recognition as refugee, should stipulate the detailed rules of the recognition procedure, and should regulate the legal status of recognised refugees in a transparent manner, specifically relating it to the rights reserved for Hungarian citizens in other legal rules.

10.4. The Asylum Act must continue to define temporary protection and the criteria of exclusion from such temporary protection. An act of Parliament should determine the mechanism of defining the beneficiaries of temporary protection by a decree (such as specifying those who can propose temporary protection, the types of facts relating to the country of origin that trigger temporary protection, and the deadline for responding to requests for temporary protection measures). Otherwise the Government’s responsibility for failure to designate temporary protection is not clear. The crisis in Yugoslavia makes this concern particularly timely.

10.5. Also an act should regulate the legal status of foreigners who cannot be refouled at the border, cannot be expelled or cannot otherwise be removed. It should also specify the procedures the authorities shall follow. The absolute prohibition of the Council of Europe and the UN convention against returning people to situations of torture, inhumane and degrading treatment, punishment and capital punishment, and the relative prohibition relating to the violation of family life and private life require all proceeding authorities to obtain information on the legal systems and human rights status of the various countries of origin and the transit countries in the course of migration. This is required in every instance regardless of what proceedings the prohibition may arise in.
When the absolute prohibition applies, the law may not stipulate any circumstance disqualifying individuals from protection. Therefore regulations relating to persons authorised to stay in Hungary must be amended. The legal status of the foreigner remaining in this country on the basis of the relative prohibition and the status of the foreigner remaining on the basis of an absolute prohibition should be regulated in a uniform way, on the basis of the category “authorised to stay”. The laws regulating the alien police, asylum and international criminal law assistance shall be amended in order to standardise the proceedings to identify applicants, and the investigations concerning the existence of any prohibitions on removal and the outcomes.

10.6. The prohibitions against refoulement and asylum requests can only be accurately investigated based on accurate and systematised country information. Therefore, a standard data base containing up-to-date information together with the sources of information shall be established and made accessible to both the law enforcement agencies and the judicial boards. Therefore, it is necessary to begin without delay to prepare and operate such a data base using international funds and resources if necessary.

10.7. In accordance with the already cited international obligation, and the Constitution, the law must provide effective legal remedy to rejected asylum seekers and those threatened with refoulement. To do so, the laws concerning the alien police and asylum must be amended to provide that refusal may be reviewed by the court at a public hearing, to guarantee that the migrant may stay in Hungary until the conclusion of the court proceedings and to provide notice of this in a language which is actually understood by the applicant. To provide an effective and efficient legal remedy, an act must specify the system of administrative review and the central budget shall ensure adequate funds for increasing the staff of the authorities, for training the staff and for employing interpreters.

10.8. In the case of unaccompanied minors (without guardian representative), the prohibition of non-refoulement in each instance should be investigated ex officio. It is also possible that another person could submit an application for asylum on behalf of a minor. In both cases, the public guardianship authority must be notified without delay, thereby safeguarding the child’s best interests.

10.9. The majority of forced migrants spend long years, and even their entire active lives, in the first receiving country with no chance of returning home quickly. Refugees, temporarily protected persons and persons authorised to stay should become self-sufficient, and they can then contribute according to their abilities to the public burdens. Thus mutual efforts can lead to their social and economic integration, in accordance with the implicit “social contract” between the forced migrant and the state. The legal provisions shall regulate the support provided by the state and local governments (such as accommodation, food, training, language teaching, labour opportunity, vocational training, retraining, financial contribution as income support), and this must be coupled with the clearly defined rights and obligations of migrants.

10.10. Recognised refugees shall be naturalised under favourable conditions also in the future, in order to complete their integration from a legal point of view.

10.11. Returning home is the common hope of forced migrants. This shall occur on a voluntary basis; if the human rights guarantees are such to allow returning home, the administrative and financial assistance required by law must support the voluntary return.
The protection of repatriated persons in their homeland must be checked by human rights, humanitarian and refugee organisations, and Hungary shall be prepared for the possibility of receiving them back under certain conditions defined by law.

10.12. Durable solutions are relatively rare in terms of long-term resettlement of forced migrants outside the country of first refuge. In cases where there is no international agreement or programme concluded with the receiving country which undertook to secure organised reception and to financially support resettlement on a voluntary basis, the law should include provisions on the assistance to be granted by the Hungarian administrative authorities to resettlement. Within that activity the appropriate agency should foster family reunification and other humanitarian goals and make the preparations for resettlement by obtaining the required documents and providing the necessary data.

11. HEALTH CARE, SOCIAL AND CHILD WELFARE SERVICES FOR MIGRANTS

11.1. Fostering membership in the society and social security for international migrants is an important complementary aspect of the migration regulation, which thus far has largely been police/security oriented. The legal and institutional framework allowing this type of development to unfold reflects the attitude of society towards migrants.

11.2. Instead of having a separate social, health care and child welfare system to satisfy the needs of international migrants, the institutions serving the domestic population should be extended in capacity and professional knowledge so that they can address the migrants’ general needs as well as provide services related to migration taking into account its specifics (exposure to various physical and psychological risks, different cultural traditions, loss of social relations and existing in a foreign environment). Similarly, the social security system should view the migrant as an insured person, an employee, a taxpayer, a patient, a minor, and so on, rather than as an alien.

11.3. Each migrant, regardless of his/her legal status, must have access to emergency medical assistance and accommodation financed from the state budget if he/she or their family is unable to obtain it him/herself. Community shelter and accommodation should be provided primarily by charitable organisations and NGOs, rather than by state-run agencies.

11.4. The subsistence and the contribution (insurance) based health care, unemployment benefit and retirement pension of those legally employed or living on their capital income is – similarly to those of Hungarian nationals – (sometimes through bilateral agreements) taken care of. They should receive social transfers only if they are not entitled to these services. At the same time, the institutions providing social services must prepare to respond to communication obstacles by creating information brochures, relying on translators and providing language training. EU membership with the resulting migration of EU citizens with the same legal status as Hungarian citizens will raise this problem. In addition, EU membership will require legal and technical guarantees for the transfer of acquired social insurance rights.

11.5. The social integration of forced migrants and those unable to return home requires that they receive an increasing share of the social benefits available to citizens
corresponding to their level of integration. This must be supplemented with additional benefits compensation, which must be reduced gradually, in proportion to their increasing integration. The purpose of the supplementary compensation is to offset the disadvantages arising from the flight, the need for protection and their general situation in life. Some of those receiving support will intend to integrate; others will intend to return home or travel on. Different social-political interventions, strategies and programmes must be formulated for the different groups according to their different needs.

11.6. When the regulation or law applied to migrants lacks clarity concerning their legal status and their prospects in the future, this reduces their ability to integrate and support themselves. It makes them increasingly dependent on social services which, on the whole, requires a larger sum of subsidies from the central budget than the organisation of the targeted programmes. In terms of social services, cash contributions should be favoured over the more expensive and less efficient institutional services. At the same time the movement of these public funds utilised for the social services to migrants (not including insurance or allowance-type transfers) should be visible and subject to public scrutiny.

11.7. The legal rules shall define the minimum professional standards (social, public hygiene, nutritional, accommodation) and operating requirements, the budget norm, the required personnel qualifications and the employee conditions for all institutions providing accommodation for migrants and for providers of all other services regardless of the type of service providers. The authorities must control these provisions on a regular basis. Improvement of the controlling system – which by no means amounts to more restrictive rules – is a similarly important goal.

12. PROPOSAL FOR FURTHER DEBATE

Our research group recommends that the Ministry of the Interior organise a wide-ranging professional debate regarding Hungarian migration policy that includes those working in state administration, law enforcement and research areas related to them, as well as representatives of the parliamentary parties and not for profit organisations. Our research group is ready to host this debate. The Government should debate this Proposal as supplemented in the course of the ensuing discussions. The Government should then approve the required measures. In the course of the discussions, the Government should pay attention to the need to harmonise the area-specific policies related to international migration. At the same time, the Government should list the legal rules to be amended or newly issued, the international conventions which are worth joining, and the schedule of joining. The Government should also estimate, calculate and schedule the expenses from the central budget necessary to ensure implementation of the migration policy.
APPENDIX 1
ABOUT THE TERMS WE USE

Asylum seeker: see Forced migrant.

Authorised alien to stay (befogadott): see Forced migrant

Family reunification (családegyesítés): enabling the migrant’s spouse, minor and supported children to join the migrant.

Forced migrant (kényszervándor): a person who leaves the country of origin on account of pressing circumstances. This category includes the following:

- asylum seeker (menekülő): legal status unclarified, and claims to be in need of protection and/or help. Once an asylum seeker contacts the authorities for protection or help: applicant;
- authorised to stay (befogadott): a foreigner who cannot be sent back to his/her own country on a temporary basis because he/she would be exposed to the death penalty, torture, inhumane or degrading treatment there, provided that such a person has been authorised by the refugee authority to stay in Hungary;
- refugee (menekült): a person who is staying outside of the country of his/her citizenship due to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, and is unable, or, for fear of persecution, unwilling to avail himself of the protection of that country; or who, having no nationality and being outside of his/her former habitual place of residence, is unable, or for fear of persecution, is unwilling to return to it as a consequence of such events;
- temporarily protected person (menedékes): a foreigner who arrived from a territory where the members of the asylum seekers groups running away in masses have been granted temporary protection by the refugee authority, based on the Government’s decision, on account of foreign occupation, war, civil war, ethnic clashes or the mass and gross violation of human rights in their country.

Immigrant (bevándorló): foreigner in possession of permanent residence permit. His/her legal status is regulated in law in force.

Integration (beilleszkedés): the migrant’s economic and social integration. It does not mean the migrant’s assimilation (that is, giving up his/her own culture).


Migrant (migráns): in the strict sense (e.g., in UN statistics), a person who is continuously away from his/her country/usual place of residence for at least one year. In a broader sense, it also denotes persons crossing the border for shorter periods of time.

Receiving country (befogadó ország): where the migrant stays on a long-term basis or settles down permanently on a voluntary basis or under duress. Not necessarily the same as the country for which the migrant originally departed at the beginning of migration.

Refugee: see Forced migrant.

Sending country (kibocsátó ország): the migrant’s country of citizenship, or in the case of displaced persons and persons living abroad permanently, the country of their usual place of residence. Synonym: country of origin.
Migration takes three major forms: regular migration, when the individual changes residence of his own free will and in accordance with existing laws; irregular migration which can then be subdivided into two groups, namely forced migration (flight), and illegal migration (illegal border crossing and residence of aliens). Any migration policy must consider these three types of migration, yet manage them according to different principles. These principles are not grouped according to migration types, but rather intersect with them.

What, then, are these principles?

- The principle of solidarity and international burden sharing;
- The principle of historical embeddedness;
- The principle of responsibility to the nation;
- The principle of long-term macro-economic utility;
- The principle of the rule of law.

Let me briefly review how these principles can influence various aspects of migration policy.

\textbf{The Principle of Solidarity and International Burden Sharing.} According to its primary definition, this principle applies to refugee assistance. It is one of the basic tenets of both Christian and non-Christian ethics that the more affluent should assist the impoverished, and that life-saving assistance cannot be denied to those in need, if such actions do not endanger the life of the assistance-giver. There are at least 150 countries which are poorer than Hungary, even if the opposite seems to be the case in view of our past and in our portrayal in German television serials.

The conclusion is rather obvious: any Hungarian refugee policy must acknowledge that the country cannot deny assistance to asylum seekers even if this requires sacrifice from the Hungarian population (and before we begin to feel truly sorry for ourselves we should consider the fact that the government has spent considerably less on asylum seekers and refugees than on the rehabilitation of a single iron mill in Diósgyőr.)

This principle, however, also has a secondary meaning which extends to both types of irregular migration: forced and illegal. The latter includes smuggling of humans, illegal immigration and its consequences. What is needed in terms of this interpretation is that the burden of irregular migration should be shared by the affected countries. In an abstract sense this means that these states should not shift the burden of irregular migration on to another state, either directly or indirectly. Geographical reservations, return agreements and the category of safe third countries should be analysed accordingly.

• The Principle of Historical Embeddedness. To explain the concept of historical embeddedness, I wish to describe two phenomena. The first relates to the past and expresses the moral obligation to view history as a continuum. Thus states which had previously received favours were, in turn, obliged to repay these “debts” in order to preserve credibility. The structures of international relations are constructed of myriad’s of tiny bricks of a nation’s actions. Hungary, as a refugee-producing country throughout this century, is hereby indebted to the earlier receiving countries. Thus, when fate lays the role of a receiving country upon her, she should not retreat into historic amnesia.

The other meaning of historical embeddedness refers to the present as history. Since 1989, and especially the Southern Slav crisis, it is fairly obvious that Central and Eastern European politics are also an integral part of universal history and that they can precipitate unexpected reactions. Any migration policy must take this into account. The laws should define eligibility for temporary protected status and the state apparatus should have a set plan for the reception of large-scale influxes, including such practical issues as how and from where can 15,000 beds be transported to any corner of the country within 24 hours should events so require.

• The Principle of Responsibility to the Nation. The principle of responsibility to the nation primarily affects regular migration and influences three areas. Most visible in present day Hungarian politics is its influence on the immigration of ethnic Hungarians from neighbouring countries. Quite obviously, the guiding principle of any migration policy concerning ethnic Hungarians should be responsibility to the nation. However, this does not necessarily lead to an easing of immigration and naturalisation restrictions. If the mother country considers her primary objective to keep ethnic minorities in their original homeland, she should not offer too enticing possibilities. Otherwise these factors might inspire individuals to opt for migration, who, for the lack of the easy immigration would actually achieve a better life for themselves in their present environment.

If the primary objective is to keep Hungarian ethnic minorities where they are, Hungarian migration policy makers should make every effort to avoid a situation in which neighbouring countries are left outside the European Union, while Hungary itself becomes part of a Union whose visa policy will be binding without exceptions, thus forcing the nationals of neighbouring countries to apply for a visa. This threatening situation can be avoided either by procuring exceptional treatment for the citizens of neighbouring countries in the accession treaty with the European Union, or by supporting their admission into the Union (as Hungary promised in the basic treaties signed with Slovakia and Romania respectively).

Beside the conclusions concerning ethnic Hungarians, this principle also affects Hungarian migration policy governing the emigration and the diaspora, and even the regulation of naturalisation. While I support the possibility of re-naturalisation, I strongly oppose the maintenance of the notion that second and third generation descendants of Hungarian citizens who emigrated 40–60 years ago should be considered Hungarian citizens – especially if they do not maintain even loose ties with the mother country – and should thus have an unrestricted right to immigrate to Hungary. We know of cases when the child of a Hungarian émigré born in Austria was, after serving a prison sentence, deported to Hungary in spite of the fact that he spoke no Hungarian, had no relatives in Hungary and had spent the previous forty years of his life in Austria. The legal ground
for his deportation was that he qualified as Hungarian citizen because of his father and did not “inherit” Austrian citizenship from his mother who – according to legal stipulations in Austria at that time – lost her Austrian citizenship upon marrying a Hungarian citizen.

The third possible aspect of responsibility to the nation affects long-term or final emigration. Responsibility to the nation does not mean that a long-term or final emigration should be impeded, but that these processes should be recognised and monitored. The availability of reliable statistics on the number of individuals who have only left the country temporarily and those who have left for good could perhaps be achieved with gentle legal instruments. A sensible regular migration policy can hardly be formulated if it concentrates only on one direction of migration – namely immigration – yet does not take into account which social resources (housing, labour, benefits) have been liberated by emigration.

- **The Principle of Long-Term Macroeconomic Utility.** The principle of nation-wide or at least medium-term utility affects two branches of migration. It must obviously be determined in all cases of regular migration which do not involve motivations based on moral obligation (family reunification, repatriation, etc.). This is what I would call a utilitarian immigration policy, which is not concerned with neutral annual quotas, but would instead defined which criteria make one immigrant more desirable than another in view of the Hungarian labour market.

The other area influenced by macroeconomic utilitarianism is the fight against illegal migration. It is the task of the state to combat forces which lead to deteriorating social welfare and living standards. The fight against the competitiveness of illegal workers and services, as well as against crimes committed or incited by legally or illegally residing foreigners, is the task of a migration policy based on the principle of macroeconomic utility, and strengthened by a number of bilateral and multilateral international legal agreements.

- **The Principle of the Rule of Law.** Neither emotions, ardent love of one’s nation, nor dry utilitarianism should lead to a migration policy and regulations in violation of legal obligations. The principle of the rule of law involves two, but nonetheless inextricably linked precepts. On the one hand, it calls for a respect for the Hungarian Constitution and the Hungarian legal system, and on the other it obliges Hungary to fulfil her obligations as set forth in various treaties and, in the lack of written treaties, customary international law.
Accession to the Union and Alien Policing Policy: Harmonization or a New Joint Strategy?

At the turn of October–November 1998, the Central European Forum held a conference in Sophia on the migration-related consequences of the planned expansion of the European Union (EU). For obvious reasons, the meeting was devoted to a realistic evaluation of the potential migration from the new member states to Western Europe and to the dispelling of related myths. The issue of migrants arriving from beyond the frontiers of the expanded Union was also mentioned, but, despite my speech focusing on this issue, no serious attention was paid to the necessity of a migration strategy and migration policy concerning these migrants. The only issues raised were whether the new member states will be able to guard the external borders adequately and what support they will need to do so. While the speakers thought that the dangers related to the openness of internal borders could be controlled by Western Europe and that, moreover, these dangers could even be accompanied by advantages, they did not question the legality of enforcing closed external borders.

For both theoretical and practical reasons, it is hard to endorse a two-tier measure such as this. It is an illusion, or worse, burying one’s head in the sand, to rely on the borders to withstand heavy migration pressures. If, according to the estimates of the Immigration and Naturalisation Service (INS) of the United States, there are one hundred thousand illegal Chinese migrants alone who come to the U.S. each year, how can it be expected that Hungary or Poland will “protect” the European Union from the Asian or African migrants who frequently arrive in organised groups? It is expected that the new member states will “screen out” the criminals of the former Soviet Union, Yugoslavia and Albania from among those who want to enter the Union. The thought is that the border controls will accomplish this, aided to some extent by the compulsory visa regime which is presently required of those joining the Schengen Convention. As Darius Stola, a Polish research fellow, noted at the conference, this approach is illogical. Criminals travel legally, not illegally, and there is nothing to indicate that more former Soviet criminals would visit Budapest in the summer than Antwerp, New York or the Costa Brava, where visas are required. It is also true that foreigners who remain in the country unlawfully constitute only a small portion of illegal employees.98

Accordingly, it is worth analysing the present approach of Poland, the Czech Republic and Hungary, which are preparing for the accession to the Union by copying the present visa provisions of the Schengen member states. (This work has been going on in

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98 In France, for instance, they constitute fewer than 10 per cent (Weil, 1997).
Hungary since the spring of 1997, when the Parliamentary Commission charged with the European integration effort placed the subject of migration policy on its agenda and requested the government to make it a strategic element of its work.) It is not clear that any positive impact this policy may have in reducing illegal migration will compensate for the damage that will be caused by dividing Eastern Europe into two parts (in terms of tourism, trade and capital flow in the new members of the Union). Moreover, this policy raises delicate political and humanitarian issues concerning ethnic Hungarian and Polish populations living beyond the borders, as well as implicating Czech and Slovak relations. Furthermore, the policy exacerbates difficulties in guaranteeing the human rights of refugees in situations where the governments have an overwhelming incentive to demonstrate to their western partners the reliability of their efforts at guarding borders.

All the provisions of the Schengen Convention and the regulations issued for its enforcement would become a part of the law of the community through the protocol drawn up to the agreement on the European Union (1997 Amsterdam Agreement). Article 8 of this protocol states: “The Schengen Convention and the rules of enforcement shall be viewed as part of the legal achievements of the Community in the course of the accession negotiations of the new member states of the EU, which shall be fully accepted by the candidate member states.” It is, however, worth considering whether to raise the prospect of special conditions during the negotiations on accession. Germany and Austria propose a grace period of ten years between the full implementation of accession and allowing freedom of movement. It is true that the free movement of the labour force has great significance for the acceding states, but a separate solution could be found to provide at least partial realisation of free movement. Of the present EU-members, Denmark, Ireland and the United Kingdom are not members of the Schengen region. Sweden, which has ratified the Schengen Convention and intends to join it in 2000, provides an important model for the Central and Eastern European candidate members. A special stipulation in the Convention allows but the continuing accessibility of the Scandinavian borders. Norway and Iceland signed an agreement on co-operation with the Schengen member states.

Drawing a lesson from the experiences of the Central and Eastern European countries, it is not necessary to develop a more differentiated Schengen visa policy for member states by the time of accession, which will surely not occur before 2005. In the past decade, the citizens of certain countries, for instance Russia, have not shown a significant interest in migrating to the Central and Eastern European region despite their difficult economic conditions and the exemption from a visa requirement. In contrast, Ukrainian and Romanian citizens have become important components of the legal and illegal labour market, similarly to the situation of Poles in Western Europe. The majority of the Russian citizens who settle in the West officially immigrate on an ethnic basis (such as Jewish or German nationalities); therefore the effect of imposing a compulsory visa regime on them is questionable.

At present, there is a consensus among the major Western European parties that immigration should be restricted, but the focus on guarding the borders and on restrictive administrative methods has become dated. It is recognised more and more widely that on the one hand, administrative methods do not fully address the channels of migration.

99 The term “immigration” is used throughout to mean “entry into the country for the purpose of permanent residence.”
Therefore, it is important to elaborate clear principles in order to maximise the chances of entry for those migrants who will help the country. Fighting crime primarily will depend on the efficiency of the police, not on strengthening the borders; on the other hand, migrants and their descendants create permanent communities, and if their integration in the social and political life of the country does not occur, the quality of life of the majority of society and the operation of a participatory democracy are also adversely influenced.

The traditional view that immigration is not an ongoing phenomenon, that the problems related to migration can generally be handled via alien policing and labour regulation, together with occasional administrative and criminal investigation campaigns, has gradually changed in Western Europe into an endeavour to elaborate a comprehensive migration, citizenship and integration policy. This trend is exemplified by Lionel Jospin’s decision soon after he became the Prime Minister of France to commission Patrick Weil, a migration research scholar, to elaborate a new “simple, realistic and human” strategy. The first sentence of Jospin’s letter of commission says: “France is an old country of immigration and republic of integration,”100 rather than the customary statement, “France is not an immigration country.” One of the axioms of the Weil Report which formed the basis of the new French Naturalisation and Alien Policing Act, which has since been approved, is that the alien policing process will be more effective if it becomes more flexible and more sensitive to individual cases. Simplifying the issue of visas and reducing the time-consuming, repetitive alien policing controls will free resources, which may then be focused on fighting more effectively against illegal migration and migrant smuggling operations and not as obstacles to bona fide foreign travellers, merchants and students (Weil, 1997). In another report prepared at the request of the UN, Weil stated: The changes in European migration policy in recent years has shown that appropriate resources are available to states in order to make the control of migration more effective, but the “lawfulness of migration policies depends on whether politicians want to tell the truth or not […]. Certain politicians who think in the short run consider how they may use the issue of immigration, and wilfully mix the categories (that is, they mix legal and illegal immigration and refugees) in order to influence public opinion and to obtain political benefits. Such politicians undermine the values of democratic states in the long run, which then may prove unable to resist the temptation of ineffective draconian measures.”101

The candidate member states should draw the following conclusion from the new trend: even if the European Union has no migration strategy at present, this does not mean that it will not have one by the time of the accession. Therefore, the negotiations on accession give them an opportunity to make valuable contributions in which their Western European partners are also interested. Consequently, a candidate member state need not be solely limited to unilaterally adapting to the current legal situation.

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100 La Premier ministre, No. 1196 (01. 07. 1997) (Weil, 1997).
101 See Department..., 1998. I thank Patrick Weil for making the above two reports available to me.
Since the beginning of the 1990s, migration policies have been continually changing as a result of increased migration. New legislation is passed again and again, and its application continues to change. At present, a comprehensive migration strategy has not been developed, although proposals have already been made on different sides of the political arena. At the beginning of the decade, alien policing restrictions of a tactical nature were introduced in a number of Western European countries, while various facilitation efforts have entered into force recently.

The bill proposed by the Red-Green German government makes naturalisation (that is, the acquisition of citizenship) easier. For instance, it introduces the principle of citizenship by birth on its territory (jus soli) and applies it to children, born in Germany, of foreigners who arrived at Germany prior to the age of 14. This will enable two and a half million more German citizens to vote at the next German parliamentary elections, according to present indications. Furthermore, the law makes immigration on the basis of family unification easier and allows dual citizenship, which had thus far been rejected. On the other hand, the introduction of a strategy connecting the new immigration system with a faster integration process, which many expected following the coalition agreement between the Social Democratic Party of Germany (SDP) and the Greens, will not occur.

The bill of D’Alema’s government in Italy goes farther than the bill of his German colleagues, but it is not clear, at present, when and in what form Parliament may approve it. The bill rejects the traditional European view which assigns migration to the Ministry of the Interior and views the subject merely as a policing matter. It also rejects the nation-centred tradition which connects integration and naturalisation. For instance, it allows foreigners living in the country legally to vote in municipal elections (as earlier permitted in the Netherlands); this allows eight hundred thousand foreigners to vote in the 1999 Italian municipal elections. This approach allows the development of a two-part society, its members connected by certain common political rights rather than by their consciousness of their political identity. (The Hungarian Constitution provides local voting right to foreigners who have immigrated.) In addition, in November and December 1998, Italy again announced an amnesty in order to legalise the status of thirty-eight thousand foreigners who reside and are employed there.

The French law was prepared at the end of July 1997, only three months after the approval of the so-called Debré Act tightening the alien policing procedure, which the previous conservative parliamentary majority had approved; it came into force on 1 September 1998. It does not change the French tradition of political legislation enshrined in the Napoleonic Code; that is, it does not vest foreigners with political rights. It does, however, stress the lawful nature of legal immigration and facilitates the naturalisation procedure for foreigners born in France. (In the future, parents, with the agreement of their children, may apply for their children’s citizenship after the age of thirteen.) It also provides the security of a legal remedy to those who are involved in alien policing criminal proceedings (for instance, those who have been expelled from the country) and provides for the authorisation of their stay in France under the above period of time as a matter of equity. As part of the legalisation programme announced by the Jospin government, eighty
thousand foreigners residing in the country illegally received residence or settlement permits in 1997 and 1998. For example, the parents of children born in France received immigrant status, provided that they had been residing in the country legally for at least six months.

French-speaking socialists participating in the Belgian government coalition have proposed a more radical naturalisation plan: all foreigners shall receive Belgian citizenship after having lived in the country for five years, so long as they themselves do not refuse Belgian citizenship. According to their proposal, foreigners would receive certain political rights prior to their naturalisation, as a kind of “preparation” for citizenship.

Although the left-wing success in elections obviously encouraged the drafting of more pro-naturalisation bills, despite appearances, this is not merely a left-wing endeavour. The Italian bill was drafted during the Prodi-government. The Minister of the Interior of the Prodi government also proposed introducing immigration quotas by countries. The German government does not support the introduction of quotas, but the Free Democrats (FDP) consider the quota system an essential part of a policy aimed at not more or less, but better controlled, migration. In the United Kingdom, the new Refugee and Immigration Act prepared by the Labour Government is not more liberal than the former law, but it sets as an aim the acceleration of refugee proceedings and the reform of the system of care and maintenance of those applying for refugee status. It also stipulates that, due to past abuses, there must be regulation of companies providing immigration consultancy.

In sum, the main immigration countries of continental Western Europe now recognise, more than they did earlier, that migration policies should pay attention to the importance of humanitarian considerations, to the interests of employers, to the restricted and selective settlement of those who intend to immigrate but fall outside the above interests, and to long-term integration. This kind of migration policy requires co-ordinated measures from a number of authorities. For the time being, though, no comprehensive strategy has crystallised. This is true at the European level and also at the member-state level, as the laws of any given country contain only a portion of the elements mentioned above. One of the reasons for this is that those elaborating the new Naturalisation and Immigration Acts emphasise that legislation should be applied in conjunction with better co-ordinated measures against the migrant-smuggling operations, but generally do not agree with the detailed regulations that govern the alien policing process and criminal proceedings. Those responsible for alien policing feel that, while others win laurels as protectors of human rights, they must hold the ground with respect to stopping criminals and those who cross the frontier illegally. In addition, it becomes more and more difficult to distinguish between “legal” and “illegal” migrants, because in addition to the classical “sans-papiers” arriving by boat or across the green border, an increasing number of persons arrive with real documents that were issued corruptly, either in the name of another person or otherwise not in accordance with the rules in force.

Therefore, it can be understood that in 1997 in Amsterdam the European Union failed to transfer immigration policy from the third pillar, that is, from the competence of the member states, to the first pillar, that is, the competence of the Union. They also failed to reach an agreement allowing migration policy decisions to be decided by a majority vote in the future. Nonetheless, there are European-level endeavours to create a
A comprehensive migration policy, although these efforts are separate from European Commission (EC) initiatives and stem instead from work related to the Council of Europe (CE). For instance, an expert committee (CDMG) of the Council of Europe issued a report in 1997 which proposed, among other things, to regularise the status of foreigners who had permanently settled and to provide them with economic and social rights identical to the rights of citizens.102 Some projects launched by the Council of Europe affect both migration and aboriginal minorities. The conference of the European ministers responsible for migration commissioned CDMG in 1996 to prepare a comprehensive strategy taking into account not only border control, but also the long-term issue of immigration into the “expanded Europe.” The report was prepared in 1998, but only now has attracted the attention of the governments.103 In contrast to the border guards and other policing agencies, which are taken seriously, governments view the departments responsible for migration mainly as a decoration required by integration, which generally have little to do with the law enforcement agencies. There is no doubt that effective migration policies can only be formulated at a European level; in the absence of a European policy, migrants will always migrate to the country on the continent where they find the most favourable conditions, as has occurred each time the Italian alien police announce a new amnesty. Therefore, it is no solution for the new member states acceding to the Union to copy the current alien policing rules, as these have not proved effective in Western Europe during the past decades. Instead, it is necessary that the new member states contribute on the merits in the intensive debate concerning what migration system should replace the present one.

In April 1997, the Hungarian Government, as part of its preparation for EU accession, accepted a political package of guidelines concerning alien policing and refugees. But this single government document that addresses the refugee system, border guard functions, visa and immigration policies, and the battle against illegal migration is characterised by an enforcement focus and is centred on policing. It does not consider the impact on the economic and social development of the country and does not outline a coherent political concept for medium-term migration. The Ministry of Labour announced in 1998 that it would prepare its own decree to facilitate the employment of EU citizens and to restrict the employment of those who arrive from outside the EU. Thus far, the Office of the Parliamentary Commissioner of Citizenship Rights has principally investigated the alien police and the naturalisation process concerning issues related to guarding the border and to family and labour law matters, according to reports of the complainants. The recommendations104 that resulted from these investigations will be useful in establishing a comprehensive migration strategy in the future.

WHAT ELEMENTS SHOULD BE INCLUDED IN THE MIGRATION STRATEGY OF HUNGARY?

103 Ibid., pages 23 and 24
Hungary’s migration strategy should include elements relating to immigration, entry into the country, the legal security of foreigners residing in Hungary on a permanent basis and integration. The first three clauses of the migration strategy published in this volume contain guidelines and organisational proposals for establishing an active migration policy and administration. The subsequent clauses provide details which will to a greater or lesser extent need elaboration in order to “translate” the strategy into a practical plan for state administrative action. I will set out some relevant considerations below.

Immigration

We must not act as if all foreigners arriving in Hungary were potential law-breakers. We must differentiate those who migrate on the basis of economic, cultural and social considerations and want to settle permanently from those who are bona fide refugees, or the victims of migrant smuggling operations or criminals. We must recognise that these categories overlap; for instance, criminals may become true refugees, and true refugees may become criminals.

We must provide economic and social rights to those whom we allow to enter. This is, however, not enough. We must understand and make the public understand that, in addition to the two groups generally discussed – those whom we allow to stay in our country in order to protect their lives and those whom we want to keep out – there are others whom we want to allow to enter because we think that they will contribute to the economic, cultural and political development of our country. To encourage these people to stay in Hungary, we have to create an opportunity for them under appropriate conditions to be able to consider Hungary their own country. To encourage settlement in Hungary, as well as temporary residence, there should be a clear, calculable and selective system that is co-ordinated with the regulation of investment, foreign trade, labour affairs and family law. Consistent enforcement should be strictly monitored. This system should apply when foreigners who intend to remain permanently receive visas, as well as when foreigners do not require visas to enter Hungary (based on the statistics concerning violations of the alien policing rules by citizens of their countries).

We should consider applying elements of the Anglo-Saxon immigration systems (quotas, point systems, waiting periods). The United States, for instance, maintains an annual immigration quota for those who invest at least one million dollars in the country and create at least ten full-time positions, from which their relatives are precluded, or invest at least five hundred thousand dollars in sectors where the rate of unemployment is high. Such an immigration permit is conditional for two years; it becomes final only after the government has verified that the investment has taken place and that the creation of the requisite employment has occurred. (Out of the ten thousand persons permitted under this quota, fewer than one thousand immigrated in 1996; eighty percent of them were from Asia.) A similar investor-immigrant system exists in Canada, which requires two hundred fifty thousand or three hundred fifty thousand Canadian dollars, depending on the circumstances, plus residence of at least 183 days in Canada. (The United States does not oblige immigrants to stay in the country; it stipulates a minimum of two visits per year.)
Canada and Australia apply a point system to so-called independent and qualified immigrants (that is, those who do not fall within the investment or family-unification categories). In Canada, it is possible that a potential immigrant can obtain the minimum points required from the score on a test. In Australia, a maximum of 70 points of the necessary 115 points can be based on education and professional experience; a maximum of 30 points can be based on age (between 18 and 29 years); a maximum of 20 points can be based on knowledge of the English language; a maximum of 25 points is awarded for having a sponsoring parent, and a maximum of 10 points is awarded if an immigrant worked in Australia during the past two years and did not claim social benefits. A similar system is in force in New Zealand. Twenty-five points are required for immigration, of which 10 points are awarded for secondary school qualification, 12 points for a Ph.D. degree, 1 point for each year of full-time professional experience (but not more than 20 points), 10 points for age (between 25 and 29 years), 3 points for family members living in New Zealand, and 1 point for one hundred thousand New Zealand dollars. Thus, New Zealand has integrated the investment and family-unification considerations in a unified immigration point system, which operates simply, under a transparent system of rules, and flexibly corresponds to the prevailing immigration priorities.

Entry into the Country

A visa requirement is not itself a means to pursue criminal investigations and to control the illegal economy. The majority of those who commit crimes in Hungary and who are employed illegally are not foreigners staying in the country illegally; rather they are Hungarian citizens and foreigners who are legally authorised to stay in Hungary. It is possible to apply a quota system not only in order to maximise the total number of foreign employees, or the number of foreign employees in certain sectors, but also on the basis of bilateral agreements (known in the German practice and also included in the plans of the Ministry of Labour) specifically targeted at countries that are the source of the majority of foreign employees (Romania, Ukraine). These agreements can differentiate between border employees, seasonal employees, long-term employees and employees “imported” by foreign companies. Monitoring the observance of the agreements, however, requires a continuous commitment of labour resources. Therefore, we may have to consider whether it would be more expedient to require visas of citizens of these countries. For employers who intend to employ foreigners who require visas, we have to offer simple, rapid and inexpensive procedures that allow us to respond differently (by using different types of visas) to sectors facing long-term labour force shortages, to current sectors which should be strategically developed (such as the computer, financial and telecommunications sectors), as well as to foreigners with special qualifications and to other cases. Finally, in the interest of improving the employment of Gypsies, we should consider the approach applied in Taiwan, which permits the employment of a certain number of foreigners for each member of the disadvantaged aboriginal (Chinese, so-called mountaineer, non-Chinese) population employed.

The consulates and other foreign representative offices issuing visas should be provided easily understandable, one-page information sheets (leaflets) which describe the purposes
and requirements of the most common types of visas, including the documents that must be submitted with the application and the required fees. In countries where there is considerable migration (e.g. China) these information sheets should also be distributed by local agencies in areas that are distant from the consulates.

Foreigners entering Hungary without visas should be required to satisfy some simple conditions. At present, foreigners arriving without a letter of invitation or contract of employment may prove they have financial support for their stay by showing that they have access to funds that total the equivalent of one thousand forints. This applies no matter what their situation or their type of visa. Increasing the prescribed amount to a more realistic sum that varies with the type of visa would operate as a “filter” at the border, even without introducing a visa requirement. These conditions of entry, as well as the conditions for obtaining visas, should, of course, be publicised abroad so that those who intend to travel to Hungary know the pertinent requirements before they leave their places of residence.

The Legal Security of Foreigners Who Settle in Hungary

In the interest of the legal security of foreigners who settle in Hungary and live law-abiding lives, we must create the legal guarantees of long-term, though not necessarily permanent, residence. Hungary must do so in the case of forced migrants, as well as in the case of voluntary migrants.

Perhaps Hungary should introduce a system that allows the almost automatic issue and renewal of residence permits, so long as the applicant presents authentic specified documents (as in the United States, for example). Perhaps, instead, there should be case-by-case consideration, as it is prescribed by current Hungarian regulations. In reality, however, the limited resources of the alien policing authorities and the lack of an adequate labour force mean that no real consideration is possible. The current evaluation process is inefficient and offensive. Despite the number of applicable international and bilateral agreements, it often results in a second-rate procedure that lasts several months, during which the official in charge may order the applicant to appear weekly, each time requiring them to supply more supporting documents, but never spending more than a few minutes with the person in question, or perhaps not meeting them at all. On the one hand, this situation provides no legal security to foreigners (as the parliamentary commissioner of citizenship rights has concluded in the cases cited); and, on the other hand, it imposes unmanageable burdens on the authority.

In the present situation, it is important to devise a transparent system concerning the issue and renewal of residence permits that results in final decisions. The only way to do this is to establish clear criteria that are easily understood by the persons affected. In most cases, the system should operate by itself, with decisions based on the applicants’ ability or inability to meet the prescribed criteria. This will release resources for dealing individually with the really “problematic” cases and for the training required to do so. In the simplest cases (e.g., for EU citizens) as in the United States and France, the residence permit process should be accomplished by mail, with only one personal appearance of the applicant required. The applicant would first contact the authority by phone, and then
receive by mail a list of the documents to be submitted. Should any difficulties arise, the applicant would be ordered to appear in person for a single interview. The officials in charge should receive training providing information on the countries of origin and the Hungarian communities from which the applicants come. This approach would promote decisions that truly reflect the individual circumstances of the applicants, not merely their citizenship.

The current process whereby foreigners are issued with temporary permits to be extended at short intervals until a final decision concerning a residence permit is reached is problematic, as the applicants apply for an extension just before the expiration date of the permit. Instead, those who intend to extend their permit should be required to apply for extension prior to the expiration of the permit, within the period of time set forth by the relevant legal rule. The extension request should then be decided before the expiration date of the original permit.

In order to avoid unnecessary duplicative administrative processing, a favourable decision on an application for immigration should simultaneously serve as a favourable decision on the extension of the residence permit. Similarly, a foreigner whose immigration application is rejected should leave the country without regard to any pending application for residence permit renewal.

In addition to creating a system that provides legal security for long-term resident foreigners and that makes for the rational utilisation of resources, we must provide benefits in order to attract the trade and investment potential of foreign entrepreneurs into certain strategic sectors designated by specialists. If possible, consultants belonging to the immigrating ethnic group would assist in attracting foreign entrepreneurs. We should promote the establishment of joint ventures.

A coherent and consistent immigration system may be created most expeditiously by creating a national executive agency that co-ordinates visas, residence permits, immigration, refugee affairs, citizenship and minority affairs. One of the most important responsibilities of the agency would be to create a qualified force consisting of inspectors equipped with language training and knowledge of other cultures in order to oppose migrant smuggling operations. (Criminal investigation should not be the responsibility of the authority issuing visas or residence permits. ) At the same time, the responsibilities related to guarding the borders and policing should be transferred to another agency equipped with the resources available to the secret service.

Outside Budapest, in provincial municipalities, where a large number of migrants live, we must find a local institution to promote their adaptation. This may be a local office of the national agency (such as the district offices of the Immigration and Naturalisation Service in the United States), an agency of the municipality, or even a non-governmental organisation which has a contract to work with migrants and has the support and co-operation of the authorities. The local institution should supervise the education, health care and integration-related issues affecting migrants, as well as compliance with labour laws and regulations implementing regional policies. For example, in Quartiere Navile, a district of Bologna where a large number of migrants live, there is a school preparatory programme and a successful (at little additional cost) health centre that employs “cultural nurses” speaking Chinese and Arabic. In Prato, the Immigration, Research and Service Centre of the municipality organises courses for officers working in migrants affairs; the participants
attend lectures concerning the culture and the characteristic features of the individual communities of migrants, as well as lectures concerning useful methods of acquiring information and data about the various migrant groups. Practical training sessions have the participants analyse specific problems they have faced in the course of their work (Rastrelli, 1997).

Integration

The problems of integration are more difficult to solve. The state should respond to the challenges posed by the transnational communities that exist away from their home territory. It should facilitate a social dialogue and provide lawful means to help migrants adapt to the political culture of the society where they have settled (Habermas, 1992). European governments have traditionally been averse to regulating and intervening into the internal life of the non-European population they govern either in the colonies or in Europe. They began with the idea that such intervention is disrespectful to the characteristic features of different cultures and to the co-existence of the different ethnic groups; therefore, they considered it neither necessary nor ethical to intervene.

This attitude is still taken in Europe towards the groups immigrating from Asia. On the one hand, this increases the legitimacy of the self-appointed individuals who serve as mediators between the migrant community and the police, the municipal governments and the press. On the other hand, it decreases the work of lower-level Hungarian authorities, who find it much more comfortable to negotiate with a few individuals and to entrust them with managing the affairs within the migrant community. It is then possible to refer to the “closeness” of the community, if necessary, rather than to investigate each matter. In this setting, of course, government authorities need an interpreter even to communicate with the mediator (Christiansen, 1997). This philosophy of ethnic determinism leads the governments to believe that an immigrant minority can be represented by a single (unelected) organisation; it is not likely that the same logic would be applied toward a minority born within the country, however.

Applying the principle of ethnic determinism, with the consequent isolation of the Hungarian authorities from the internal life of the migrant community, conflicts with the duty to provide legal security to persons in that community. Moreover, it delays integration, and it also causes potential national security risks. In the case of the Chinese community in Hungary, for instance, it strengthens the role of the institutions of the People’s Republic of China and of the community leaders who gain their legitimacy directly from that regime, as Hungarian authorities consider the political orthodoxy of the People’s Republic of China a central element in the self-determination of that community.

Instead of expecting that an immigrating ethnic group will form one organisation that represents the interests of the whole group, we have to carry on a dialogue with all the migrant organisations that operate lawfully, avoiding giving exclusive attention to any one group. Concerning criminal investigation, it is in the interest of the Hungarian society, of the foreigners living in Hungary and of the sovereignty of the country that appropriately trained Hungarian police carry out law-enforcement duties in the migrant communities. It is important that the police forces do not act on the basis of any preconceptions about the “Russian” (Ukrainian, Chechen, Albanian and Chinese) Mafia,
that they do not justify inaction by repeating that the “Russians” (Ukrainians, Chechens, Albanians and Chinese) will, anyhow, settle the affairs among themselves, and that they do not transfer the responsibility for the investigation of criminal acts to the agencies of other countries. Exchanging information with the Western European police is not sufficient to improve the qualifications of the Hungarian police and their knowledge of the migrant communities in Hungary, as the ethnic, social and political backgrounds of the migrant groups are different in Western Europe, and their economic and employment structures also differ. Consequently, their policing problems and criminal profiles are different, too.

Returning to the Chinese example, it is worthwhile considering the Italian experiment. There, social organisations engaged with the Chinese community organised courses for the police; they also examined case studies. In Hungary, the Chinese press is extraordinarily well developed. There are at least six papers which regularly report on problems of public security and publish migrants’ experiences with the alien policing administration and with the police; indeed, one of the papers has a column entitled “Hello Police.” Therefore, establishing a service to monitor attention to the Chinese press would provide useful information.

In the interest of gaining and strengthening the confidence of the migrant communities, it could be useful for the police to adopt the Dutch and British practice of employing “liaison persons” from among the immigrating ethnic groups; later, when the younger generation grows up, it would be useful to employ them as civilian employees of the police on a part-time basis. If the police demonstrate they will enforce the law disinterestedly against those who break the law rules, co-operation could develop with the Chinese community, which could improve both crime prevention and criminal investigations.

The integration of migrants should be promoted by supporting practical education concerning the Hungarian language, the Hungarian legal system and participatory democracy. Municipal governments, chambers of commerce or non-profit organisations providing services to migrants could, with a small expenditure of funds, develop training programmes and data bases to help the migrants enter the economic sectors where they are needed. (For example, the Confederazione Nazionale Artigiano, the federation of Italian artisans, has started such activities.) Foreigners who have settled in Hungary on a long-term basis, should be able to participate in municipal bodies and other forums of local political life. Accordingly, it would be useful if Hungary joined Convention No. ETS 144 of the European Union, which came into force in 1997, on the participation of foreigners in local public life. Thus far, it has been ratified by Italy, the Netherlands, Norway and Sweden. The Convention stipulates that foreigners who have settled in a country have the right to vote and run for office in municipal elections. It also stipulates that foreigners should be represented in the consultative institutions at a local level. The Convention permits the ratifying countries to introduce the rules into force gradually.

Education is the most powerful means at the state’s disposal to promote integration. It is especially important for mobile, modern migrants that their children may also take advantage of the opportunity for social mobility in other countries. Migrants with high incomes frequently send their children to an English-speaking country to continue their studies. Bilingual education based on the national syllabus, mainly implemented in government institutions, will strengthen settlement in and commitment to Hungary;
simultaneously,
it will ensure the acquisition of the language and culture of a given ethnic group. Young people who receive such an education should face less stringent naturalisation requirements.

REFERENCES


Department... (1998). Department of Economic and Social Affairs, Population Division: The State Matters. New York: Immigration Control in Developed Countries (ESA/P/ WP/146), UNO.


In the domestic practice, decisions related to international migration are, at present, determined by the "mood" that the enforcement apparatus is in and by its performing capability, based on the laws approved, in the absence of a thoroughly considered, long-term migration political strategy, under an assumed but never actually verified social expectation and the realistically existing pressure of migration. As a result, and in view of historical precedents, the potential accession of the countries of the region or a part thereof to the European Union, and the rapid decline in and growing age of the country’s population, the question necessarily arises: what kind of an immigration political strategy is required in order that the composition of those already living here and those who will live with us, based on sex, qualifications and occupations, and their ratio to the total population, should not be the source of further tension but serve the interests of the country and the Hungarian people.

The current alien-police practice, which does not truly affect either emigration or immigration in the above context, has rendered it obvious that

- it is not irrelevant to the development of the Hungarian society’s present and future what kind of processes are strengthened, weakened or neutralised by those coming here during the course of their life in Hungary, in comparison with the demographic and sociological characteristics of the country’s population;
- the determination of the responsibilities related to emigration and immigration is not a police issue even if the police plays a highly important part in fulfilling them.

Consequently, we need a migration policy which is independent of any party politics and the four-year electoral cycles and which takes account of our national interests, including the formulation, wide-ranged debate and approval of the migration political strategy.

WHAT SHOULD BE TAKEN INTO ACCOUNT IN FORMULATING HUNGARY’S MIGRATION POLITICAL STRATEGY?

Emigration and immigration, as a permanently present, spontaneous social process, can no longer be ignored, and we may only hope that there will not be another period in our history when migration is prevented and hindered by means of power politics.

The migration political strategy awaiting formulation must, above all, take account of the fact arising from our historical situation, in addition to the provisions of the international agreements, that
• the Hungarian nation and the borders of Hungary do not coincide;
• as a result of the unfortunate development of modern history, hundreds of thousands
of Hungarian citizens were forced to leave the country for political or primarily political
reasons.

As a result of historical circumstances, it must be recognised and made clear that
every Hungarian-speaking person considering him- or herself Hungarian, wherever they
may live, is a member of the Hungarian nation and the Hungarian cultural community.
However, recognition of this also results in the obligation that Hungary must assume the
role of the mother-country, to an extent, of course, which depends on its burden bearing
capability, and must contribute to the operation and establishment of the institutions of
the Hungarian communities.

Similarly to the states of the world, it may not be indifferent to Hungary, either, which
of its citizens leave the country, within the framework of international migration, for a
longer period of time or permanently, and who the persons are who have come (are
coming) to live in Hungary for a shorter or longer time or to settle down here
permanently and opt for Hungarian citizenship instead of their former citizenship. In
respect of the formulation of the migration policy it is important to know which countries
the migrants are coming from, what their traditions and ambitions are, what kind of values
they represent, and what they have left behind. We should therefore be aware of the
demographic and sociological features characteristic of the immigrants, and also of the
processes characteristic of the domestic population which they may enhance or weaken.

As of 1990, in connection with the political transformation and after the country’s isola-
tion for over four decades, new processes have come to prevail in the area of international
migration concerning Hungary. This process began at the end of 1988 and in 1989 when
first only ten thousand, and then more than twenty thousand Romanian citizens of primarily
Hungarian origin stayed in the country. The authorities were unprepared for the changes
which occurred, and primarily the police forces dealing with foreigners.

The new legal rules which regulate travel abroad by Hungarian citizens, travel into
and stay in Hungary by foreigners, and immigration constitute an important part of the
changed conditions. Nor can we forget about the establishment of the institutional
framework which attempted to satisfy requirements conforming to the new conditions.
However, neither the country’s legislation, nor the apparatus responsible for the
formulation and operation of the institutional background and dealing with foreigners
have been able to break with the negative practice of the previous decades.

In addition to the foregoing, it has also been important since 1990 that
• Hungary’s attitude towards Hungarian nationals living in the neighbouring countries
has changed fundamentally;
• the former official political reservations related to persons of Hungarian origin
living in any country of the world have lost their meaning;
• as a result of the country’s geographical situation, the unresolved problems of the
countries of the Danube Basin, and the war which has broken out among the countries of
the former Yugoslavia, Hungary has become a target and transit country of international
migration.

In formulating the migration political strategy, we must consider that the vast majority
of the refugees coming to Hungary will, as it has been the case since 1988, be citizens of the
neighbouring countries, and a considerable part of them will, presumably, be of Hungarian origin. This is obviously related to the fact that Hungarian nationals will, to different degrees of intensity, necessarily be seeking the mother-country’s safer protection against the pressure of being part of a national minority, exacerbated by the threat of a war. In this case, the country has no choice but extend protection to them for the duration of the threat.

The situation which has come to prevail is, of course, far more complicated than outlined herein. The political ambitions related to the citizens of Hungarian origin living in the neighbouring countries change every four years in spite of the fact that the vast majority of the participants of the migration movement are Hungarian nationals. But not only do we not have a common long-term concept regarding Hungarian nationals living in the neighbouring countries which is independent of parliamentary elections; there is no concept regarding those having left the country at different dates, either; not to mention the fact that since the creation of the conditions of free travel, we have had no reliable information on the international migration of Hungarian citizens.

Beyond recognising the phenomenon, at present we only have vague ideas as to the changes which may be caused by immigration into Hungary in the social structure of Hungarian communities living in minorities, in their relations with the majority population, in the preservation of their own identity, etc., and what the consequences are and will be in respect of the present and future of the Hungarian community in each of these countries.

In the absence of basic research, nor are we able to determine how emigration by the Hungarian nationals of Yugoslavia, which started as a result of the civil war, will develop as a consequence of the drama in Kosovo. Another question which we are unable to answer as yet is how much longer Hungarians living north of Hungary will remain “interested” in staying where they are, that is, how long they will find their living conditions acceptable, and when they will leave their homeland temporarily or permanently in considerably larger numbers than at present. Nor are we familiar with the changes which are caused by Hungarians previously living in a minority in the fine “tissues” of Hungarian society as a result of their increasing proportion, relations and influence.

Finally, we cannot avoid the question of whether Hungary needs these immigrants or not, and whether we need this many new citizens. But is it possible not to take account of the natural ambition that an increasing number of Hungarian nationals wish to live the rest of their lives in the motherland? We should not forget that they or their parents were Hungarian citizens as residents of the Kingdom of Hungary until the end of World War I.

THE BACKGROUND OF HUNGARY’S ATTRACTION

It is, in general, difficult to trace a direct and close link between the refugees and immigrants and those who have, upon application, obtained citizenship in a given country. However, in the case of Hungary, fundamentally in connection with the modern history of this region, as opposed to international experiences, there is a strong link between a large part of those arriving in Hungary in any capacity and those choosing Hungary permanently.
Hungary’s current attraction for migrants was fundamentally created by the peace treaties concluding the 1st and 2nd World Wars as a result of the fact that the treaties, conceived in the spirit of revenge, irrevocably distributed the areas taken away from Hungary among the former Czechoslovakia, the former Yugoslavia, Romania and the former Soviet Union. Forcing Hungarian nationals behind new state borders resulted in a clear anti-Hungarian policy in the newly formed states, the elimination of these Hungarians’ economic strength and national identity. As a result, hundreds of thousands were forced to leave. As is known, subsequent to the Trianon and Paris decisions, the more than three million Hungarian nationals living in the areas annexed to the neighbouring states had to choose between their birthplace and Hungarian citizenship. Those who opted for Hungarian citizenship as optants or in any other status had to leave their homes, while those staying became Czechoslovakian, Romanian, Serbian (Yugoslav) or Austrian citizens.

The then Hungarian borders were altered after 1938 which changed the citizenship of over five million persons without their having left their homes.

The peace treaty concluding World War II once again ignored the ethnic principle, and as a result, not only did they restore the previous state of affairs but new Hungarian-inhabited areas were granted to Czechoslovakia.

The end of World War II, the turn of 1944/45, forced a part of the Hungarian citizens to make a peculiar choice: many of them, in previously unimaginable numbers, fled to the West. As a counter-effect of the re-annexation of areas during the war, after the war, Hungarian nationals living in the neighbouring countries were regarded as enemies: retaliation, physical elimination, deprivation of rights, captivity in labour camps and eviction from their homeland came to be their lot.

By 1948, in Hungary, as in the other countries of the Danube Basin, Bolshevik-type governments had seized power. Hungary thereby lost its natural attraction which usually every country obviously has towards its own citizens, and through which it influences, furthermore, in cases, determines emigration and the re-migration of emigrants. Another consequence of the Bolshevik-type take-over was the cessation of the normal or natural form of international migration.

Although the countries that enjoyed the gift of the Hungarian territories disintegrated permanently at the beginning of the 1990s, the status of the Hungarian-inhabited areas has not changed. According to the data of the neighbouring countries’ official statistics, the number of ethnic Hungarians is some 2 million 750 thousand. Most of them live in Romania, the Republic of Slovakia and Yugoslavia. If the current social and economic conditions prevailing in the individual countries and the attitude of those in power, representing the majority, towards the minorities do not change, the forced and spontaneous emigration of Hungarians living in the annexed territories and the return of those having left Hungary will remain continuous also in the future. This also means that Hungary’s “absorbing effect” has not been created and is not sustained by the country’s economic capability but by an external necessity. In the area of immigration, it is not the country’s realistic need that determines but, above all, on the one hand, the general state and tolerance of the population who regard themselves as Hungarians also as citizens of one of the neighbouring countries, and, on the other hand, the decisions of those who wish to return home after several decades’ stay abroad. The degree of pressure exerted by
migration that Hungary has to reckon with depends on the neighbouring countries’ internal stability, economic situation, minority policies and the general disposition of Hungarians living there.

**HOW TO RELATE TO HUNGARIANS LIVING THROUGHOUT THE WORLD AND IN THE NEIGHBOURING COUNTRIES?**

In spite of the fact that ethnic Hungarians living outside of Hungary are members of the Hungarian nation and the Hungarian cultural community, the migration political strategy to be formulated must take account of the different characteristics of Hungarians living throughout the world and in the neighbouring countries.

- It must be made clear, in agreement with the position of several Hungarian organisations operating in the West, that the return of Hungarian citizens living in any of the countries of the world is desirable in respect of the country’s future. They must be aware that the country relies on their expertise and experiences gained in emigration in the reorganisation of the country’s economic life, and investment of their property, or a part thereof, in Hungary is very much supported. This position is not motivated fundamentally by the desire that the Hungarians living in the West should bring back home their material assets accumulated over the years but by the fact that they should be aware: the conditions which once forced them to leave the country no longer prevail, and without their participation it will take longer to build the Hungary of their dreams.

  This, of course, does not mean that the Hungarian state should offer some sort of a guarantee in respect of those returning from the West but nor does it mean that this is how we wish to obtain the wealth accumulated by them. This is simply how Hungary’s migration policy wishes to “compensate” those having left the country for various reasons. We must also consider which of the areas of Hungary’s economic, cultural and scientific life are in particular need of the return of Hungarian emigrants for shorter or longer periods. Based on the Italian example, we must also examine where within the domestic system of institutions the conditions prevail which would enable persons having attained prominent results in their respective areas to make successful efforts also in Hungary.

  There appears to be agreement in respect of the issue of the desirability of the return of Hungarian citizens from the West. We are not aware of any domestic publication which would deny their right to return. The only area where opinions vary is this: what kind of rights should Hungarian citizens not living here or only visiting Hungary at certain intervals have. The problem is effectively confined to the issue of whether those having left Hungary should be entitled to cast their votes at parliamentary elections held every four years or not. In my opinion, the most acceptable solution is this: Hungarian citizens who have, without interruption, lived outside of Hungary for a period of ten years should not have the right to take part in parliamentary elections.

- The migration policy related to Hungarian citizens in the West cannot automatically be extended to ethnic Hungarians living in the neighbouring countries since they have not left the country but the country has left them. In formulating the migration political strategy, both in foreign and internal political respects, the process whereby an increasing
number of Hungarians living in the neighbouring countries (currently with the exception of Slovakia) wish to live in Hungary can and must be subjected to our national interests. For instance, in the case of Romania, this is related to the general economic and political situation prevailing there, the Romanian attitude towards minorities, the considerably different culture, traditions and customs of the majority from those of the Hungarians, and the attraction of those having come from Romania in large numbers who have lived in Hungary for decades. (We may define similar correlations in connection with ethnic Hungarians living in Sub-Carpathia and what was once Southern Hungary, as well.)

There are two extreme, sharply conflicting views regarding ethnic Hungarians living in the neighbouring countries. Both views have their representatives inside and outside of the country, among those concerned. These two extreme views may be summed up briefly as follows:

− ethnic Hungarians who leave their motherland and move to another country, be that even Hungary, temporarily or permanently, are traitors to the Hungarian nation;

− Hungarians living in the neighbouring countries may only be rescued for the Hungarian nation if their relocation to Hungary is promoted from central funds. In this way, on the one hand, Hungarians living in minority may be saved from assimilation, and, on the other hand, by relocating them, the fall in Hungary’s population may be stopped.

The question therefore arises: should we promote, or on the contrary, should we throw difficulties in the way of the immigration into Hungary of ethnic Hungarians of Czech, Croatian, Romanian, Serbian, Slovak, Slovenian and Ukrainian citizenship?

In my opinion, under the present circumstances, the most acceptable view is represented by those who are of the opinion that the international migration and immigration into Hungary of ethnic Hungarians living in the neighbouring countries should be neither prevented, nor encouraged and promoted. We would do the right thing if Hungary helped Hungarians living in minority stay where they are and get by in life and contributed to the strengthening of their economic activities and Hungarian identity via many-sided economic and cultural relations. This is not in conflict with the fact that positive discrimination should be extended to all ethnic Hungarians who decide to continue their lives in Hungary. We do not say this because it is the lesser of two evils if a given person remains Hungarian as opposed to assimilating but because us, having stayed within the Trianon borders, or our descendants do not really have the moral grounds to refuse the request of ethnic Hungarians living in neighbouring countries. It is merely historical chance that we are not Ukrainian, Serbian, Slovak, etc. citizens. We must be aware that it is impossible to respond to moral issues on the basis of geopolitical considerations since, in these cases, the applicant is as Hungarian as the person that assesses his or her application. The Hungarian migration strategy and policy to be formulated must avoid all measures which may increase the pressure arising from this difficult situation in any form because it would weaken the position of Hungarians living in the neighbouring countries which exists as yet.

It is a dilemma within and without the country how the active participation of ethnic Hungarians living in the neighbouring countries in the formulation of the nation’s future may be ensured. As an important element of this, we could remedy the injustice arising from the decisions of the great powers: the elimination of their Hungarian citizenship. If they had the right to vote on the most important issues concerning the future of the
Hungarian nation, that is, if they could get their Hungarian citizenship back, in addition to their current citizenship, it would probably have a deterring effect on their migration plans while it would enhance their human dignity. The question is, however, how they could be granted Hungarian citizenship in such a way that, as a result, they should not be even further discriminated against. At present, there is no realistic chance for the collective awarding of Hungarian citizenship to ethnic Hungarians living in neighbouring countries. A condition would be that the parliaments of the neighbouring countries approach the Hungarian State with this request, and this is completely out of the question.

- A separate problem is the issue of emigration by Hungarian citizens. At present, we only know of the few citizens who, in conformity with the requirements of the host country, renounce their Hungarian citizenship. Of course, there are many more citizens who stay abroad on a long-term basis as employees, university students, grant holders, family members or in some other capacity. We know next to nothing about this part of the population in spite of the fact that the migration political strategy to be formulated should apply to them as much as to those who have chosen our country on a temporary or permanent basis.

**TOLERANCE ON THE PART OF THE DOMESTIC POPULATION**

In order for the migration political strategy to be efficient and serve the interests of the nation, we must, above all, feel at home in our own country, our personal safety must be guaranteed and it must be ensured that any violation of our human dignity and Hungarian identity must not go unpunished. This requires the creation of a civil lifestyle and mentality in which solidarity with others and the extension of support manifest themselves in a natural form. This also means that the migration political strategy of Hungary must be value-orientated, that is, it must promote the immigration into Hungary of all those who may play a positive part in the formulation of the new conditions of the Hungarian economy and in the country’s smooth European integration in the short term and in the long run. It continues to remain an open question, of course, as to what may be regarded as a value in connection with the foregoing. The following positive characteristics of a migrant have been most frequently identified in the literature of migration:

- the migrant’s qualifications and experience, with the aid of which he/she is able to integrate into Hungarian society without significant problems;
- the existence of a financial background necessary for the migrant’s or his/her family’s living;
- command of the Hungarian language at a certain level so that the migrant should not have difficulties of comprehension in day-to-day situations.

Also, the migration political strategy cannot ignore the extent to which the Hungarian population is able to harbour immigrants, the limits to its tolerance towards foreigners (regardless whether the migrant is of Hungarian origin or not) and the fall in the Hungarian population since 1980. It is impossible to precisely draw the line between the bearable and unbearable ratio of immigrants to the total population. In the case of Hungary, in 1980 this ratio was only 0.01 per cent, which increased to 0.06 to 0.2 per cent by the
mid-nineties. In spite of the growth, this value is still lower than the lowest European value (this proportion was 0.5% in Finland in 1990) but, in comparison with the previously prevailing situation in Hungary, this may be regarded as a clearly considerable change.

We must accept that a migration political concept which does not meet with the approval of the majority of those living here (meaning not only the opinions of the representatives of the parliamentary parties) must not be approved, even if it is in conflict with the foregoing.

**RESPONSIBILITIES**

The institutional framework of international migration must be revised and we must secure the approval and support of the communities where the immigrants will find new homes. The legal rules in force and the appendices attached thereto serve their original purpose less and less, due to the rapid changes which have occurred. These must therefore be re-drafted, subject to the approved migration political strategy.

The institutions dealing with refugees, foreigners staying in the country on a long-term basis, immigrants and the would-be new citizens must be arranged into a uniform framework. We must determine which part of the process constitutes the responsibilities of the police, and which parts should be taken care of by the divisions of state administration, the labour agencies, the various civil organisations, etc.

The formulation and practical implementation of the migration political concept requires objective, accurate and up-to-date data in order to become familiar with and monitor any changes in the composition of migrants in terms of citizenship, occupations and qualifications and in their geographical distribution. In the interest of this, the questionnaires currently in use must be reviewed with the aid of sociologists and demographers specialising in migration. The design and implementation of standard computerised data collection can no longer be delayed. This should not only satisfy the needs of the alien police agencies in some form but must also enable researchers to continuously monitor the social-demographic characteristics of migrants.

During the period of the formulation of the concept, we must assess the attitudes of the country’s population towards migration and foreigners. We must be aware of how much of the payments of Hungarian taxpayers, the central budget, the budgets of state-run or partially state-run institutions, companies and various local governments, and the budgets of foundations relying fundamentally on public funds or subsidies from the central budget, is actually spent on Hungarian-Hungarian relations in the strict and broad sense, and how effective these investments are.

In order to promote the formulation of the Hungarian migration political strategy and to ensure that this issue is addressed on a continuous basis, a Hungarian Council for Emigration and Immigration must be set up which must be independent of the parties’ day-to-day political interests.
In the domestic practice, decisions related to international migration are, at present, determined by the "mood" that the enforcement apparatus is in and by its performing capability, based on the laws approved, in the absence of a thoroughly considered, long-term migration political strategy, under an assumed but never actually verified social expectation and the realistically existing pressure of migration. As a result, and in view of historical precedents, the potential accession of the countries of the region or a part thereof to the European Union, and the rapid decline in and growing age of the country’s population, the question necessarily arises: what kind of an immigration political strategy is required in order that the composition of those already living here and those who will live with us, based on sex, qualifications and occupations, and their ratio to the total population, should not be the source of further tension but serve the interests of the country and the Hungarian people.

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• the Hungarian nation and the borders of Hungary do not coincide;
• as a result of the unfortunate development of modern history, hundreds of thousands of Hungarian citizens were forced to leave the country for political or primarily political reasons.

As a result of historical circumstances, it must be recognised and made clear that every Hungarian-speaking person considering him- or herself Hungarian, wherever they may live, is a member of the Hungarian nation and the Hungarian cultural community. However, recognition of this also results in the obligation that Hungary must assume the role of the mother-country, to an extent, of course, which depends on its burden bearing capability, and must contribute to the operation and establishment of the institutions of the Hungarian communities.

Similarly to the states of the world, it may not be indifferent to Hungary, either, which of its citizens leave the country, within the framework of international migration, for a longer period of time or permanently, and who the persons are who have come (are coming) to live in Hungary for a shorter or longer time or to settle down here permanently and opt for Hungarian citizenship instead of their former citizenship. In respect of the formulation of the migration policy it is important to know which countries the migrants are coming from, what their traditions and ambitions are, what kind of values they represent, and what they have left behind. We should therefore be aware of the demographic and sociological features characteristic of the immigrants, and also of the processes characteristic of the domestic population which they may enhance or weaken.

As of 1990, in connection with the political transformation and after the country’s isolation for over four decades, new processes have come to prevail in the area of international migration concerning Hungary. This process began at the end of 1988 and in 1989 when first only ten thousand, and then more than twenty thousand Romanian citizens of primarily Hungarian origin stayed in the country. The authorities were unprepared for the changes which occurred, and primarily the police forces dealing with foreigners.

The new legal rules which regulate travel abroad by Hungarian citizens, travel into and stay in Hungary by foreigners, and immigration constitute an important part of the changed conditions. Nor can we forget about the establishment of the institutional framework which attempted to satisfy requirements conforming to the new conditions. However, neither the country’s legislation, nor the apparatus responsible for the formulation and operation of the institutional background and dealing with foreigners have been able to break with the negative practice of the previous decades.

In addition to the foregoing, it has also been important since 1990 that
• Hungary’s attitude towards Hungarian nationals living in the neighbouring countries has changed fundamentally;
• the former official political reservations related to persons of Hungarian origin living in any country of the world have lost their meaning;
• as a result of the country’s geographical situation, the unresolved problems of the countries of the Danube Basin, and the war which has broken out among the countries of the former Yugoslavia, Hungary has become a target and transit country of international migration.

In formulating the migration political strategy, we must consider that the vast majority of the refugees coming to Hungary will, as it has been the case since 1988, be citizens of the
neighbouring countries, and a considerable part of them will, presumably, be of Hungarian origin. This is obviously related to the fact that Hungarian nationals will, to different degrees of intensity, necessarily be seeking the mother-country’s safer protection against the pressure of being part of a national minority, exacerbated by the threat of a war. In this case, the country has no choice but extend protection to them for the duration of the threat.

The situation which has come to prevail is, of course, far more complicated than outlined herein. The political ambitions related to the citizens of Hungarian origin living in the neighbouring countries change every four years in spite of the fact that the vast majority of the participants of the migration movement are Hungarian nationals. But not only do we not have a common long-term concept regarding Hungarian nationals living in the neighbouring countries which is independent of parliamentary elections; there is no concept regarding those having left the country at different dates, either; not to mention the fact that since the creation of the conditions of free travel, we have had no reliable information on the international migration of Hungarian citizens.

Beyond recognising the phenomenon, at present we only have vague ideas as to the changes which may be caused by immigration into Hungary in the social structure of Hungarian communities living in minorities, in their relations with the majority population, in the preservation of their own identity, etc., and what the consequences are and will be in respect of the present and future of the Hungarian community in each of these countries.

In the absence of basic research, nor are we able to determine how emigration by the Hungarian nationals of Yugoslavia, which started as a result of the civil war, will develop as a consequence of the drama in Kosovo. Another question which we are unable to answer as yet is how much longer Hungarians living north of Hungary will remain “interested” in staying where they are, that is, how long they will find their living conditions acceptable, and when they will leave their homeland temporarily or permanently in considerably larger numbers than at present. Nor are we familiar with the changes which are caused by Hungarians previously living in a minority in the fine “tissues” of Hungarian society as a result of their increasing proportion, relations and influence.

Finally, we cannot avoid the question of whether Hungary needs these immigrants or not, and whether we need this many new citizens. But is it possible not to take account of the natural ambition that an increasing number of Hungarian nationals wish to live the rest of their lives in the motherland? We should not forget that they or their parents were Hungarian citizens as residents of the Kingdom of Hungary until the end of World War I.

THE BACKGROUND OF HUNGARY’S ATTRACTION

It is, in general, difficult to trace a direct and close link between the refugees and immigrants and those who have, upon application, obtained citizenship in a given country. However, in the case of Hungary, fundamentally in connection with the modern history of this region, as opposed to international experiences, there is a strong link between a large part of those arriving in Hungary in any capacity and those choosing Hungary permanently.
Hungary’s current attraction for migrants was fundamentally created by the peace treaties concluding the 1st and 2nd World Wars as a result of the fact that the treaties, conceived in the spirit of revenge, irrevocably distributed the areas taken away from Hungary among the former Czechoslovakia, the former Yugoslavia, Romania and the former Soviet Union. Forcing Hungarian nationals behind new state borders resulted in a clear anti-Hungarian policy in the newly formed states, the elimination of these Hungarians’ economic strength and national identity. As a result, hundreds of thousands were forced to leave. As is known, subsequent to the Trianon and Paris decisions, the more than three million Hungarian nationals living in the areas annexed to the neighbouring states had to choose between their birthplace and Hungarian citizenship. Those who opted for Hungarian citizenship as optants or in any other status had to leave their homes, while those staying became Czechoslovakian, Romanian, Serbian (Yugoslav) or Austrian citizens.

The then Hungarian borders were altered after 1938 which changed the citizenship of over five million persons without their having left their homes.

The peace treaty concluding World War II once again ignored the ethnic principle, and as a result, not only did they restore the previous state of affairs but new Hungarian-inhabited areas were granted to Czechoslovakia.

The end of World War II, the turn of 1944/45, forced a part of the Hungarian citizens to make a peculiar choice: many of them, in previously unimaginable numbers, fled to the West. As a counter-effect of the re-annexation of areas during the war, after the war, Hungarian nationals living in the neighbouring countries were regarded as enemies: retaliation, physical elimination, deprivation of rights, captivity in labour camps and eviction from their homeland came to be their lot.

By 1948, in Hungary, as in the other countries of the Danube Basin, Bolshevik-type governments had seized power. Hungary thereby lost its natural attraction which usually every country obviously has towards its own citizens, and through which it influences, furthermore, in cases, determines emigration and the re-migration of emigrants. Another consequence of the Bolshevik-type take-over was the cessation of the normal or natural form of international migration.

Although the countries that enjoyed the gift of the Hungarian territories disintegrated permanently at the beginning of the 1990s, the status of the Hungarian-inhabited areas has not changed. According to the data of the neighbouring countries’ official statistics, the number of ethnic Hungarians is some 2 million 750 thousand. Most of them live in Romania, the Republic of Slovakia and Yugoslavia. If the current social and economic conditions prevailing in the individual countries and the attitude of those in power, representing the majority, towards the minorities do not change, the forced and spontaneous emigration of Hungarians living in the annexed territories and the return of those having left Hungary will remain continuous also in the future. This also means that Hungary’s “absorbing effect” has not been created and is not sustained by the country’s economic capability but by an external necessity. In the area of immigration, it is not the country’s realistic need that determines but, above all, on the one hand, the general state and tolerance of the population who regard themselves as Hungarians also as citizens of one of the neighbouring countries, and, on the other hand, the decisions of those who wish to return home after several decades’ stay abroad. The degree of pressure exerted by
migration that Hungary has to reckon with depends on the neighbouring countries’ internal stability, economic situation, minority policies and the general disposition of Hungarians living there.

HOW TO RELATE TO HUNGARIANS LIVING THROUGHOUT THE WORLD AND IN THE NEIGHBOURING COUNTRIES?

In spite of the fact that ethnic Hungarians living outside of Hungary are members of the Hungarian nation and the Hungarian cultural community, the migration political strategy to be formulated must take account of the different characteristics of Hungarians living throughout the world and in the neighbouring countries.

• It must be made clear, in agreement with the position of several Hungarian organisations operating in the West, that the return of Hungarian citizens living in any of the countries of the world is desirable in respect of the country’s future. They must be aware that the country relies on their expertise and experiences gained in emigration in the reorganisation of the country’s economic life, and investment of their property, or a part thereof, in Hungary is very much supported. This position is not motivated fundamentally by the desire that the Hungarians living in the West should bring back home their material assets accumulated over the years but by the fact that they should be aware: the conditions which once forced them to leave the country no longer prevail, and without their participation it will take longer to build the Hungary of their dreams.

This, of course, does not mean that the Hungarian state should offer some sort of a guarantee in respect of those returning from the West but nor does it mean that this is how we wish to obtain the wealth accumulated by them. This is simply how Hungary’s migration policy wishes to “compensate” those having left the country for various reasons. We must also consider which of the areas of Hungary’s economic, cultural and scientific life are in particular need of the return of Hungarian emigrants for shorter or longer periods. Based on the Italian example, we must also examine where within the domestic system of institutions the conditions prevail which would enable persons having attained prominent results in their respective areas to make successful efforts also in Hungary.

There appears to be agreement in respect of the issue of the desirability of the return of Hungarian citizens from the West. We are not aware of any domestic publication which would deny their right to return. The only area where opinions vary is this: what kind of rights should Hungarian citizens not living here or only visiting Hungary at certain intervals have. The problem is effectively confined to the issue of whether those having left Hungary should be entitled to cast their votes at parliamentary elections held every four years or not. In my opinion, the most acceptable solution is this: Hungarian citizens who have, without interruption, lived outside of Hungary for a period of ten years should not have the right to take part in parliamentary elections.

• The migration policy related to Hungarian citizens in the West cannot automatically be extended to ethnic Hungarians living in the neighbouring countries since they have not left the country but the country has left them. In formulating the migration political strategy, both in foreign and internal political respects, the process whereby an increasing
number of Hungarians living in the neighbouring countries (currently with the exception of Slovakia) wish to live in Hungary can and must be subjected to our national interests. For instance, in the case of Romania, this is related to the general economic and political situation prevailing there, the Romanian attitude towards minorities, the considerably different culture, traditions and customs of the majority from those of the Hungarians, and the attraction of those having come from Romania in large numbers who have lived in Hungary for decades. (We may define similar correlations in connection with ethnic Hungarians living in Sub-Carpathia and what was once Southern Hungary, as well.)

There are two extreme, sharply conflicting views regarding ethnic Hungarians living in the neighbouring countries. Both views have their representatives inside and outside of the country, among those concerned. These two extreme views may be summed up briefly as follows:

− ethnic Hungarians who leave their motherland and move to another country, be that even Hungary, temporarily or permanently, are traitors to the Hungarian nation;
− Hungarians living in the neighbouring countries may only be rescued for the Hungarian nation if their relocation to Hungary is promoted from central funds. In this way, on the one hand, Hungarians living in minority may be saved from assimilation, and, on the other hand, by relocating them, the fall in Hungary’s population may be stopped.

The question therefore arises: should we promote, or on the contrary, should we throw difficulties in the way of the immigration into Hungary of ethnic Hungarians of Czech, Croatian, Romanian, Serbian, Slovak, Slovenian and Ukrainian citizenship?

In my opinion, under the present circumstances, the most acceptable view is represented by those who are of the opinion that the international migration and immigration into Hungary of ethnic Hungarians living in the neighbouring countries should be neither prevented, nor encouraged and promoted. We would do the right thing if Hungary helped Hungarians living in minority stay where they are and get by in life and contributed to the strengthening of their economic activities and Hungarian identity via many-sided economic and cultural relations. This is not in conflict with the fact that positive discrimination should be extended to all ethnic Hungarians who decide to continue their lives in Hungary. We do not say this because it is the lesser of two evils if a given person remains Hungarian as opposed to assimilating but because having stayed within the Trianon borders, or our descendants do not really have the moral grounds to refuse the request of ethnic Hungarians living in neighbouring countries. It is merely historical chance that we are not Ukrainian, Serbian, Slovak, etc. citizens. We must be aware that it is impossible to respond to moral issues on the basis of geo-political considerations since, in these cases, the applicant is as Hungarian as the person that assesses his or her application. The Hungarian migration strategy and policy to be formulated must avoid all measures which may increase the pressure arising from this difficult situation in any form because it would weaken the position of Hungarians living in the neighbouring countries which exists as yet.

It is a dilemma within and without the country how the active participation of ethnic Hungarians living in the neighbouring countries in the formulation of the nation’s future may be ensured. As an important element of this, we could remedy the injustice arising from the decisions of the great powers: the elimination of their Hungarian citizenship. If they had the right to vote on the most important issues concerning the future of the
Hungarian nation, that is, if they could get their Hungarian citizenship back, in addition to their current citizenship, it would probably have a deterring effect on their migration plans while it would enhance their human dignity. The question is, however, how they could be granted Hungarian citizenship in such a way that, as a result, they should not be even further discriminated against. At present, there is no realistic chance for the collective awarding of Hungarian citizenship to ethnic Hungarians living in neighbouring countries. A condition would be that the parliaments of the neighbouring countries approach the Hungarian State with this request, and this is completely out of the question.

• A separate problem is the issue of emigration by Hungarian citizens. At present, we only know of the few citizens who, in conformity with the requirements of the host country, renounce their Hungarian citizenship. Of course, there are many more citizens who stay abroad on a long-term basis as employees, university students, grant holders, family members or in some other capacity. We know next to nothing about this part of the population in spite of the fact that the migration political strategy to be formulated should apply to them as much as to those who have chosen our country on a temporary or permanent basis.

TOLERANCE ON THE PART OF THE DOMESTIC POPULATION

In order for the migration political strategy to be efficient and serve the interests of the nation, we must, above all, feel at home in our own country, our personal safety must be guaranteed and it must be ensured that any violation of our human dignity and Hungarian identity must not go unpunished. This requires the creation of a civil lifestyle and mentality in which solidarity with others and the extension of support manifest themselves in a natural form. This also means that the migration political strategy of Hungary must be value-orientated, that is, it must promote the immigration into Hungary of all those who may play a positive part in the formulation of the new conditions of the Hungarian economy and in the country’s smooth European integration in the short term and in the long run. It continues to remain an open question, of course, as to what may be regarded as a value in connection with the foregoing. The following positive characteristics of a migrant have been most frequently identified in the literature of migration:

• the migrant’s qualifications and experience, with the aid of which he/she is able to integrate into Hungarian society without significant problems;
• the existence of a financial background necessary for the migrant’s or his/her family’s living;
• command of the Hungarian language at a certain level so that the migrant should not have difficulties of comprehension in day-to-day situations.

Also, the migration political strategy cannot ignore the extent to which the Hungarian population is able to harbour immigrants, the limits to its tolerance towards foreigners (regardless whether the migrant is of Hungarian origin or not) and the fall in the Hungarian population since 1980. It is impossible to precisely draw the line between the bearable and unbearable ratio of immigrants to the total population. In the case of Hungary, in 1980 this ratio was only 0.01 per cent, which increased to 0.06 to 0.2 per cent by the
mid-nineties. In spite of the growth, this value is still lower than the lowest European value (this proportion was 0.5% in Finland in 1990) but, in comparison with the previously prevailing situation in Hungary, this may be regarded as a clearly considerable change.

We must accept that a migration political concept which does not meet with the approval of the majority of those living here (meaning not only the opinions of the representatives of the parliamentary parties) must not be approved, even if it is in conflict with the foregoing.

RESPONSIBILITIES

The institutional framework of international migration must be revised and we must secure the approval and support of the communities where the immigrants will find new homes. The legal rules in force and the appendices attached thereto serve their original purpose less and less, due to the rapid changes which have occurred. These must therefore be re-drafted, subject to the approved migration political strategy.

The institutions dealing with refugees, foreigners staying in the country on a long-term basis, immigrants and the would-be new citizens must be arranged into a uniform framework. We must determine which part of the process constitutes the responsibilities of the police, and which parts should be taken care of by the divisions of state administration, the labour agencies, the various civil organisations, etc.

The formulation and practical implementation of the migration political concept requires objective, accurate and up-to-date data in order to become familiar with and monitor any changes in the composition of migrants in terms of citizenship, occupations and qualifications and in their geographical distribution. In the interest of this, the questionnaires currently in use must be reviewed with the aid of sociologists and demographers specialising in migration. The design and implementation of standard computerised data collection can no longer be delayed. This should not only satisfy the needs of the alien police agencies in some form but must also enable researchers to continuously monitor the social-demographic characteristics of migrants.

During the period of the formulation of the concept, we must assess the attitudes of the country’s population towards migration and foreigners. We must be aware of how much of the payments of Hungarian taxpayers, the central budget, the budgets of state-run or partially state-run institutions, companies and various local governments, and the budgets of foundations relying fundamentally on public funds or subsidies from the central budget, is actually spent on Hungarian-Hungarian relations in the strict and broad sense, and how effective these investments are.

In order to promote the formulation of the Hungarian migration political strategy and to ensure that this issue is addressed on a continuous basis, a Hungarian Council for Emigration and Immigration must be set up which must be independent of the parties’ day-to-day political interests.
Considerations Relating to Foreign Politics and Foreign Affairs

As is the case with other states, Hungary does not act in isolation from other countries in the world. Thousands of threads of international relationships accompany its existence and operation as a state. Accordingly, it is a fundamental interest of all states, including Hungary, to look beyond their borders. In doing so, states engage in the economic, commercial and financial relationships that affect their international position. Moreover, external relationships also define their internal development.

Even states such as the USA and Australia, which have a large territory, a considerable internal market, and are geographically distant from many other states, look beyond their borders, as it is a well understood interest of states and their citizens to take part in the increasingly intensive efforts for international co-operation. Thus, a state with the size, geographical location and historical development of Hungary should pay particular attention to the international dimension of its policies. The development of our international relationships and the representation of our national interests towards other states is of great importance, and the appropriate development of our foreign policy is fundamental to our national interest. The formulation of foreign policy is an obligation, stipulated by law, of certain government organisations. In formulating foreign policy, we must ensure that the inter-governmental relationships we propose are well-founded, identifiable, in harmony with our real interests, realistic both in domestic and international arenas, and conducive to the internal development of our country. Defining the migration policy of Hungary and co-ordinating it with our international endeavours has become an important element of our foreign policy.

INTERNATIONAL MIGRATION

International migration means the movement of people between countries. It includes the various forms of so-called regular migration, which occurs through the free will and law-abiding conduct of individuals, forced migration which occurs when people are compelled to escape, and illegal migration. Clarifying the concepts in this field is crucial, not only for the specialist, but also for those in government and elsewhere who wield power. Otherwise, it will be impossible to establish well-defined goals and laws that address the appropriate treatment of different categories of migrants.

In the century of technology, in the era of unbelievably accelerated opportunities for moving, travel and communications, Hungary, similarly to the other states, must define
as clearly as possible the state’s roles and procedures involved in the international movement of persons. This will allow the persons concerned to identify and rely on the pertinent roles and procedures.

THE MANAGEMENT OF INTERNATIONAL MIGRATION

The management of international migration requires a national political strategy and fundamental changes in approach. As a starting point, we think that the issues related to international migration have to receive greater emphasis in foreign-policy thinking than they have in the previous decades. The international movement of people shall be recognised as a long-term strategic issue in government policy. Hungary’s geographical location, demographic situation, efforts at efforts at and integration the many bitter historical experiences of Hungarians will not allow the country to remain isolated from the international movements of people.

The appearance of non-citizens, refugees and foreign labourers who remain in a foreign country on a permanent basis forces the given state, whether it wants to or not, to take a position on international migration. Either explicitly or implicitly, a state will act to promote or hinder, prohibit or support the presence and the settling down of foreigners on its territory. In the positions they take, states shall respect other states and their international commitments.

States shall recognise that their own domestic regulations or political decisions may become magnets or deterrents for various groups of migrants, and thus may directly affect the endeavours of other states.

This paper wishes to suggest some additions to the National Migration Programme, which should be established as soon as possible. Making no claims to comprehensiveness, this paper will also discuss the connections between foreign policy and foreign activities.

FOREIGN POLICY RESPONSIBILITIES RELATED TO INTERNATIONAL MIGRATION IN LIGHT OF THE EU-ACCESSION

• Hungary’s Euro-Atlantic integration (into NATO and the EU) necessitates the harmonisation of the country’s migration strategy with the migration policy of the European Union and with the community regulation currently under preparation. The 1997 Amsterdam Agreement of the EU requires the Union to regulate the most important issues of international migration (including joint border controls, refugee matters, and migration and visa policy issues) within 5 years of the entry into force of the Agreement. (This entered into force in May 1999.) It is in the fundamental interest of Hungary to prepare for these efforts at harmonisation. Furthermore, the European summit meeting held in Vienna in December 1998 confirmed that the admission hopes of the candidate member countries depend considerably on whether the national regulations of the applicants conform to EU-standards. This is particularly so in the fields of internal affairs and justice, including migration issues, where co-operative efforts and effective controls are very important.
It is a crucial foreign-policy goal to send a message to EU member states emphasising that Hungary is ready to implement the relevant Schengen/EU regulations, and that Hungary intends to have completed the necessary preparations by the date of its admittance.

- While emphasising our willingness to accede to the EU, our foreign policy must make it clear that our own resources are not at all sufficient for the fulfilment of the requirements, and that we must rely on the community resources of the European Union and on assistance from individual member states.

In addition to requesting help from multiple sources for the training of specialists, we need also to lobby internationally to obtain contributions for infrastructure projects. We must convince our European partners that the efficient external protection of Hungary’s borders, the prevention of illegal migration and the fulfilment of related tasks is not only in Hungary’s interest, but the mutual interest of the EU member states.

- The development of our relations with neighbouring countries is an important area of our foreign policy endeavours.

When assessing our bilateral relationships, there should be an ever greater emphasis on the co-operation necessary concerning migration issues, such as actions taken against organised crime networks that extend beyond the borders, joint measures to prevent illegal migration and arrangements to ensure the smooth functioning of readmission agreements.

There is increasing recognition that migration is characterised by mutual interdependence and that, as with arrangements to facilitate traffic at the frontier, joint transnational action is the only solution that will curtail negative phenomena.

- With respect to migration and our future relations with ethnic Hungarians living across the borders in neighbouring states, the development of Hungarian–Hungarian relationships is a particularly important foreign (and domestic) policy issue.

It is a foreign policy priority that the current Hungarian government should handle approach with particular attention and responsibility. It is important that the practically problem-free relations established in the recent past with ethnic Hungarian communities outside Hungary’s borders are not changed adversely by Hungary’s imminent EU-membership. Experts agree that a good solution must take both interests into account. They disagree, however, on specific approaches and emphases. Several ministries and research institutions are engaged in workshops on the likely Schengen/EU obligations at the time of Hungary’s accession, and also on the “political requirements for preliminary performance” that candidate members must satisfy in the course of the next few months. These expert investigations are also considering possible responses Hungary may make in case of further restrictions by the EU.

This task is particularly complicated in terms of foreign relations. On the one hand, we have to assure the neighbouring candidate members, who will probably be admitted in the “second round,” that Hungary intends to promote their admission as soon as possible. Hungary must show that it is interested in this issue and is ready to demonstrate its support at EU forums. On the other hand, Hungary shall explain to its future EU partners that historical circumstances have resulted in nationality issues in Central and Eastern Europe requiring special solutions.

In light of the fact that in 1999 the European Union itself is engaged in its own internal reforms, and has not yet accomplished the tasks arising from the Amsterdam
Agreement, it is not appropriate for Hungary to take measures concerning this issue at this time.

- Reviewing international obligations arising from the international treaties ratified by Hungary is crucial, as is identifying the preparatory work related to other agreements regarding ongoing foreign policy tasks.

We must review the already ratified multilateral and European international agreements relating to migration in order fully to apply them as well as review those to which Hungary is not yet a contracting party. We must also review the agreements regarding bilateral cooperation in the field of internal affairs and justice, the conclusion of which is justified now or in the near future.

- It is one of the foreign affairs and foreign political tasks of the government to pay attention to the international situation and to assess the countries on a regular basis with respect to those jeopardised migrants categories in the world who correspond to the legal category of temporarily protected persons (persons who are in need of temporary protection) of the Hungarian Act on Asylum.

It also is important for Hungary to elaborate guidelines for determining who should qualify as a temporarily protected person in the future. (The uncertain situation of temporarily protected persons from Kosovo emphasises this need).

- The participation of Hungary in the work of international organisations (UNHCR, IOM, OESC, CAT, and so on) shall be more intensive and transparent.

Domestic professional circles and the forums of the media shall be informed more regularly of the professional consultations conducted in these organisations. Public opinion at home has very limited knowledge of the activities of these international organisations, their role in the international response to migrants and the various types of assistance they provide.

Exchange of views, dialogue with significant international non-governmental agencies (Amnesty International, ECRE, Helsinki Committee, and so on) engaged in human rights issues and the situation of migrants shall be strengthened. This would indicate that the Republic of Hungary attaches appropriate importance to the activities of international civil organisations, appreciates their work and provides them the necessary government subsidies.

- In accordance harmony with our foreign policy and foreign economic interests, we must work to ease and simplify the domestic requirements concerning the establishment of self-employment and investing entrepreneurs and of foreigners who create employment.

Neither the present labour market nor the regulation of policing aliens is sufficiently fine tuned. There are insufficient incentives for entrepreneurial foreigners in Hungary. Modernisation of this field is urgently needed and could improve our image abroad. Modernisation would also promote our recognition in other countries.

- In our opinion, it is important to have greater emphasis than in the past on migration issues in the practical work of foreign policy, that is, in the field of foreign administration.

At present, only the few employees in the Refugee and Migration Affairs Division inside the Department of Consular Affairs follow migration issues from a foreign policy perspective. Furthermore, only the small number of public servants at the Office of the State
Secretary for Integration and several diplomats in the Division of International Organisations (MFA) focus on topics related to connections with the EU.

This organisational structure is not at all sufficient to accomplish the ongoing tasks in this field, which are expected to be magnified in the future. This is so even though the Ministry of the Interior has extended responsibilities related to migration. Despite this, the Government Decree on the competence and duties of the Ministry of Foreign Affairs requires the Minister of Foreign Affairs to co-ordinate the international activities, including activities affecting migration, of other ministries with respect to foreign policy.

To illustrate, the Ministry of Foreign Affairs shall follow ex officio the events of the states of the world with respect to migration, the specific circumstances leading to forced migration, the country assessments needed by the alien policing authorities to establish expert opinion on the feasibility of repatriating foreigners (principles of establishing the safety of the country of origin or identifying a safe third country) and the activities of international migration organisations.

The Minister of Foreign Affairs shall inform and instruct Hungary’s embassies and consulates abroad concerning migration issues, including consular aspects, alien policing, refugee-related matters and other concerns related to migration. This Ministry must also analyse and evaluate the reports received from Hungary’s embassies and consulates on this subject.

- The Hungarian consular network must be modernised, better furnished and attuned to the new migration-related tasks.

As international migration is a two-way process, our consular network has to be developed to provide appropriate local assistance to Hungarian citizens concerning the employment, educational, policing, and other regulations of the receiving country and simultaneously to provide information to foreigners concerning conditions in Hungary, the possibilities of legal migration and the regulations currently in force. Up-to-date “country information packages” should be made available at Hungary’s embassies, regular consulates and from her honorary consuls; these can provide major assistance in the local orientation and adaptation of our citizens. Similarly, information material drawn up in several languages concerning the regulations in force should be made available to foreign inquirers and to the press on a continuous basis. This material should provide clear details on the formal regulations and the practical requirements concerning remaining, settling and pursuing entrepreneurial activities in the Republic of Hungary.

- Our foreign political objectives should strengthen relations Hungarian nationals who settled abroad earlier.

We have to let them know that Hungary pays attention to them, follows their progress and is ready to utilise their experiences. They are individuals who can, through their own means, promote the international endeavours of Hungary. If they wish to return, we should facilitate their intention, as well as their re-integration into Hungarian society.
Ágnes Hárs

Labour Market Protection and Migration

“P. G., the police superintendent of Bács-Kiskun County, ordered that only residence permits valid for a maximum of 30 days may be issued in the county as of the beginning of this week. P. G. justified the above measure by saying that the police wish to prevent the settlement of foreign Mafiosi…”

Népszabadság, 17 July 1998

The ideas explored in connection with the migration of the labour force and with the protection of the national labour market can be usefully grouped around four major topics. These topics focus on the search for answers to the following questions:

- With respect to the labour market, what are the general principles to be followed, what are the problems and what parties are affected by the labour market rules?
- What are the migration principles and conceptual frameworks that promote or repudiate efforts to protect the labour market?
- What are the practical problems generated by certain elements of the possible regulatory schemes that promote or repudiate efforts to protect the labour market, and to whom do we want to give preferences?
- What are the most important issues concerning the free migration of labour in connection with accession to the EU?

GENERAL PRINCIPLES AND PROBLEMS

The Hungarian government basically views migration as an alien policing problem and spends (or intends to spend) large amounts of money to protect the Hungarian labour market from the dangers of foreign labour. The considerations and interests of the labour market are secondary concerns of the migration strategy. Thus far, the arguments concerning unemployment, losses in social benefits, wage dumping, and so on have not been substantiated. Arguments based on the insecurity of the labour market are frequently pretexts or excuses (Hárs, 1998a). We must ask how much it costs to protect the labour market, and how great are the benefits of protection?

We must also ask what motivates the self-contradictory labour regulations of the past? Do we need labour regulation now? The instinctive reaction, “Let’s protect ourselves, because if we don’t, foreigners will crowd the country,” is not sufficient. This is so because the evidence is that the immigration of labour to Hungary is not significant nowadays, as is the case with transmigration, and it will probably not be considerable in the near future either. (SOPEMI 1997, 1998; Hárs–Sik–Tóth, 1998).
What should the regulatory principle be? Prior to creating regulations concerning migration we must make the basic decision: should we follow the principle of isolation, that is, should the Hungarian labour market be fundamentally limited to Hungarian employees, or should we create an open, less isolated labour market? According to our proposal, the Hungarian government should follow the migration policy that it would recommend to other countries in a similar situation (honest, moral, recommended to others).

We would have difficulties if all countries followed the principle of isolation. Therefore, it is more practical to enforce a migration policy that is based on the premise that we do not oppose all movement of the labour force, and which relies on regulatory criteria based on impact examinations. An impact examination requires the evaluation of how the initial and subsequent movements of the labour force influence the demand and supply of the labour market, the level of wages, and so on. Although it cannot be stated unequivocally which impact we desire (e.g., whether the wage level of the labour force should be increased or decreased), it is nonetheless important to track the migration process to identify the impact migration has on the Hungarian labour market, the level of wages and so on.

Consequently, the necessity of regulation is not based on the insecurity of the economy, the labour market or the social system; in these respects the size of the employee migrant population is irrelevant. Today, migrants enter an unregulated labour market space in Hungary. The unregulated nature of the labour market may affect a relatively small or a relatively large number of persons in a given year; the main point is that the labour market is unregulated and uncontrolled. The aim of regulation should be to drive and direct the labour force in accordance with defined preferences. It is important that efforts to regulate the labour force employ all systems that have an effect on the economy, rather than merely rely on efforts of the alien police. The discipline and control imposed by the tax and contribution payment systems is rather underdeveloped in Hungary at present, even though these systems affect the economy, and accordingly represent a means of economic regulation. But the question is: How great are the direct and indirect (social) costs of control?

There is a considerable disproportion between the regulation of members of the labour force arriving in Hungary and the regulation of those departing from Hungary. The former enter a less regulated (less protected) market, while the latter enter a strongly regulated (over-regulated and protected) market.

More specifically:
- We do not know the characteristic features of employees arriving in Hungary from the West (“black box”); the regulation of their situation is irrational and full of gaps (Tóth, 1997);
- The bases of the fear of the entry of Eastern European labour are not clear; in the absence of debate, analyses and (impact) examinations we cannot even judge the legitimacy of this view. Earlier estimations do not support the presumption of economic danger, which conflicts with principles of international relations. We must ask the appropriate questions to which the government must provide responsive answers in order to formulate a migration strategy and policy;
- Those who become employed in Western Europe (primarily in Germany) arrive in a strongly regulated and strictly controlled, restrictive labour market. Based on the principle of reciprocity, should we enforce similar regulation on the Hungarian labour market against those who arrive from Western Europe? Should we follow the restrictive German model?
- The present migration policy follows a loan sample. What system of migration rules are viable in Hungary and whose interests should they correspond to?

We must pay attention to the labour market regulation from the perspective of both legal and illegal migrants. We must define accurately those affected by the planned measures and when they are affected by them. The imprecise texts under discussion concerning labour force regulation mix up the individual groups and only make rough distinctions between those migrants in Hungary with permits and those without permits. If the possession of a residence permit is a prerequisite of employment, this may discourage illegal labour force migration. It is
incorrect to presume that all illegal workers are illegal migrants. Nearly 90 per cent of those employed illegally are Hungarian citizens. Moreover, they are employed by companies registered in Hungary or they work directly, based on commissions, for Hungarian inhabitants (sometimes for significant payments).

We note that different elements of the migration strategy are directed toward different migrant groups. When drawing up the principles of social policy affecting migrants, for example, a particularly great emphasis is placed on the care and subsistence (the cost) of refugees. When we create the regulatory framework for labour force migration, in contrast, we speak of employees. Some migrants, however, fit into both categories. With respect to the labour market, the contradictions related to the employment of refugees are immaterial, owing to their relatively low number. Nonetheless, refugees and employees are connected in many ways, in terms of social policy as well as in the tax and social insurance systems. These systems may have an impact on labour migrants and regulate their participation in the labour market; they may also provide for the care and maintenance of refugees (for instance, paying their own social costs).

MIGRATION PRINCIPLES AND CONCEPTUAL FRAMEWORKS PROMOTING OR REPUDIATING EFFORTS TO PROTECT THE LABOUR MARKET

Contradictions Between Alien Policing and the Regulation of Labour Migration

Labour migration is primarily viewed by the Hungarian government as an alien policing issue. In terms of the operation of the labour market, this is a minor problem; the major problem is that the regulation of labour migration has not really been developed. The regulatory framework should include the regulation of labour permits, taxation, the payment and control mechanism of social and other financial burdens (which exist abroad); it should also include the obligation of registration when labour permits are automatically issued and when exemptions from permits are authorised. Registration would provide data on the actual number of foreigners working in Hungary. Labour inspectors would be entitled to ask the location of registered employees. The uncertainties, ambiguities and other issues that make inspection difficult, which today embarrass inspectors, could be avoided in the course of labour inspections.

Consequently, it is unjustified and unreasonable to treat labour migration as an alien policing issue. It is not possible to regulate the processes efficiently by means of policing; in contrast, taxation, employment rules and the regulation of the wages of employees will do so more efficiently.106

Regulatory Problems and Possibilities

It is a general feature of the current Hungarian labour market that the labour force is expensive; Hungarian employees are also frequently paid “off the books.” In this respect, there is no difference between a domestic and a migrant employee. Accordingly, we must ask at what point regulation could begin. First, a registration

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106 The participants in the expert debate of the focus group agreed to use their professional knowledge to help the government implement the principles of regulation that are unequivocally supported by elaborating the means of regulation (fair registration, wages, wage tariff system, activity entitlements, labour contracts, other public burdens, insurance issues, and so on).
system should be created which would include within the horizon of labour agencies, foreigners, or at least those who are illegally employed; their participation in the labour market and their movement could then be monitored. The personnel and the technical conditions that permit this registration and monitoring should be concentrated where they could operate in the most efficient regulatory manner. There should be no difference between Hungarian and foreign employees in the registration system.

We must develop mechanism for authorising foreign labour. This should include mandatory registration, as well as a system of providing automatic and special labour permits. Appropriate transparency would be promoted by the normative regulation of the employment of foreigners, with allowances for certain exemptions, rather than by a regulation which creates exemptions. In formulating the regulation, we need not take into account the present numbers. The number of persons coming under a given sphere is not important with regard to the interdependence of the labour permit procedures.

Preferences and Economic Considerations

If we want to differentiate between the chances of employment of our own citizens and those of foreigners, we should make separate provisions establishing narrower circumstances for the employment of foreigners. We must ask if this distinction is justified. If it is justified, is it accomplished by protecting the labour market, by emphasising the fear of competition or in other ways?

- The interests of domestic entrepreneurs favour a protected labour market (based on the example of the strongly regulated Austrian or German system that protects the internal market). It is not known whether this lobby’s interest is in harmony with the endeavours and economic considerations of the government. If Hungary enforced the same restrictions against foreign employees that are enforced abroad against Hungarian employees, though, the two labour markets would cease to be asymmetrical and the principle of reciprocity would be enforced. (The chambers, ÉVOSZ, and others have been fighting for this for about ten years.)
- Neutral regulation and registration is required. We may not say that we allow A, but not B, to enter the Hungarian labour market. The desired preferences may, naturally, be achieved by the indirect implementation of the restriction. To decide whether we wish to use these implied opportunities, it is useful to consider an example.

“Ukrainians may not come, but Germans may come.” This regulation is unacceptable. But we could create the background conditions of who may come and who may not come, not in this regulation … but via labour control and financing, by stating that if one comes under such conditions, such a procedure shall apply, but if one comes under other conditions, another procedure shall apply … Thus, it is possible to create technical regulations. (For instance, the Germans issue a licence in four weeks to others, but they need three months in order to issue a licence to us.) This, however, requires a lot of work.

- There is a problem with Hungarians living beyond the borders because benefits may be granted in interstate agreements on the basis of citizenship. There is very little probability that the EU accession negotiations would lead to an acknowledgement of Hungarians living beyond the borders as Hungarian citizens. Relying on Romania’s membership in CEFTA, and on the traditional contractual relationship between Hungary and Romania, is a more acceptable approach (because the political argument concerning Hungarians living beyond the borders is not likely to be considered).
- The participants in the expert debate did not consider it important to look for and list preferences to be applied to labour migrants in the domestic market. There are no unequivocal preferences in the literature either; it is
unclear whether the arrival of a qualified or an unqualified labour force or its long-term or short-term participation in the labour market is more beneficial for the macro-economy or for certain regions. These questions may only be answered on the basis of thorough empirical analyses. The policy should, however, express an opinion, by drawing up preferences that enforce values it considers important. Experts should be involved in order to provide economic understanding and support. The preference for a qualified, young, “good” labour force seems to be acceptable in general, although it is still not clear that the preference corresponding to economic considerations will be enforced in this way. Consequently, on the one hand, the migration strategy that includes preferences can facilitate the entry of certain employee groups in the labour market, while, on the other hand, market needs may also force (and the unchanged nature of conditions may facilitate this) another migrant group to leave.

In sum, the connections between economic considerations and the migration policy preferences are not clear.

**Consequences Resulting from the Lack of Enforcement of Legal Rules**

Should any amendments to legal rules come into force, they are only valuable to the extent they are enforced. But enforcement requires money, means and organisation. Enforcement by economic measures may result in a more disciplined and organised labour market, while enforcement by the alien police is frightening. Therefore, the primary proposals to control labour force migration should be economic.

An interesting practice to generate the enforcement costs has developed in Germany. The so-called *Verursacheprinzip*, which means that the enforcement costs shall be paid by the party making enforcement measures necessary, is applied to the foreign labour entering Germany. Foreign employees pay two thousand DM annually based on this principle. We have to consider whether we should follow the German practice. On the one hand, it would produce the revenue to cover the enforcement costs. On the other hand, it would increase the costs of migrant employees, which would make their entry into the labour force market both more difficult and more carefully considered.

*Legality – transparency.* Approximately 3,300 employment permits were issued in total in Budapest in the building and construction field, where the total number of employees is 35,000. Therefore, about ten per cent of the total number of building and construction employees are regularly employed foreigners (with permits). Question: Would it be wise to drive migrants towards semi-legality? (The participants in the expert debate failed to answer the above question.)

**SOME PRACTICAL PROBLEMS CAUSED BY ELEMENTS OF THE REGULATORY POSSIBILITIES PROMOTING OR REPUDIATING EFFORTS TO PROTECT THE LABOUR MARKET**

Contradictions in the Operation of the Labour Market
• **Price dumping, wage dumping.** Illegal migrant small entrepreneurs and individual entrepreneurs do not issue invoices. They avoid the social and other burdens, which ultimately results in price dumping. If a foreigner avoids the payment of tax, contributions and other public dues, his price to the principal/customers is about 60 per cent cheaper, while his profit is the same. Similarly, wage dumping results, if firms which are otherwise registered in accordance with the rules pay the employees “off the books.” We see the phenomena of price and wage dumping particularly frequently in the construction industry and in the seasonal agricultural sector. These types of activities are usually cumulative; it, for example, rarely occurs that someone’s only legal violation is employing a foreigner without a labour permit. What does this mean for Hungarians? More specifically, who profits and loses and where does this occur? Is it desirable that the employment of foreigners has such an effect on prices; if so, in which markets and areas should this occur?

• **The problem of creating employment.** The majority of foreign small entrepreneurs are self-employed. In their cases, the entry of the enterprise in the companies register and the application for entrepreneurial certificates primarily enables a foreigner to work in his own enterprise. New employment is not actually created, and, to the extent it is, it is not created for Hungarian employees.

There is a special situation in the labour organization whereby, for instance, a Hungarian employee is referred to Baróti and Co. Bt., and Dávid BARÓTI, a Romanian citizen, says, “We do not employ Hungarian citizens.” That is how it works. Sixty per cent of the applications in the labour force works like this.

Do foreign employees really displace or create employment, or perhaps, do they form a closed partial market in an economic enclave? Is additional labour demand created through this structure?

### Some Contradictions and Traps in the Regulations

• **The problem of the minimum wage.** The legal rules concerning the authorisation of legal employment are basically ineffective. An applicant may receive an employment permit if the previous attempt to refer a Hungarian employee to a given place of work was unsuccessful. If the employer advertises the job with the minimum wage (HUF 19,500 per month in 1998, which is below the upper limit of unemployment benefits), the labour referral mediator will not find a Hungarian employee, and the foreigner will receive the job.

• **The absence of the wage tariff system.** There are no prescribed wage tariffs in Hungary (with the exception of the minimum wage, which cannot be implemented owing to the facts described above); no elaborated wage tariff system exists. Therefore, controlling wage competition and wage dumping is almost impossible. We should consider the German example. Foreigners working in Germany receive a wage which is prescribed by the wage tariff table for each profession. This system, with appropriate enforcement, can efficiently restrict wage dumping. Can the German example be followed on the Hungarian labour market? Can a similar approach be formulated?

• **Individual enterprises.** The law applies a rather complicated mechanism for regulating the individual enterprises of foreigners. An individual enterprise may be founded by one who is a “resident” for the purposes of the foreign exchange rules. Consequently, even those who have an enterprise registered in Hungary. Thus, if a foreigner establishes a phantom company and registers it, he may apply for an individual entrepreneurial certificate. Question: What is the purpose? (It prevents foreigners from becoming individual entrepreneurs; do we want to do so?)

• **The alien policing trap of labour permits.** If an applicant receives a job advertised at the minimum wage, the police shall issue a residence permit to him. A foreigner is, however, not able to live on this amount of money, but the alien policy have no legal basis for taking this into account. In this way, as we create the legal
We also create the legal basis to stay for those who take up illegal employment (see the problem of the minimum wage discussed above). Question: Should the alien policing legal rules be changed in this respect?

**ISSUES REGARDING THE FREE MIGRATION OF LABOUR IN CONNECTION WITH THE EU ACCESSION**

**Derogation**

Migration is one of the areas where the EU will request derogation. The preparation for derogation (for example, by internal regulation) should begin now. Prior to the accession we must create the rules and institutional mechanisms that we will have to apply in Hungary as an EU member state. At present, the most important responsibility is to create the control mechanisms (tax authority, social insurance, and so on) of the Hungarian regulatory and institutional system.

We do not have to consider requesting derogation. We have to prepare to argue against the derogation proposals the EU will raise.

There will be political inclinations to accept money for “swallowing” derogation. EU negotiating partners will suggest: “Stay at home; we will take capital there, create jobs and retraining centres, will propose and support regional developments, and then we will employ Hungarian people in Hungary, at home.” PHARE will also offer other forms of support. Accepting these approaches in return for derogation does not yield value equal to that resulting from labour migration. On the one hand, there are professions for which migration is important (such as the services sector, catering, construction, software trade, and other sectors where live work is dominant and where it is also necessary to have access, within restricted limits, to the foreign market); on the other hand, the benefits from this investment of capital are likely to be much lower than the benefits from labour migration.

**Relationships with the Neighbouring, Likely Non-EU, Countries**

Following the EU accession, it is likely that Hungary will have common borders with only one EU member state. Non-EU-conforming labour market regulations will be in force in all other neighbouring countries. We must conduct bilateral negotiations with these countries, taking into account new considerations. There are or will be an increasing number of Hungarian citizens who want to become employed in these non-EU countries, such as Romania. (These include the black-coated, management personnel, the human resources labour force.) How the governments of the neighbouring countries intend to handle labour force migration is therefore important. If this issue continues to be considered an alien policing matter for a long time, as it is in Hungary now, it will violate the principle of reciprocity that applies following the EU membership of Hungary. We must make every effort to approach EU norms even in the Hungarian regulations to be formulated with the neighbouring countries. This includes establishing a wage tariff system, registering the public dues of the labour force, and so on, in addition to establishing labour regulation. Implementing all these systems will likely result in decisions different from the present ones. Bilateral, inter-governmental agreements should be concluded that take into account the characteristic features of individual countries and of Hungary’s different relationships with each of them. (Hungarian interests and/or negotiable positions may differ from country to country.)

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107 For more detailed discussion, see Tóth, 1997.
BIBLIOGRAPHY


András Kováts

Social Politics and Migration

The means of social politics themselves are not suitable for defining the migration politics of a state, designating its preferences and drawing up the (political) principles related to migration. These shall (should) be drawn up and defined at other “higher” levels of the policy of the profession and public administration. The regulation of social security can only complement alien policing regulations. At the same time, the social political principles and the related legal and institutional operation can (and should) reflect the approach of a given society (state) to migration. The operational mechanisms of institutions responsible for redistribution by the state should be co-ordinated with the practice implemented in other fields of politics and public administration. A social political practice operating in harmony with a purposeful migration strategy can mean a tremendous advantage in the field of both regulation and supply, as well as control. Efficient co-operation with the specialised agencies of local administration in the fields of social affairs, health-care and (from farther) labour affairs, and the division of responsibilities can considerably ease internal (and foreign) administration engaged “classically” in the issue of migration.

The recommendations related to the elements of social politics, social provisions and migration will be taken into account under four main headings:
- general considerations, definitions and limits;
- theoretical and conceptional framework, basic principles and strategies;
- formal and practical issues;
- issues related to the accession to the EU and harmonisation.

GENERAL CONSIDERATIONS, DEFINITIONS AND LIMITS

The alien policing, migration and refugee categories related to migrants are not always relevant or necessary with respect to the institutional operation of social politics. The extent of the “social membership” of a migrant person defined in legal rules, the source of his entitlements, as well as the conditions and means of having access to the redistribution by the state, to transfers and care and maintenance forms have fundamental importance for social politics.

Foreigners staying in Hungary (migrants) may be classified into four main groups in terms of social politics. These groups require social political regulation significantly differing from one another.
1. Foreigners staying in Hungary legally (with a permit) with the intention to become employed and settle down

It is generally assumed that their living is secured, they stay in Hungary of their own accord and they probably benefit in some personal way (financial or other) from their stay in Hungary. In their cases, the provision of social transfer incomes, as well as selective allocations and maintenance (depending on their pecuniary and income situation) is not justified, as their living must be secured. The application of unsuitable migration criteria may easily cause a “social dumping impact”. No discrimination can be made in the field of benefit-type pensions and health-care provisions (resulting from the legal relationship of being insured), as this would violate the basic principles of entitlement. The field of unemployment provision, which is also a part of benefit-type provisions, is, however, more controversial: in terms of interests related to labour market and employment policies, the narrowing of the entitlements of foreign employees may be desirable in this field, which, on the other hand, may raise further concerns in connection with the harmonisation of law in the EU.

2. Foreigners staying in Hungary illegally (without a permit), but with the intention to become employed and settle down

We may not mention any kind of entitlement in their case, but in two fields they may still get into the orbit of the system of institutions of social politics: in the course of care and maintenance related to alien policing custody, as well as emergency health-care provision. It is important to lay down in the case of both fields of care and maintenance unequivocal professional minimum criteria (the observance of which may be controlled) which are in harmony with the general norms of human rights and the assurance of the minimum satisfaction of basic human needs, as accepted in our society.

3. Foreigners who are in need of protection and stay in Hungary legally on the basis of a category of reception of the Act on Asylum

The basic philosophy of the present system of regulation relating to them may be deemed appropriate: access to social benefits due on the grounds of citizenship rights proportionate to the level of social integration, and special compensation (diminishing in proportion to the degree of integration) complementing the above, which is destined to reduce the disadvantages related to flight and the need for protection. The practice built on the above basic principles should, however, be based on the assessment of needs and impacts carried out appropriately, otherwise the efficiency of the system of care and maintenance will continue to remain rather low. In the case of the social political practice engaged in this sphere of migrants, the further intentions of the target group (persons) represent another important consideration. We have to differentiate between those who stay in Hungary only temporarily, and those who decide or would decide to settle down in Hungary permanently. Those who desire to stay temporarily may be further divided into those who would leave for a third country and those who would return to their sending country, if possible. All these groups need different social political intervention, and an appropriately selected and elaborated strategy may considerably promote the successful implementation of their integration, and re- or further integration. Naturally, all these decision-making possibilities cannot be found “ready-made” in the minds of the persons
(groups) concerned, and the offer itself may have a significant effect on needs and requirements. In addition to the avoidance of the dumping impact referred to above, appropriate possibilities shall also be reflected in the social political practice, but these should not be drawn up by social politics.

4. **Foreigners who are in need of protection in Hungary (or at least apply for protection), who are not entitled to protection, but may not be expelled**

Although they form only a small group of migrants, their number will probably increase considerably in subsequent years. Perhaps it is the most difficult to define in this case who these persons are, as considerable overlapping can be seen with those who belong to group 2. The problem, in this field, too, is to define the extent and standard of the various forms of care and maintenance (observations made above apply here, too), as well as the period of stay. It is, by all means, expedient that the period of such type of stays be as short as possible; the expansion of entitlements (even if only temporarily) and the introduction of integration programmes themselves offer a much more efficient solution in the long run than the present low-level but expensive and energy-intensive system of “comprehensive” institutional care and maintenance.

**THEORETICAL, CONCEPTIONAL FRAMEWORK, BASIC PRINCIPLES AND STRATEGIES**

The benefit-type care and maintenance (health, pension) based on insurance should be privileged in the field of social political care and maintenance, with every effort made to increase the number of those receiving this type of care and maintenance among migrants staying in Hungary, as (in principle) there is payment behind these types of care and maintenance, which reduces the burdens imposed on state revenues. In order to attain this, it would be desirable to introduce as many incentives as possible for the purpose of facilitating the legalisation of an increasing proportion of foreigners staying in Hungary. Even a kind of semi-legality is better than total illegality: contributions and tax could thus be collected and control (even official control) would also be simpler. The above incentives may include tax benefits, a simpler issuance of work permits, a case-to-case employee status and more differentiated legal grounds of stay. Parallel with the above, it is necessary to sharpen and appropriately implement alien policing and labour control, as well as sanctions, which would also turn the stay of foreigners into the direction of legality. Consequently, what is legal is to become simpler and more easily accessible than what is illegal; moreover, the latter should involve more stringent sanctions. It is also important to mention that in accordance with the basic principle of general social politics, the strengthening of the principle of insurance will have a so-called driving-out effect, that is, certain types of services will not be accessible for some groups. This problem may be lightened, although not fully eliminated by appropriate impact assessment and purposeful programmes.

The legal status and entitlements of non-refugees (persons authorised to stay, temporarily protected persons, applicants and persons without any status who may not be returned) who are in need of protection should be laid down more exactly than at present. An
uncertain legal status reduces the integration opportunities of those concerned, which, on the other hand, strengthens their dependence on the social systems of care and maintenance. In the long run, this imposes greater burdens on the budget by all means, than if the persons concerned were enabled to live independent lives by target programmes and the provision of an appropriate legal background. An unclear status causes an enormous number of problems even if we remain only within the social political system of institutions: no appropriate care and maintenance can be attached thereto, tasks and responsibilities cannot be clarified in many cases. The case of community hostels can be mentioned as a good example.

In the field of care and maintenance, cash programmes should be granted preference in all cases to institutional care and maintenance which is more expensive and less efficient in general. The elimination of institutions, similarly to other fields of social provisions, is of key importance: the direct financing of users is generally more efficient than expensive institutions requiring great bureaucracy.

It is an important basic principle that the (non-benefit type) costs used for social care and maintenance related to migrants (especially to those coming under groups 3 and 4) are easily followable, and should be distributed and paid transparently and measurably from a single fund, if possible. If an entitlement is established in a legal rule which has also a cost effect, it is important to name the source and the method whereby it will reach its destination. (The financing of the health-care provisions provided for by the Act on Asylum is not always unequivocal.)

**FORMAL AND PRACTICAL ISSUES**

It can also be emphasised in connection with social care and maintenance that it would be more practical to introduce decentralised, subsidiary models instead of the present strongly centralised and bureaucratic regulation. The role of local governments could be considerably strengthened in the field of care and maintenance and the operation of the system of institutions, but financing could continue to be realised from identifiable and clearly followable central budgetary sources. Decentralisation could be facilitated if the services (professional, technical and methodological capacities) of existing social institutions were used instead of building up a system of institutions and specialised bureaucracy particularly specialised in migrants (in this case, particularly in refugees). The involvement of civil organisations and churches in the duties related to care and maintenance is also an important element. This can, however, only be implemented following the elaboration of standard professional criteria, and it is the responsibility of the government to make the partner institutions observe these criteria.

As regards the cost efficiency of the institutional care and maintenance which is frequent in the case of migrants coming under groups 3 and 4, it is important to emphasise that the per-capita expenditure calculated on the basis of the average period of time spent in the institute and not the daily per-capita cost should be the main consideration. The care and maintenance of a lower level which generally does not combine other professional (integration) programmes results in considerably higher institutional dependence (and thus longer stay in institutions) than institutional programmes operated on the basis of a
rational professional (integration) conception, even though the latter may be more expensive in the short run. What should be preferred is the shortest possible in-house institutional career with an appropriate integration programme and degressive financing by the systems of support of the local (receiving) communities.

It is important to elaborate considerably more efficient forms of labour and social insurance control than in the past. The principle of decentralisation shall also be enforced in connection with the control of foreigners: a person controlled (to be controlled) should primarily be a foreigner only for the alien policing authority, while for other authorities, he shall be an employee, employer or taxpayer, etc. similarly to Hungarian citizens. The costs of efficient (and transparent!) control and the imposition of sanctions are probably lower than the “costs” caused by illegality due to the lack of control. On the other hand, we have to take into account that the strengthening of control and the imposition of sanctions is not identical with making the rules to be controlled more stringent. Its opposite is much more desirable: the mitigation of the criteria required for legality in certain cases (e.g. employment) under adequate control.

ISSUES RELATED TO THE ACCESSION TO THE EUROPEAN UNION AND TO HARMONIZATION

As the issue of accession to the European Union and the harmonisation of law related thereto have been discussed by others in detail, and as Hungary has a more limited set of options to choose from than elsewhere in the field of social politics, we mention only a few considerations.

It is inevitable to review prior bilateral agreements on the payment of pensions. Such agreements concluded with Romania and the successor states of the Soviet Union impose disproportionate burdens on the system of Hungarian pension insurance. Pensions paid in Hungary are generally many times higher than those paid at home, which leads to en-masse migration causing considerable additional expenses to the budget. The migrant population consists of elderly and inactive persons, therefore it is not able to compensate the extra expenses either by its economic activities, or its demographic potentials. These agreements should be converted into conventions operating on the basis of the principle of time-proportionate burden-bearing.

The pension agreements in force with other countries do not cause problems, as costs are borne by the sending country in such cases, thus a migrant receives pension corresponding to the pension received at home, which is not an attractive proposition for those arriving from Eastern-European countries. The review of the bilateral agreements concluded with the former socialist countries, allowing the freedom of health-care services also seems to be inevitable in the course of accession-related negotiations. It may be laid down as a general principle that contributions should be paid by everybody at the place where he is employed. The response to the above by foreign companies and enterprises operating or intending to operate in Hungary is still an open question. It is by all means important to examine the expected effects prior to making any changes.

Mutuality is laid down as an important principle in connection with the assumption of the legal regulation of the EU: entitlements identical to those of Hungarian citizens shall
be granted to persons arriving from other member-states. It does not seem to be justified to provide unilateral benefits to the citizens of the European Union in the preparatory phase, and what is more, they are expensive, even if such rights are not exercised in general.
Somewhat hidden near the end of the Proposal for the Formulation of Hungary’s Migration Policy lies one of the key ideas that animates the entire proposal. “The legal and institutional framework … reflects the attitude of society towards migrants.” The Centre for Migration and Refugee Studies has taken this deceptively simple idea and has expanded it. This proposal emphasizes that Hungary’s migration policy reflects Hungary’s attitudes towards migrants, but demonstrates that it simultaneously reflects much more. It reflects Hungary’s attitude towards other countries, towards becoming part of the European Union, towards the international community, and, at heart, Hungary’s attitudes towards the society it wants to become.

Guided by this insight, the proposal published by the Centre for Migration and Refugee Studies has outlined the beginnings of a multi-layered discussion of migration policy in Hungary at the start of the twenty-first century. The proposal begins with the observation that migration occurs all the time. It occurs within every country and between countries. It is a two-way street, with Hungarians leaving their homeland as others, both Hungarians raised abroad and non-Hungarians leave their homelands for Hungary. It occurs in many forms, and it occurs both voluntarily and involuntarily. It is part of a complex global phenomenon that is dynamic and that will not cease.

Thus, migration policy, this proposal tells us, must be about much more than setting quotas for certain numbers of non-citizens allowed to reside in Hungary, an approach premised on the notion that migration can be stopped and started according to a country’s laws. Instead, this proposal recognizes that migration to and from Hungary will take place no matter what the policy and the laws state. The policy, though, can have a powerful impact on the forms that migration will take in Hungary, on the way migrants will be perceived and treated, and on the specific consequences that migration will have for the non-migrant population and the state institutions. Accordingly, this proposal seeks to start a discussion about migration policy by identifying and evaluating the myriad ways in which migration has an impact on Hungarian society.

By recognizing the ongoing and reciprocal nature of migration, Hungarian policy-makers will be in a good position to begin formulating a comprehensive migration policy for the

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109 Paragraph 11.1.
new century. Now, in the year 2000, Hungary is on the cusp, moving from a state-controlled economy and a society that for more than forty years produced many refugees and emigrants to a market economy and a society that receives refugees and attracts immigrants. Hungary has spent the past decade in transition from a society that had no serious migration policy or legal framework to a society that needs both. During this decade a sizeable amount of migration, both voluntary and involuntary, has occurred and Hungary has responded with a welter of legislation, decrees, and institutional practices. Each of these developments, by and large, responded to urgent problems. The dizzying rate of change during the past ten years did not permit the luxury to prepare a thorough analysis of the multiple consequences migration is having on Hungarian society and to draft a complete policy.

Now, in the year 2000, there is time. Moreover, this is a good time to create a comprehensive migration policy. Hungarian society has weathered the difficult transition well and now has had ten years of recent experience with migrants and refugees. Moreover, in terms of migration, at this point in Hungary the future is just as important as the past. Hungary is looking forward to becoming a party to the European Union relatively soon. Accession to the EU will bring a whole host of new migration issues, as the free movement of labor is one of the fundamental tenets of the EU. It will also bring a new constellation of migration concerns, as citizens of neighboring non-EU countries, including those of Hungarian ancestry, will suddenly be deemed “third country nationals” and will face substantial legal hurdles if they attempt to enter Hungary and the other EU states. The five million ethnic Hungarians in neighboring countries who currently have visa-free entry into Hungary will find EU migration policy a major obstacle, as will many of the non-Hungarian neighbors. The concrete migration issues that EU accession will force Hungary to confront plus the past decade of migration experience that Hungary has accumulated make this an ideal time to formulate a comprehensive Hungarian migration policy.

This proposal is about formulating just such a policy, but it is not a blueprint for a new migration policy in Hungary. Although the Centre for Migration and Refugee Studies has the expertise that would allow its researchers to have written a proposed policy, it attempts here something both more ambitious and more democratic. It has issued a challenge and a suggestion for how to proceed to develop a Hungarian migration policy. Calling for wide-ranging professional debate involving government officials, nongovernmental organizations, law enforcement units, academics, advocates, and others, the proposal sets forth topics to consider and perspectives that should be evaluated in developing a coherent, modern migration policy. Except in one respect, this proposal does not set forth an agenda for a particular type of migration policy. The one respect is this: the proposal calls for a comprehensive policy, a policy that recognizes that migration implicates labor and business development and social services and education and foreign policy and health care and crime prevention and naturalization and asylum seekers and ties with Hungarian communities abroad. Hungary, a dynamic, flexible, and sophisticated society that has transformed itself dramatically in recent years and that is embarking on a
complicated passage into the EU, needs and deserves a comprehensive migration policy now.

Because developing a comprehensive policy is so easy to say but so hard to do, I was particularly struck by the proposal’s suggestion that Hungarian policy-makers consider establishing in the Prime Minister’s Office a Secretary of State for Migration Policy. Guided by a Migration Council established by Parliament, the Secretary of State for Migration Policy would be able to coordinate the various strands of migration policy internally and to represent this comprehensive approach effectively at the international level. From the perspective of one who has studied migration law and policy in Europe and North America, I think this idea is extremely forward-looking and attractive. One of the problems in many countries is that migration policy overlaps many different government agencies and often falls between the cracks of all of them. In the United States, for example, the Immigration and Naturalization Service is within the Department of Justice, but the Department of State, the Department of Labor, and the Public Health Service, not to mention local government institutions, all play major roles that affect migrants. Efforts at coordination inevitably are imperfect and conflicts between competing government perspectives (law enforcement versus employment rights versus health and welfare concerns) are rampant.

In contrast to the United States, Germany has a high-level official in the national government with responsibility for matters affecting foreigners. The Federal Commissioner for Aliens’ Affairs [Die Bundesbeauftragte für die Belange der Ausländer], however, inhabits an office with little power and one that appears to have little responsibility in establishing migration policy. The office has assumed more of an advocate’s function, exhorting society to treat foreigners decently, establishing anti-xenophobia education initiatives, collecting reliable data concerning foreigners in Germany, and so on. Although skilled and well-informed on migration matters, the Federal Commissioner for Aliens’ Affairs has not been a major policy-maker. That role has rather been largely assumed by the Federal Minister of Internal Affairs, in conjunction with the Internal Affairs Ministers of each state government. The Federal Minister of Foreign Affairs also plays a role in migration issues, of course. Similar to the experience in the United States and in many other countries, however, the law enforcement departments seems to overpower the foreign relations departments when it comes to setting migration policy. If Hungary were to create a Secretary of State for Migration Policy and to grant significant power to this office, it would be an important first step in seeking to achieve a comprehensive policy concerning migrants rather than one dominated by law enforcement concerns.

The proposal for formulating Hungary’s migration policy raises many interesting points. In this commentary I would like to mention just one other issue, an issue that also suggests the relevance of inspecting institutional structures in Germany concerning migration. The proposal mentions the need for Hungary’s migration policy to consider the fact, which has constitutional implications, that there is a large community of Hungarians who live beyond the borders of the Republic of Hungary. In my view this is a very important migration issue for Hungary. I recognize that it is delicate, complicated, and something
with which Hungarian society must grapple, so I do not offer any suggestions here about the ultimate resolution.\(^\text{110}\)

I would like to point out, though, that the German efforts to respond to their diaspora culminated in the creation of a Federal Commissioner for Settlers of German Descent [Der Bundesbeauftragter für die Belange der Aussiedler]. This office has resettled in Germany more than two million people of German descent from Central and Eastern Europe during the past decade. Close to half a million applications are currently pending, with 110,000 applications expected this year.\(^\text{111}\) The evaluation and resettlement process established by this office has had its critics (a facetious, but stinging, criticism of the loose standards for proving oneself a member of a German community abroad: “It was sufficient to have perhaps once owned a German Shepherd dog!”\(^\text{112}\)), but the criticism as well as the praise of this office are instructive for Hungarian policy-makers. The migration history of Hungary is clearly different from that of Germany. Nevertheless, both societies have to grapple with substantial linguistic and cultural communities abroad. The societal decision to allow/encourage millions of ethnic/cultural Germans to return “home” to Germany, the criteria set forth by German law, the standards applied in practice, the resettlement efforts within Germany, the reception afforded to those seeking resettlement in Germany, the consequences for the lands from which ethnic Germans departed – all are important for migration policy-makers in Hungary to study.

The proposal produced by the Centre for Migration and Refugee Studies includes many other insights and suggestions. They range from the intensely practical – suggesting the usefulness of surveying international treaties concerning migration and sequencing the order of ratification based on the actual composition of the migrant population in Hungary\(^\text{113}\) – to the more ambitious – expanding the social, health care, and child welfare institutions that serve the domestic population to care for migrants as well.\(^\text{114}\) There is much of substance in this document and it deserves to be taken seriously by all those interested in migration in Hungary. It appears at a propitious moment. The time is now for serious discussions to begin about developing a comprehensive Hungarian migration policy.

\(^{110}\) I have implied elsewhere, Refugees, Hungary, and the Law of Return, 8 International Journal of Refugee Law 499 (1996), that I think it appropriate to include in an immigration law for the Republic of Hungary a preference for those from Hungarian communities. I continue to think this would be a legitimate approach, and, of course, recognize that the type of preference, the numbers to whom it would be applied, the impact on Hungarian communities abroad and on Hungarian society at home all present very delicate issues that possess both great historical resonance and a significant moral dimension.

\(^{111}\) Migration News Sheet, December 1999, p. 2.

\(^{112}\) This remark was attributed to Heinrich Lummer in 1989 by Amity Schlaes in Germany – The Empire Within 34 (1990).

\(^{113}\) Paragraph 3.4.

\(^{114}\) Paragraph 11.2.
Claire Wallace

Comments on the Proposal for the Formulation of Hungary’s Migration Policy

The freedom of movement was one of the most fundamental freedoms won through the collapse of communism and it is something particularly treasured by Hungarians... However, this has brought various repercussions in its wake. Firstly, there have been fears in Western Europe that there would be a flood of poor Easterners into their countries and secondly, Hungary has become itself a target of migration from elsewhere. Some of these new migrants to Hungary are ethnic nationals from outside the border, some are people wanting to work and make a living in a relatively prosperous (though still poor) country, some are people forced to flee from conflicts elsewhere, especially in the Balkan region and some just want to go through Hungary into Western Europe but may be returned or unable to go further. Until now, Hungary has been generous in offering a temporary or permanent home to these various people, and has been especially generous in accepting refugees. However, accession negotiations with the European Union have forced Hungary to adopt a more restrictive migration policy and the various readmission agreements signed by the Hungarian government forces the country to police the Eastern borders of the European Union in a rather unequal partnership with the countries to her immediate West. Fear of crime, security threats and other pressures outlined in the document have also encouraged a re-evaluation of her migration policy.

In this context, the initiative by the Centre for Migration and Refugee Studies to set out some general principles which could govern migration policies and to initiate a public debate about them, should be greatly welcomed. It would mean that the Migration policies for Hungary should be pro-active rather than re-active, should reflect the state of knowledge in terms of research on migration and should reflect ethical principles in terms of the protection of human rights and freedom of movement which is so treasured by Hungarians as part of their new independence and in the context of their earlier history where these things were not respected. It is important that Hungary therefore develops her own migration policy which is sensitive to Hungarian needs and traditions rather than only responding to outside pressures.

The document aims to address the major issues in migration facing Hungary, to align legislation in Hungary with international agreements and organisations and recognise the fact that Hungary is a country of immigration and not just emigration. The document tackles the major known forms of immigration, including that of forced migrants, ethnic Hungarians and temporary migrants of various kinds who stay in Hungary for only short
periods to work, to study or to engage in economic activities of various kinds. This kind of temporary patterns of migration seems to be a major trend in the region (see Wallace–Stola, 2001) and form a distinctive type of migration which is not usually covered by migration-related debates or by migration legislation.

Such attempts to discuss the needs of migrants and their contribution to Hungarian society would also be a way of avoiding the development of further xenophobic attitudes and the emergence of political parties trying to capitalise on these attitudes, something which has been characteristic of other European countries such as Austria. Until now, violent actions and the creation of small extreme political groups carrying out such actions (found for example in Eastern Germany) seem to have been avoided to a large extent in Hungary and it is to be hoped that public debate would provide more democratic alternatives.

A particularly interesting idea was to encourage the migration of businesses to deprived areas and the same could be done with foreign businesses. This would then be a way of combating uneven development, which in the long run could be very detrimental to social harmony in Hungary.

Although, the broad principles laid out in the document Proposal for the Formulation of Hungary’s Migration Policy are ones that I would support, what is missing is some mention of integration policies. If migrants are to form a permanent part of Hungarian society (and it seems likely that this is the case) there should be some recognition of the need to integrate them so that they can better make a contribution to Hungarian society. Thus, for example, it might be important to use educational institutions to provide language courses available to migrants on a regular basis both inside and outside working hours (paid for by the migrant), but with perhaps lower costs for targeted categories of migrants (such as forced migrants who might have to stay for longer periods). Another initiative might be to provide leaflets or booklets in different relevant languages to explain to foreigners their rights and situation with regard to health, welfare, renting or buying property and so on within Hungary. Another initiative might be the creation of advisory centres for foreigners and migrants where they could go for advice, since they are unlikely to be familiar with the complex and rapidly changing set of regulations and laws which apply to them. This might encourage voluntary compliance rather than expensive criminal prosecution of people whose main problem might be ignorance rather than deviance. These kinds of services could perhaps best be provided through the NGOs with independent financial assistance. This would also enable foreigners to better contribute to Hungarian society. Such NGOs could also help to represent foreigners in the political process (where they would otherwise be disenfranchised) and to defend them from racist or xenophobic attacks and from unjust accusations. An integration policy should thus also form part of a migration policy.

Another problem which this document does not address (but one which the Centre for Migration and Refugee Studies is fully familiar with) is the role of foreigners in the informal economy. Whilst a certain amount of informal activity is perhaps inevitable, it is desirable in the long term to try to integrate economic activities into the formal economy and to turn them into sources of revenue for the state. An informal economy operating outside the state control and regulation and populated to a great extent by foreigners is what would provide an opportunity for the criminal control of economic activities or other forms
of extreme exploitation, sexual abuse and so on which are incompatible with a stable and civilised society. The regularisation of migration through realistic migration policies (recognising that there will be migrants from poorer countries coming to supplement their incomes in Hungary) is the first step towards harnessing such activities for the good of the economy rather than forcing them underground.

An effective integration policy would not be focused only on migrants but would also focus on the host population, where xenophobic attitudes are very strong, (Haerpfer–Wallace, 1998). An integration policy would also be concerned with raising the awareness of Hungarians towards the culture and contribution of foreigners to Hungarian society through popular publicity (for example in the press), cultural production (theatre, cinema, TV, literature, etc.) and education, and also with the recognition of multiculturalism in the modern world rather than the stereo-typical and deleterious perpetuation of the myth of ethnic homogeneity.

In the longer term, the recognition that migrants form a permanent part of modern European societies (even if individual migrants may stay for only limited periods of time) challenges our ideas of citizenship and the nation state. Rainer Bauböck (Bauböck, 1995) and others have been trying to develop concepts of “transnational citizenship” which are more appropriate to countries with open borders and free mobility in an integrated Europe. So far, the European Union has not made much progress on developing such issues, but it is perhaps something which Hungary, with the sensitivity of the people of that country for citizens living outside the borders, could contribute to the Union.

The regularisation of labour migration through various kinds of contracts with the main sending countries, agreements on health care and welfare and so on would be an important step in this direction.

I recognise that some of these suggestions are somewhat utopian in the context of the many problems with which Hungary is struggling. They are not even issues which are satisfactorily tackled by much wealthier countries with much longer traditions of migration. However, one role for intellectuals suggested by myself and others (Wallace–Stola, 2001) is to present ideals which can inspire contemporary politics. It is in this spirit that I offer my comments on the Proposal for the Formulation of Hungary’s Migration Policy.

REFERENCES


